

Response template for CP69: Consultation on the Review of the Corporate Governance Code for Credit Institutions and Insurance Undertakings

Consultation paper available at: <http://www.centralbank.ie/regulation/poldocs/consultation-papers/Documents/CP69%20Consultation%20on%20the%20Review%20of%20the%20Corporate%20Governance%20Code%20for%20Credit%20Institutions%20and%20Insurance%20Undertakings/Consultation%20on%20the%20Review%20of%20the%20Corporate%20Governance%20Code%20for%20CIs%20and%20Ins%20Undertakings.pdf>

Deadline for responses to CBI: Tuesday 1st October 2013

NB: Changes from the current corporate governance code text are indicated by a strikethrough where the text has been removed (e.g. ~~strikethrough~~) and red font colour and underlining where new text has been inserted (e.g. new text inserted). However, you can comment on any text in this document, not just limited to the changes which are marked in this document.

Any comments must be made in the boxes shaded in blue.

Company name: Marsh Management Services (Dublin) Limited ('MMSD')

General comments:

MMSD is a CBI regulated 'captive manager' of regulated insurance and reinsurance undertakings. A large portion of these entities are designated as 'captives' under the relevant definition (Article 13(2) of Directive 2009/138/EC), and therefore not subject to this particular Code.

However MMSD also has management contracts with a number of undertakings which fall outside the strict definition of a 'captive' but are termed within the industry sector as 'quasi-captives'. Like captives, quasi-captives are not commercial undertakings but are formed as a risk management tool to participate in the financing of group risk. However, there are circumstances which place these undertakings outside the strict technical definitions of a 'captive'. Sometimes this arises due to the undertaking writing a small % (can on occasion be less than 1%) of designated 3rd party business. In some cases this 3rd party risk is a legacy risk, i.e. the undertaking no longer underwrites that specific line of business. In other cases an ownership structure may give rise to the entity falling outside of the strict definition of a 'captive.' These quasi-captives have been classified as low impact risks by the CBI in the context of PRISM, but are still subject to the full Corporate Governance Code as also applied to commercial entities considered medium and high impact risk. We believe that the broad applicability of the Code to quasi-captives is not in keeping with principles of proportionality under Solvency II.

MMSD positively endorses the proposed change in Section 1.4 whereby the CBI will have the ability to consider requests, on a case by case basis, from institutions which are in the process of run-off to dis-apply certain parts of the code. MMSD is of the view that the CBI should also have the ability to provide derogations on a case by case basis to quasi-captives categorised as low impact risks in the PRISM classification system.

All comments in this submission are made in the context of those type of undertakings as described above: quasi-captives which are designated low impact risk institutions by the CBI. Nearly exclusively these type of institutions have a Board of five directors, two of which would be INED's, employs a CEO and has outsourced a large portion of the accounting and administration to a captive manager.

Pg	Ref	Text	Comment
Summary of the more significant proposed amendments			
i. Risk committee (Section 23)			
7		<p>The Code requires that the risk committee is composed of an appropriate representation of non-executive and executive directors. The Central Bank has noted that international best practice suggests that the effectiveness of the risk committee will be enhanced through the facilitation of non-executive directors in playing leading roles and as such is proposing to amend the provision to require that the risk committee be composed of a majority of non-executive directors, subject to the application of proportionality considerations which would take into account the nature, scale and complexity of an institution's operations.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>The Central Bank is seeking to understand whether this amendment would be seen to be proportionate in the context of institutions' operations and current practice.</p> </div> <p>It is also proposed to include a requirement that the risk committee is to be chaired by a non-executive director which is supportive of its role, inter alia, in providing oversight of the risk management function.</p>	<p>Section 23.1 does allow institutions to seek approval to allow the Board carry out the function of the risk committee. Despite that, we view these additional and amended requirements to be disproportionately onerous for the risk committee of any quasi-captive/low risk institution.</p>
ii. Chief Risk Officer (Section 12)			

It has become generally accepted best practice that institutions have a role in place which is specifically responsible for managing the risk control function, commonly referred to as the Chief Risk Officer ('CRO') role. The CRO is responsible, among other things, for:

- Maintaining effect processes to identify, manage and monitor risks across the institution;
- Risk reporting a timely and comprehensive manner to the risk committee; and
- Facilitation of the setting of the risk appetite by the board.

The person should be at a senior management level and have sufficient authority and independence to effectively discharge his or her duties.

It is proposed to introduce a new requirement for all institutions to appoint a CRO. Proportionality will be introduced for institutions which, given the nature, scale and complexity of their operations, the appointment of a full-time CRO may not be warranted. As such it is proposed for institutions which are not designated as High Impact (formerly designated as 'Major') institutions, to allow the CRO role to be shared with another pre-approval control function¹ role provided that there is no conflict of interest between the two

In order to comply with the current Corporate Governance Code every quasi-captive low impact risk institution is required to appoint a CEO, have in place an outsourcing contract with a captive manager, a Board of a minimum of 5 directors including 2 INED's and may also have a separate risk committee. Any requirement to appointment a separately designated CRO is disproportionate to the nature, scale and complexity involved in the day to day operations of these type of institutions.

Currently the responsibility for managing the risk control function and for monitoring the institution's risk management framework would reside with combinations of the people listed above.

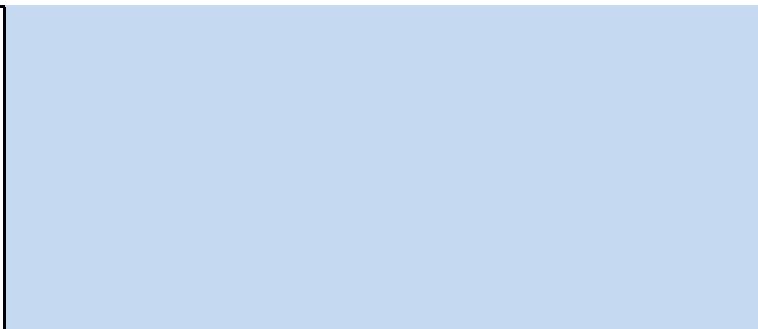
Given the number of people involved in these quasi-captive/low risk institutions it could be argued that any and all of the people involved have a potential for a 'conflict of interest'

For the nature, scale and complexity of the institution and the fact that the CBI also views the institution as low risk, it is appropriate that the responsibility of the risk management continues to reside with combinations of the people listed above and not just with one person.

¹ Pre-approval control function means those functions set out in schedule 2 of the 'Regulations'. The 'Regulations' means the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations, 2011 (S.I. No. 437 of 2011).

roles. For example, the role of the Chief Executive Officer or a senior business unit manager could potentially be in conflict with that of the CRO role. The Central Bank shall be notified of any such arrangement.

The introduction of a new section in the Code which outlines the responsibilities of the CRO is also proposed.



iii. Board meetings (Section 16)		
8	<p>The Code currently requires that High Impact institutions hold a minimum of eleven board meetings per year. The Central Bank notes that currently there are twenty four credit institutions and insurance undertakings which are designated as High Impact institutions to which this requirement applies. Evidence suggests that the majority of these institutions are already holding eleven board meetings per year.</p> <div data-bbox="450 639 1189 895" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Having reviewed feedback received from supervisors and institutions regarding the practical, operational and strategic issues surrounding the implementation of this requirement, the Central Bank invites comments on this requirement.</p> </div> <p>In a similar vein, the requirement applying to all non-High Impact designated institutions to hold four board meetings per year, each of which is to be held in a separate calendar quarter was reviewed. Recognising that some institutions may naturally have a clustering of business activity around certain parts of the year, it is proposed to amend this requirement to permit institutions to hold one board meeting per half year with the balance of meetings to be scheduled as the board deems appropriate.</p>	<p>The flexibility afforded by the suggested amendments to Section 16.1 is a positive development.</p> <p>From our experience with quasi-captive/low risk institutions the absolute requirement to hold four Board Meetings a year is too numerous – a minimum of two is more appropriate. Take for example a quasi-captive/low risk institution with one policy renewal per annum and a well developed claims handling procedure involving a 3rd party claims administrator and with minimal investment risk (fixed deposit accounts) – from our experience the Board have struggled to produce meaningful items to include on the agenda for four meeting per calendar year.</p> <p>While it may be appropriate to hold four meetings a year on occasion it is disproportionate to insist that a quasi-captive low impact risk institution be required to hold 4 meeting year, the same number as a medium high risk institution.</p>

iv. Chairman (Section 8)

9

The Code prohibits the Chairman of an institution from holding the position of Chairman or Chief Executive Officer of another credit institution or insurance undertaking. Having reviewed feedback from supervisors and subsidiary institutions regarding the practical issues surrounding the implementation of this requirement in a group context, it is apparent that there are issues arising. The appointment of a group Chairman to the board of a subsidiary institution can bring certain important benefits to the subsidiary. This individual can bring a valuable group perspective to the board as well as the ability to influence key decisions at the group level which may impact the subsidiary. It is proposed to allow the Chairman of subsidiaries of groups which are designated as Medium-High, Medium-Low or Low Impact institutions, to hold more than one Chairman position in another credit institution or insurance undertaking provided that the institution resides within the same group and the Chairman has sufficient time available to fulfil his or her role. The prior approval of the Central Bank shall be obtained prior to the Chairman assuming any such additional roles. Although the existing requirement will remain in place for High Impact designated institutions, derogation requests will be considered by the Central Bank on a case-by-case basis.

This amendment appears reasonable.

v. Chief Executive Officer (Section 9)

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The Code prohibits the Chief Executive Officer ('CEO') from holding more than one CEO position in another credit institution or insurance undertaking at any one time. Having reviewed feedback received from supervisors and institutions regarding the practical issues surrounding the implementation of the Code for smaller-sized institutions, it is proposed to amend this requirement to reflect a more proportionate approach for those institutions. It is noted that in certain circumstances the nature, scale and complexity of an institution may not justify a full-time CEO role. It is proposed to permit the CEO of a Medium-Low or Low Impact designated institution to hold up to two additional CEO roles in credit institutions provided the CEO has sufficient time available to fulfil his or her role. The prior approval of the Central Bank shall be obtained prior to the CEO assuming any such additional roles.

This amendment appears reasonable.

vi. Committees of the board (Section 19 & Appendix 1 Additional obligations on High Impact institutions)

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The Central Bank is of the view that cross-committee membership can broaden and deepen understanding of key board committees and also facilitate a holistic risk management strategy for the institution. In particular, the board risk committee and audit committee would benefit from having a degree of cross-fertilisation of ideas and knowledge among the members. It is proposed to include a requirement that the Chairman of the audit committee shall be a member of the risk committee and vice versa. For High Impact designated institutions, it is also proposed to include a requirement that the Chairman of the remuneration committee shall be a member of the risk committee and vice versa.

In order to avoid a single individual imposing undue influence on these key committees, it is proposed to introduce a requirement for High Impact institutions which prohibits the Chairman of the risk committee and audit committee being the same individual simultaneously. It is also proposed to include a requirement on all institutions that there be a minimum of three members on each of the audit committee and the risk committee.

No comment

vii. Annual Compliance Statement (Section 26)			
10		<p>The Code requires the annual compliance statement to be submitted on the basis of a twelve month calendar year. Some institutions have a financial reporting period which differs from the calendar year and this has caused practical issues for these institutions. The misalignment of reporting timelines may unnecessarily increase the administrative burden on the boards of institutions. It is proposed to amend this requirement to permit institutions with a non-calendar year financial reporting period to change the submission basis of the annual compliance statement to that of the institution's financial year.</p>	<p>This proposed amendment appears reasonable</p>
viii. Board responsibilities (Section 13)			
11		<p>The Central Bank is of the view that the section outlining the responsibilities of the board could be enhanced by providing more detail as to the Central Bank's expectations and has proposed a number of insertions.</p>	<p>While the proposed amended wording may be appropriate the practical application of some of the wordings for a quasi-captive/low risk institution are difficult to envisage. It is obvious that the proposed amendments are written with large institutions in mind. For instance a 'remuneration framework' for a quasi-captive employing one person is both disproportionate and inappropriate.</p>

Specific areas for comment			
i. Composition of the board (Section 7)			
12		<p>In recent years boardroom diversity has been a much discussed topic by regulators, lawmakers, research institutions and industry bodies globally. Board diversity is encouraged in order to help avoid 'group-think' by allowing a variety of perspectives to be brought to bear on board discussions. Although diversity encompasses many elements, much of the international discussion has been in the area of gender diversity. While there appears to be a general agreement that diversity in board composition can bring benefits, there are varying approaches taken internationally to promote gender diversity in board composition. In recent years some countries in Europe have introduced laws aimed at facilitating board gender diversity, including quotas. Others have chosen to foster board diversity by means of increased disclosure requirements for listed companies regarding their diversity objectives or voluntary codes where, for example, the board is to include gender diversity considerations as a factor when deciding on board appointments.</p> <p>Recent developments at a pan-European level include the Capital Requirements Directive IV which requires that credit institutions which are <i>'significant in terms of size, internal organisation and the</i></p>	<p>The requirement to appoint 2 INED's to a quasi-captive low impact institution ensures sufficient skills diversity for the nature, scale and complexity of such institutions.</p> <p>While we believe in the importance of fostering gender diversity, the imposition of gender quotas on boards would be very difficult to manage, particularly given the current INED pool.</p>

	<p><i>nature, scope and complexity of their activities</i>’ establish a target for the representation of the under-represented gender on the board and devise a policy to achieve the target. Additionally, the European Commission has proposed legislation, which is currently under discussion, with the aim of attaining a 40% objective of the under-represented gender in non-executive board-member positions in publicly listed companies (excluding small and medium sized enterprises) by 2020. More broadly, the 2011 European Commission Green Paper on the EU Corporate Governance Framework discussed the benefits of having professional, international and gender diversity in board composition. The EU Action Plan for Corporate Governance has a stated aim (for EU publicly listed companies) of having ‘<i>a broader diversity perspective, covering aspects such as age, nationality, professional and educational background and others ... it will cover all administrative, management and supervisory bodies in a company.</i>’</p> <p>The Walker Review highlighted the importance of having diversity in skillsets and different types of experience on the board of financial institutions.</p> <div data-bbox="450 1078 1189 1286" style="border: 1px solid black; padding: 5px; margin-top: 10px;"><p>The Central Bank is seeking specific feedback from respondents as to whether a provision in relation to diversity requirements should be introduced into the Code and, if so, the nature of any such requirement.</p></div>	
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ii. Directorships limits (Section 7 & Appendix 1 Additional obligations on High Impact institutions)

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Under the existing Code, subject to certain exceptions, the number of directorships held by directors of institutions is limited. The Central Bank requires that the number of directorships of credit institutions and insurance undertakings held by a director shall not exceed five and that the number of directorships of other entities shall not exceed eight. In the case of High Impact designated institutions, the Central Bank requires that the number of directorships of credit institutions and insurance undertakings held by a director shall not exceed three and that the number of directorships of other entities shall not exceed five.

The Central Bank invites your comments on how this requirement has operated and if the limits are appropriate.

In keeping with normal industry practice both in Ireland and worldwide, employees of the captive manager (MMSD) act as directors for their client companies. Given these restrictions on numbers, all MMSD employees (bar one) have resigned all director positions from non-captives which operate under the Code. This has resulted in additional costs to the clients, is anti-competitive when compared with practice in other EU domiciles and created unnecessary additional complexity for this sector. As a result we consider this to be a restrictive practice and for the quasi-captive non-commercial clients we view the restrictions on numbers to be disproportionate to the nature, scale and complexity for this type of institution.

Other matters			
i. Definitions			
14		In order to maintain a consistent approach within the Central Bank's supervisory regime, it is proposed to redefine the category of 'Major Institution' as used in the current Code to that of the Central Bank's Probability Risk Impact System ² ('PRISM') category of 'High Impact Institution'. It is also proposed to use the terminology of the other PRISM impact categories (Medium-High, Medium-Low and Low) as appropriate throughout the Code.	

² For further information on PRISM, please refer to the Central Bank publication entitled 'PRISM Explained' which can be found on the Central Bank's website.

Appendix 1			
18	1.	SCOPE	
18	1.1	<p>The Code imposes the following:</p> <ul style="list-style-type: none"> • Minimum core standards upon all credit institutions and insurance undertakings licensed or authorised by the Central Bank (including reinsurers but excluding captives); and • Additional requirements (as set out in Appendix 1) upon entities which are designated as Major High Impact institutions by the Central Bank so as to ensure that appropriate and robust corporate governance frameworks are in place and implemented to reflect the risk and nature of those institutions. There is no bar on institutions deciding to implement the additional requirements should they wish to do so and indeed institutions are encouraged to do so. 	<p>MMSD is of the view that the Code should enable the CBI authority to allow requests on a case by case basis to dis-apply certain parts of the Code. This is in keeping with the proportionality philosophy enshrined within the Solvency II Directive – i.e. a regulatory regime which is cognisant of the nature, scale and complexity of each regulated entity.</p> <p>The Code makes specific additional requirements on designated High Impact institutions but takes no account of any distinction in the Codes applicability to designated Medium-High, Medium-Low and Low impact institutions.</p> <p>We view this approach as disproportionate.</p>
18	1.2	<p>The Code will not apply to foreign incorporated subsidiaries of an Irish institution. Such institutions are encouraged, however, to adopt equivalent good governance practices.</p>	
18	1.3	<p>Institutions will be informed in writing where the Central Bank considers that they are a major institution for the purposes of the Code. Institutions are required to disclose in their annual report that they are subject to the Code and whether they are required to comply with the additional requirements for major High Impact</p>	

		institutions.	
18	1.4	On a case by case basis, the Central Bank will consider requests from institutions which are in the process of run-off to dis-apply certain parts of the Code.	<p>This is a very positive and much needed addition to the Code. We strongly support this amendment and would hope that the CBI will apply it on an appropriately proportionate basis.</p> <p>For quasi-captives this section should be amended to enable the CBI requests to dis-apply certain parts of the Code where the particular line of business which has caused the institution to fall outside the strict definition of a captive has ceased and that line is in 'run-off' but the company continues to actively underwrite other lines that would fall within the strict definitions of 'captive' business.</p>
19	2.	DEFINITIONS	
19		<p>The following is a list of definitions of terms used in the Code:</p> <p>Corporate governance: Procedures, processes and attitudes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation – such as the board, managers, shareholders and other stakeholders – and lays down the rules and procedures for decision-</p>	

making.

Institution: A bank licensed under Section 9 of the Central Bank Act 1971 or a building society authorised under the Building Societies Act 1989 including a credit institution registered as a designated credit institution under the Asset Covered Securities Act 2001 and an insurance undertaking holding an authorisation within the meaning of paragraph (a) of the definition of 'authorisation' in Article 2(1) of the European Communities (Non- Life Insurance) Framework Regulations 1994 or Article 2(1) of the European Communities (Life Assurance) Framework Regulations 1994 and as Reinsurance undertaking as defined in Article 3 of the European Communities (Reinsurance) Regulations, 2006. This Code does not apply to Captive Insurance undertakings, [Captive Reinsurance Undertakings](#) and Special Purpose Reinsurance Vehicles (SPRVs).

Major [High Impact](#) institution: ~~A Major Institution is an An~~ institution ~~that in~~ [which is categorised as a High Impact institution under the Central Bank's Probability Risk Impact System \('PRISM'\)](#)³. [A High Impact institution is typically a large domestic or international institution which is a major](#)

³ [For further information on PRISM, please refer to the Central Bank publication entitled 'PRISM Explained' which can be found on the Central Bank's website.](#)

player in its market(s) with considerable potential to cause large-scale damage to financial sector stability. the Central Bank's view has any or all of the following features:

1. a significantly large presence in the local market; and/or
2. carries on significant international activities outside the State; and/or
3. is significant (including, but not limited to, by reference to size, substitutability, and reputation).

Major Credit Institutions

In forming a view as to whether or not a **credit institution** is a Major Institution, the Central Bank will consider the nature, scale, and complexity of the institution and take account of any or all of the following;

- a. its business profile (e.g. whether retail or wholesale);
- b. its asset size including off balance sheet business;
- c. size of loan portfolio;
- d. the degree of risk involved in its business;
- e. its capital position;
- f. its turnover;
- g. its funding profile;
- h. its ownership structure;
- i. the number of its employees;

j. whether it is a publicly listed company, a private company or a private company that is a subsidiary of a publicly traded company.

Major Insurance Undertakings

In forming a view as to whether or not an **insurance undertaking** is a Major Institution, the Central Bank will consider the nature, scale and complexity of the institution and will take account of any or all of the following;

- a. its business profile (e.g. whether wholesale or retail);
- b. its asset size;
- c. number of contracts;
- d. the degree of risk involved in its business (e.g. involvement in riskier business such as variable annuity business) and liability;
- e. its technical provisions;
- f. its premium income;
- g. its capital position;
- h. its ownership structure;
- i. the type/class of insurance provided;
- j. the number of its employees;
- k. whether it is a publicly listed company, a private company or a private company that is a subsidiary of a publicly traded company.

Non-executive director: A director without executive management

responsibilities for the institution but who may have executive management responsibilities assigned to him or her within the group.

Independent non-executive director: A non-executive director who satisfies the criteria for director independence.

Group director: A director of an institution who would satisfy the criteria for director independence except for existing relationships with the institution's direct or indirect parent and/or any other direct or indirect subsidiary of such parent other than the institution. A Group director may be an executive or a non-executive from within the group.

Director independence: Independence is defined as the ability to exercise sound judgement and decision making independent of the views of management, political interests or inappropriate outside interests.

The following criteria shall be considered and given reasonable weight when determining if a director is independent:

- i. Any financial or other obligation the individual may have to the financial institution or its directors;
- ii. Whether the individual is or has been employed by the financial institution or a group ~~entity~~ company in the past

		<p>and the post(s) so held;</p> <p>iii. Whether the individual is or has been a provider of professional services to the financial institution in the recent past;</p> <p>iv. Whether the individual represents a significant shareholder;</p> <p>v. Circumstances where the individual has acted as an independent non-executive director of the financial institution for extended periods;</p> <p>vi. Any additional remuneration received in addition to the director's fee, related directorships or shareholdings in the financial institution; and</p> <p>vii. Any close business or personal relationship with any of the company's<u>institution's</u> directors or senior employees.</p> <p>Control functions: These shall include the internal audit, risk management, compliance, and actuarial functions and any other controlled function prescribed as such by the Central Bank pursuant to its power to do so under the Central Bank Reform Act 2010.</p>	
23	3.	LEGAL BASIS	
23	3.1	The Code is introduced as conditions to which institutions are subject pursuant to Section 10 of the Central Bank Act 1971, Section 16 of the Asset Covered Securities Act 2001, Section 17 of	

		the Building Societies Act 1989, and Section 24 of the Insurance Act 1989 and Regulation 12 of the European Communities (Reinsurance) Regulations 2006 (S.I No. 380 of 2006) ⁴ .	
23	3.2	<p>In addition, the Central Bank is of the opinion that the Code is necessary to institutions' compliance with the following:</p> <ul style="list-style-type: none"> • Regulation 16 of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992); • Article 10(3) of the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994); • Article 10(3) of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994); and • Regulation 20 of the European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006). 	
23	3.3	To the extent that an institution is obliged under the Code to submit returns, statements and information to the Central Bank, such information and returns shall also be required under Section 18 of the Central Bank Act 1971, Section 41A of the Building Societies Act 1989 and Section 16 of the Insurance Act 1989, as applicable.	

⁴ Section 1 of the Code confirms that the scope of the Code is that it applies to all credit institutions and insurance undertakings licensed or authorised by the Central Bank (including reinsurers but excluding captives). Section 3 of the Code drills down into the specific legislative references upon which we rely as the legal basis for imposing the Code by way of condition. Section 3.1 of the Code published on 8 November 2010 has been amended to include a specific reference to Regulation 12 of the European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006) as of 23 February 2011.

24	3.4	The obligation to submit an annual compliance statement to the Central Bank pursuant to Section 25 of the Code shall be imposed by notice under Section 25 of the Central Bank Act 1997.	
24	3.5	The Code may be amended or supplemented by the Central Bank from time to time.	
24	3.6	This Code is imposed in addition to, and shall not affect, any other corporate governance obligations and standards to which an institution is subject otherwise than under these requirements and other conditions and/or requirements set out in the licence or authorisation of institutions. <u>If a conflict arises between the Code and another corporate governance obligation or standard, the stricter of the obligations or standards should be met so as to ensure compliance with all sets of obligations.</u>	
24	3.7	<p>A contravention of the Code may be liable to the Central Bank using any of its regulatory powers, including, but not limited to, any or all of the following:</p> <ul style="list-style-type: none"> • The imposition of an administrative sanction under Part IIIC of the Central Bank Act 1942; • The prosecution of an offence; • The refusal to appoint a proposed director to any pre-approval controlled function where prescribed by the Central Bank pursuant to Part 3 of the Central Bank Reform Act 2010; and/or • The suspension, removal or prohibition of an individual from carrying out a controlled function where prescribed by 	

		the Central Bank pursuant to Part 3 of the Central Bank Reform Act 2010.	
24	3.8	Where a provision of this Code is amended or deleted, any legal proceedings, investigation, disciplinary or enforcement action in respect of a right acquired or obligation or liability incurred in respect of a contravention of or act of misconduct under the provision in force at the time may be instituted, continued or enforced and any sanction or penalty in respect of such contravention or act of misconduct may be imposed by the Central Bank as if the provision had not been amended or deleted.	
26	4.	REPORTING TO THE CENTRAL BANK	
26	4.1	The Central Bank will monitor adherence to the Code through its on-going supervision of institutions.	
26	4.2	Any institution which becomes aware of a material deviation from this Code shall within 5 business days report the deviation to the Central Bank, advising of the background and the proposed remedial action. The board is responsible for determining (in the first instance) whether a breach is material based on the particular facts.	
26	4.3	The Central Bank also requires each institution to submit an annual compliance statement as set out at Section 25, in accordance with any guidelines issued by the Central Bank, specifying whether the institution has complied with the Code.	

27	5.0	TRANSITIONAL ARRANGEMENTS	
27	5.1	<p>The Code applies to existing boards and directors with effect from 1 January 2011. The Central Bank is conscious that institutions may need time to implement changes to systems and structures in order to ensure compliance with the Code. Institutions will be given until 30 June 2011 to introduce the necessary changes. Where changes to board membership are necessary this period will be extended to 31 December 2011 in order to allow institutions to identify and assess candidates prior to making appointments.</p> <p><u>Placeholder.</u></p>	
28	6.	GENERAL REQUIREMENTS	
28	6.1	The Code contains the minimum requirements that an institution shall meet in the interests of promoting strong and effective governance.	
28	6.2	The board retains primary responsibility for corporate governance within the institution at all times. Nevertheless, senior management plays an important part in ensuring effective governance and is therefore responsible for operating effective oversight consistent with board policy.	
28	6.3	All institutions shall have robust governance arrangements which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which it is or might be exposed, adequate internal control	

		mechanisms, including sound administrative and accounting procedures, IT systems and controls, remuneration policies and practices that are consistent with and promote sound and effective risk management both on a solo basis and at group level. The system of governance <u>shall promote an appropriate risk culture at all levels of the institution and</u> shall be subject to regular internal review.	
28	6.4	The governance structure put in place by each institution shall be sufficiently sophisticated to ensure that there is effective oversight of the activities of the institution taking into consideration the nature, scale and complexity of the business being conducted.	
28	6.5	No one individual may have unfettered powers of decision.	
28	6.6	The corporate governance structure and policies shall be articulated clearly and communicated to all appropriate staff within the institution.	
29	6.7	Any director who has any material concern about the overall corporate governance of an institution shall report the concern without delay to the board in the first instance and if the concern is not satisfactorily addressed by the board within 5 business days, the director shall promptly report the concern directly to the Central Bank advising of the background to the concern and any proposed remedial action. This is without prejudice to the director's ability to report directly to the Central Bank.	
29	6.8	An institution shall comply with the Code on an individual basis. Accordingly, while an institution may adopt policies or procedures	

		developed at group level, the institution shall satisfy itself that such policies or procedures meet all of the requirements of the Code.	
30	7.	COMPOSITION OF THE BOARD	
30	7.1	The board of an institution shall be of sufficient size and expertise to oversee adequately the operations of the institution and shall have a minimum of five directors.	
30	7.2	The majority of the board shall be independent non-executive directors (this may include the Chairman). However in the case of institutions that are subsidiaries of groups the majority of the board may be group non-executive directors, provided that in all cases the subsidiary institution shall have at least two independent non-executive directors or such greater number as is required by the Central Bank. Group directors shall act critically and independently so as to exercise objective and independent judgement.	
30	7.3	The Board shall satisfy itself as to a director's independence prior to his or her appointment.	
30	7.4	Board members shall attend each board meeting unless they are unable to attend due to circumstances beyond their control (for example, due to illness) and their attendance and eligibility to vote at each meeting shall be evidenced in the minutes of each meeting.	
30	<u>7.5</u>	<u>Directors should attend each board meeting in person wherever possible. However, due to the location of some directors, physical attendance may not always be possible, in which case videoconferencing or teleconferencing is permissible.</u>	

30	7.5 <u>7.6</u>	An institution shall ensure a majority of its directors are reasonably available to the Central Bank at short notice, if so required.	
31	7.6 <u>7.7</u>	Each member of the board shall have sufficient time to devote to the role of director and associated responsibilities. The board shall indicate a time commitment expected from directors in letters of appointment.	
<u>31</u>	7.7 <u>7.8</u>	<p>The number of directorships held by directors of institutions shall be limited. The Central Bank requires that the number of directorships of credit institutions and insurance undertakings <u>and reinsurance undertakings</u> held by a director shall not exceed five- <u>and this shall include directorships of credit institutions and insurance undertakings and reinsurance undertakings authorised outside of the State.</u> This restriction does not apply to other directorships within a financial services <u>the same</u> group. The Central Bank considers that an individual holding more than five directorships of credit institutions and insurance undertakings creates a rebuttable presumption that the director has insufficient time available to fulfil his or her role and functions as a director of a financial <u>an</u> institution. However, the nature of the directorships and the time commitments required are also factors, hence fewer than five directorships of credit institutions and insurance undertakings may also indicate a possible constraint on the ability of a director to comply. Where it is proposed that a director of an institution holds more than five directorships of credit institutions and insurance undertakings, the institution shall satisfy itself as to whether this is</p>	

		<p>appropriate and seek the prior approval of the Central Bank. The institution shall also provide the Central Bank with a detailed rationale, together with supporting documentation, as to why it considers the number of directorships does not constitute an inordinate constraint on their time. Factors covered in such a submission shall include the degree to which the directorships held are with respect to companies actively trading, the degree of complexity of the operation of such companies and whether such companies are part of a group.</p>	
32	<p>7.8 <u>7.9</u></p>	<p>Where directorships are held outside of credit institutions and insurance undertakings (i.e. “non-financial directorships”) the Central Bank considers that an individual holding more than eight such directorships creates a rebuttable presumption that the director has insufficient time available to fulfil his or her role and functions as a director of a financial institution. However, the nature of the directorships and the time commitments required are also factors, hence fewer than eight non- financial directorships may also indicate a possible constraint on the ability of a director to comply. Where it is proposed that a director of an institution holds more than eight non-financial directorships, the institution shall satisfy itself as to whether this is appropriate and seek the prior approval of the Central Bank. The institution shall also provide the Central Bank with a detailed rationale together with supporting documentation as to why it considers the number of directorships does not constitute an inordinate constraint on their time. Factors</p>	

		covered in such a submission shall include the degree to which the directorships held are with respect to companies actively trading, the degree of complexity of the operation of such companies and whether such companies are part of a group.	
32	7.9 <u>7.10</u>	In calculating the number of directorships held, the Central Bank shall exclude directorships held in the public interest on a voluntary and pro bono basis provided that such directorships shall not interfere with the director's ability to fulfil properly his or her role and functions as a director of a financial <u>an</u> institution. <u>Any such directorships should be notified to the Central Bank.</u>	
32	7.10 <u>7.11</u>	In considering and/or proposing director appointments, the board shall assess and document its consideration of possible conflicts of interest among its members, including, but not limited to personal relationships, business relationships and common directorships among its members or proposed members.	
33	7.11 <u>7.12</u>	Appointments shall not proceed where possible conflicts of interest may emerge which are significant to the overall work of the board.	
33	7.12 <u>7.13</u>	Directors shall not participate in any decision making/discussion where a reasonably perceived potential conflict of interest exists.	
33	7.13 <u>7.14</u>	Institutions shall review board membership at least once every three years. Institutions shall formally review the membership of the board of any person who is a <u>an independent non-executive</u> member for nine years or more and it shall document its rationale for any continuance and so advise the Central Bank in writing. The frequency with which board membership is renewed shall be	

		documented. The renewal frequency shall consider the balance of experience and independence sought.	
34	8.	CHAIRMAN	
34	8.1	There shall be a Chairman appointed to the board of every institution.	
34	8.2	The Chairman shall lead the board, encourage critical discussions and challenge mind-sets. In addition, the Chairman shall promote effective communication between executive and non-executive directors.	
34	8.3	The Chairman shall have relevant financial services expertise, qualifications and background or be required to undertake relevant and timely comprehensive training. The relevant financial services background or training shall ensure that the Chairman has the necessary knowledge, skills and experience and/or training required to comprehend each of the following: <ul style="list-style-type: none"> • The nature of the institution’s business, activities and related risks; • His or her individual direct and indirect responsibilities and the board’s responsibilities; and • The institution’s financial statements. 	
34	8.4	The Chairman shall have the necessary personal qualities, professionalism and integrity to carry out his or her obligations.	
34	8.5	The Chairman shall attend and chair board meetings.	
34	8.6	The roles of Chairman and Chief Executive Officer shall be	

		separate.	
34	8.7	The Chairman shall be an independent non-executive director except in the case of a subsidiary where the Chairman may be a Group director. If a deputy Chairman is required, the role shall be taken by an independent non-executive director or in the case of a subsidiary, may be taken by a Group director.	
35	8.8	The Chairman of the board shall be proposed for election or reappointment on an annual basis.	The annual reappointed of a Chairman to a quasi-captive/low impact risk institution is disproportionate to the nature, scale and complexity of these institutions. We suggest that this should be extended to a three year term (minimum)
35	8.9	The time requirement commitment for a Chairman may be significant. In light of this and to ensure that a Chairman has sufficient time to devote to his or her responsibilities as Chairman, the prior approval of the Central Bank shall be obtained prior to taking on any other directorships (other than within the group).	
35	8.10	An individual who has been the Chief Executive Officer, executive director or member of senior management of an institution during the previous 5 years shall not advance to the role of Chairman of that institution.	
35	8.11	The Chairman shall not hold the position of Chairman or Chief Executive Officer of a credit institution or insurance undertaking <u>or reinsurance undertaking</u> for more than one institution at any one time <u>and this obligation also prohibits the holding of the position of Chairman or Chief Executive Officer in a credit institution or insurance undertaking or reinsurance undertaking authorised</u>	

		<p><u>outside of the State at the same time as the holding of the position of Chairman or Chief Executive Officer of an institution to whom this Code applies.</u></p> <p><u>However, in the case of institutions which are not designated as High Impact institutions and are subsidiaries of groups, the Chairman may also hold the position of Chairman of a credit institution or insurance undertaking or reinsurance undertaking (including those authorised outside of the State) simultaneously provided that these roles reside within the group and the Chairman has sufficient time available to fulfil his or her role and function as the Chairman of an institution. The prior approval of the Central Bank shall be obtained prior to the Chairman assuming any such additional roles.</u></p>	
36	9.	CHIEF EXECUTIVE OFFICER	
36	9.1	<p>The Chief Executive Officer⁵ ('CEO') is the top executive responsible for the institution with ultimate executive responsibility for the institution's operations, compliance and performance. The CEO serves as the main link between the board and the executive.</p> <p><u>The institution shall appoint a CEO.</u></p>	
36	<u>9.2</u>	<p>The CEO shall not hold the position of CEO of a credit institution or insurance undertaking <u>or reinsurance</u> undertaking of more than one institution at any one time <u>and this obligation also prohibits the holding of the position of CEO in a credit institution or insurance</u></p>	

⁵ The term Chief Executive Officer encompasses other titles in this regard such as General Manager, Managing Director, President etc.

		<p><u>undertaking or reinsurance undertaking authorised outside of the State at the same time as the holding of the position of CEO of an institution to whom this Code applies.</u></p> <p><u>However, in the case of institutions which are designated as Medium-Low or Low impact institutions, the CEO may also hold up to two additional positions as CEO of a credit institution or insurance undertaking or reinsurance undertaking simultaneously provided the institution is also designated as a Medium-Low or Low impact institution and the CEO has sufficient time available to fulfil his or her role and function as the CEO of an institution. The prior approval of the Central Bank shall be obtained prior to the CEO assuming any such additional roles.</u></p>	
36	<p><u>9.2</u></p> <p><u>9.3</u></p>	<p>The CEO shall have relevant financial expertise, qualifications and background or be required to undertake relevant and timely comprehensive training. The relevant financial services background or training shall ensure that the CEO has the necessary knowledge, skills and experience and/or training required to comprehend fully each of the following:</p> <ul style="list-style-type: none"> • The nature of the institution’s business, activities and related risks; • His or her individual direct and indirect responsibilities and the board’s responsibilities; and • The institution’s financial statements. 	
37	<p><u>9.3</u></p> <p><u>9.4</u></p>	<p>The CEO shall have the necessary personal qualities, professionalism and integrity to carry out his or her obligations.</p>	

37	9.4 <u>9.5</u>	The renewal of the CEO contract shall be reviewed at least every 5 years.	
37	<u>9.6</u>	<u>The CEO shall be appointed to the board.</u>	This should not be an absolute requirement dictated by the Code. The appointment of CEO should remain as a decision of the Board who may be valid reasons for not appointing a CEO to the Board.
38	10.	INDEPENDENT NON-EXECUTIVE DIRECTORS	
38	10.1	As an integral component of the board, independent non-executive directors represent a key layer of oversight of the activities of an institution. It is essential for independent non-executive directors to bring an independent viewpoint to the deliberations of the board that is objective and independent of the activities of the management and of the institution.	
38	10.2	Independent non-executive directors shall be identified clearly in the institution's annual report.	
38	10.3	The independent non-executive directors shall have a knowledge and understanding of the business, risks and material activities of the institution to enable them to contribute effectively.	
38	10.4	The independent non-executive directors shall comprise individuals with relevant skills, experience and knowledge (such as accounting, auditing and risk management knowledge) who shall provide an independent challenge to the executive directors of the board.	
38	10.5	Dedicated support shall be available to independent non-executive directors on any matter requiring additional and/or separate advice	

		to that available in the normal board process.	
39	11.	NON-EXECUTIVE DIRECTORS AND EXECUTIVE DIRECTORS	
39	11.1	<p>The role of the non-executive directors, under the Chairman's leadership is:</p> <ul style="list-style-type: none"> • To ensure that there is an effective executive team in place; • To participate actively in constructively challenging and developing strategies proposed by the executive team; • To participate actively in the board's decision-making process; • To participate actively in board committees (where established); and • To exercise appropriate oversight over execution by the executive team of the agreed strategies, goals and objectives and to monitor reporting of performance 	
39	11.2	The role of executive directors, led by the CEO, is to propose strategies to the Board and following challenging board scrutiny, to execute the agreed strategies to the highest possible standards.	
39	11.3	The non-executive and executive directors shall have a knowledge and understanding of the business, risks and material activities of the institution to enable them to contribute effectively.	
39	11.4	The non-executive and executive directors shall comprise individuals with relevant skills, experience and knowledge (such as accounting, auditing and risk management knowledge, where	

		appropriate) who shall provide an independent challenge to the executive directors of the board.	
39	11.5	Dedicated support shall be available to non-executive and executive directors on any matter requiring additional and/or separate advice to that available in the normal board process.	
40	12	<u>CHIEF RISK OFFICER</u>	
40	<u>12.1</u>	<u>There shall be a person appointed the Chief Risk Officer ('CRO') with distinct responsibility for the risk management function. Where an institution is not designated as a High Impact institution and where the nature, scale and complexity of the operations of the institution do not justify a dedicated, exclusive CRO function, another pre-approval control function⁶ may fulfil that role, provided there is no conflict of interest. The Central Bank shall be notified of any such arrangement.</u>	Comments already included above.
40	<u>12.2</u>	<u>The CRO shall be responsible for managing the risk control function and for monitoring the institution's risk management framework across the entire organisation.</u>	
40	<u>12.3</u>	<u>The CRO shall be responsible for maintaining effective processes to identify, manage, monitor and report the risks to which the institution is or might be exposed and to promote sound and effective risk management both on a solo basis and at group level.</u>	
40	<u>12.4</u>	<u>The system of risk management shall promote an appropriate risk</u>	

⁶ Pre-approval control function means those functions set out in schedule 2 of the 'Regulations'. The 'Regulations' means the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations, 2011 (S.I. No.437 of 2011).

		<u>culture at all levels of the institution and shall be subject to regular internal review.</u>	
40	<u>42.4</u> <u>12.5</u>	<u>The CRO shall be responsible for the facilitation of the setting of the risk appetite by the board.</u>	
41	<u>12.6</u>	<u>The CRO shall have relevant expertise, qualifications and background or be required to undertake relevant and timely training. The CRO shall have sufficient seniority and independence to challenge or influence decisions which affect an institution's exposure to risk.</u>	
41	<u>12.7</u>	<u>The CRO shall be responsible for providing comprehensive and timely information on an institution's material risks which enables the board to understand the overall risk profile of the institution.</u>	
41	<u>42.2</u> <u>12.8</u>	<u>The CRO shall report to the board risk committee with direct access to the Chairman of the board.</u>	
42	13.	ROLE OF THE BOARD	
42	13.1	<p>The board of each institution is responsible <u>for the</u> effective, prudent and ethical oversight of the entity;<u>institution. The board is responsible for, among other things, setting and overseeing :</u></p> <ul style="list-style-type: none"> • <u>the business strategy for the institution;</u> • <u>the amounts, types and distribution of both internal capital and own funds adequate to cover the risks of the institution;</u> • <u>a robust and transparent organisational structure with effective communication and reporting channels;</u> • <u>a remuneration framework that is in line with the risk</u> 	Comments included above

		<p><u>strategies of the institution; and</u></p> <ul style="list-style-type: none"> • <u>an adequate and effective internal control framework, that includes well-functioning risk control, compliance and internal audit functions as well as an appropriate financial reporting and accounting framework.</u> <p>The board of each institution is responsible for:</p> <ul style="list-style-type: none"> • The effective, prudent and ethical oversight of the entity; • Setting the business strategy for the institution; and • Ensuring that risk and compliance are properly managed in the institution. 	
42	13.2	The role and responsibilities of the board shall be clearly documented.	
42	13.3	<p>The board shall have:</p> <ul style="list-style-type: none"> • The necessary knowledge, skills, experience, expertise, competencies, professionalism, fitness, probity and integrity to carry out their duties; • A full understanding of the nature of the institution's business, activities and related risks; • A full understanding of their individual direct and indirect responsibilities and collective responsibilities; and • An understanding of the institution's financial statements. 	
43	13.4	The board may delegate authority to sub-committees or management to act on behalf of the board in respect of certain matters but, where the board does so, it shall have mechanisms in place for documenting the delegation and monitoring the exercise	

		of delegated functions. The board cannot abrogate its responsibility for functions delegated.	
43	13.5	Where a credit institution or insurance undertaking, being part of a larger group, applies group policies or uses group functions, the board shall satisfy itself as to the appropriateness of these policies and functions for the institution and in particular that these policies and functions take full account of Irish laws and regulations and the supervisory requirements of the Central Bank.	
43	13.6	The board shall be able to explain its decisions to the Central Bank.	
44	14.	APPOINTMENTS	
44	14.1	The board shall be responsible for appointing a CEO and senior management with appropriate integrity and adequate knowledge, experience, skill and competence for their roles.	
44	14.2	The board shall be responsible for endorsing the appointment of people who may have a material impact on the risk profile of the institution and monitoring on an on-going basis their appropriateness for the role.	
44	14.3	The board shall be responsible for either the appointment of non-executive directors or where appropriate identifying and proposing the appointment of non-executive directors to shareholders and the board shall ensure that non-executive directors are given adequate training about the operations and performance of the institution. The board shall routinely update the training as necessary to ensure that they make informed decisions.	

44	14.4	<u>The board shall ensure that new non-executive directors are provided with adequate induction training about the operations and performance of the institution. The board shall ensure that adequate on-going training is provided to board members which is routinely updated as necessary to ensure that they make informed decisions.</u>	
44	14.5	The board shall define and document the responsibilities of the board of directors, board committees and senior management to ensure that no single person has unfettered control of the business.	
44	14.6	The board shall formally review its overall performance and that of individual directors, relative to the board's objectives, at least annually. The review shall be documented.	
45	14.7	The board shall ensure that there is an appropriate succession plan in place.	
45	14.8	The removal from office of the head of a control function shall be subject to prior board approval. Any decision to remove the head of a control function shall be reported within five working days to the Central Bank with clear articulation of the underlying rationale for the removal. An institution shall not enter into any agreement with a head of control function that would purport to preclude, or would dis-incentivise, the provision of information to the Central Bank by the head of the control function.	
46	15.	RISK APPETITE	
46	15.1	The board is required to understand the risks to which the institution is exposed and shall establish a documented risk	

		<p>appetite for the institution. The appetite shall be expressed in qualitative terms and also include quantitative metrics to allow tracking of performance and compliance with agreed strategy (e.g. Value at Risk, leverage ratio, range of tolerance for bad debts, acceptable stress losses, economic capital measures). It shall be subject to annual review by the board.</p>	
46	15.2	<p>The risk appetite definition shall be comprehensive and clear to all stakeholders. The definition shall clearly define the appetite and address separately the short, medium and long term horizons.</p>	
46	15.3	<p>The board shall ensure that the risk management framework and internal controls reflect the risk appetite and that there are adequate arrangements in place to ensure that there is regular reporting to the board on compliance with the risk appetite.</p>	
46	15.4	<p>In the event of a material deviation from the defined risk appetite measure, the details of the deviation and of the appropriate action to remedy the deviation shall be communicated to the Central Bank by the board promptly in writing and no later than five business days of the Board becoming aware of the deviation.</p>	
46	15.5	<p>The board shall satisfy itself that all key Control Functions such as internal audit, compliance and risk management are independent of business units, and have adequate resources and authority to operate effectively.</p>	
46	15.6	<p>The board shall ensure that it receives timely, accurate and sufficiently detailed information from risk and Control Functions.</p>	
47	15.7	<p>The board shall ensure that the institution's remuneration practices</p>	

		do not promote excessive risk taking. The board shall design and implement a remuneration policy to meet that objective and evaluate compliance with this policy.	
47	<u>15.8</u>	<u>The board shall ensure that it identifies risks to be addressed by contingency plans based on the areas where it considers the institution to be especially vulnerable and that these are reviewed, updated and tested on a regular basis.</u>	
48	16.	MEETINGS	
48	16.1	The board shall meet as often as is appropriate to fulfil its responsibilities effectively and prudently, reflective of the nature, scale and complexity of the institution. In any event, the board shall meet at least quarterly <u>four times per calendar year and at least once per half year.</u>	Comments included above.
48	16.2	A detailed agenda of items for consideration at each board meeting together with minutes of the previous board meeting shall be circulated in advance of the meeting to allow all directors adequate time to consider the material. Sufficient and clear supporting information and papers shall also be circulated.	
48	16.3	Detailed minutes of all board meetings shall be prepared with all decisions, discussions and points for further actions being documented. Dissensions or negative votes shall be documented in terms acceptable to the dissenting person or negative voter. The minutes of meetings shall provide sufficient detail to evidence appropriate board attention, the substance of discussions and their outcome and shall be agreed at the subsequent board meeting.	

		Minutes shall also document the attendance or nonattendance of members of the board.	
48	16.4	The board shall establish a documented 'conflict of interest' policy for its members and where conflict of interests arise the board shall ensure that they are noted in the minutes.	
48	16.5	If on-going conflicts of interest arise, consideration shall be given to changing the membership of the board.	
49	17.	RESERVED POWERS	
49	17.1	The board shall establish a formal schedule of matters specifically reserved to it for decision. This schedule shall be documented and updated in a timely manner.	
50	18.	CONSOLIDATED SUPERVISION	
50	18.1	The board shall exercise adequate control and oversight over the activities of its subsidiaries whether incorporated in Ireland or overseas.	
51	19.	COMMITTEES OF THE BOARD	
51	19.1	<p>The board is responsible for oversight of each of its committees.</p> <p>Subject to paragraph 18<u>19.2</u> below, the board shall establish, at a minimum, both an audit committee and a risk committee. Where the board comprises only 5 members, the full board, <u>including the Chairman and the CEO</u>, may act as the audit committee and/or the risk committee. In such cases Section 21<u>22.3 continues</u> <u>and Section 23.3 will continue</u> to apply. Minutes of these meetings</p>	<p>The Code should not dictate that the CEO be a member of any committee. Any such decision should remain with the board to make who may have valid reasons not to include a CEO on any particular committee.</p>

		should reflect that the board was sitting as the audit committee or risk committee.	
51	19.2	Where an institution is part of a wider group which has a group audit committee and a group risk committee, it may rely on those committees provided that the board is satisfied that they are appropriate to the specific circumstances of the institution.	
51	19.3	Committees shall have documented terms of reference evidencing all functions delegated to them.	
51	19.4	The non-executive directors and in particular independent non-executive directors shall play a leading role in these committees or where the functions are carried out at group level; they shall play a leading role in satisfying the board that the institution's audit and risk functions are adequately carried out.	
51	19.5	In deciding whether or not to establish board sub-committees, the board shall ensure that in the absence of establishing a sub-committee it continues to have appropriate time available to it to adequately discharge its responsibilities.	
52	19.6	Where appropriate, the board should consider the appointment of a remuneration committee and/or nomination committee.	
52	19.7	<u>Board consideration of risk-related issues may be enhanced by members serving on more than one board sub-committee as members may gain a greater appreciation of risk considerations across the institution. Cross memberships between key sub-committees of the board should be encouraged. The Chairman of the audit committee shall be a member of the risk committee and</u>	

		<u>the Chairman of the risk committee shall be a member of the audit committee.</u>	
53	20.	GENERAL REQUIREMENTS OF COMMITTEES	
53	20.1	<p>Institutions shall adhere to the following general requirements in relation to the activities of sub-committees of the board:</p> <ul style="list-style-type: none"> a) Agendas and all relevant material for the meeting shall be circulated to all committee members in a timely manner in advance of the meeting; b) Detailed minutes of all committee meetings shall be prepared recording time of meeting, location held, attendees, all key discussions and decisions; c) When appointing committee members, the board shall review and satisfy itself as to the relevant expertise, skill of members and their ability to commit appropriate time to the committee; d) Committee members shall attend committee meetings regularly. Where a member is unable to provide sufficient time to attend over the medium to long term, the board shall remove such member from the committee and replace him or her with a member with appropriate availability, experience and expertise; e) <u>Directors should attend each sub-committee meeting in person wherever possible. However, due to the location of some directors, physical attendance may not always be possible, in which case videoconferencing or</u> 	

		<p><u>teleconferencing is permissible:</u></p> <p>f) Cross-committee membership by an individual shall be managed by the institution to ensure that no one individual exercises excessive influence or control;</p> <p>g) Committee membership shall be reviewed by the institution and subject to renewal by the institution with an appropriate frequency. The renewal frequency shall consider the balance of experience and independence sought; and</p> <p>h) Committees shall report regularly to the board and the minutes of all sub-committees shall be circulated to the board in advance of board meetings.</p>	
55	21.	TERMS OF REFERENCE OF COMMITTEES OF THE BOARD	
55	21.1	The authority, functions, membership and reporting lines of the committees as well as meeting frequency, voting rights and quorums shall be clearly outlined in written terms of reference established by the board.	
55	21.2	The terms of reference shall be reviewed regularly by the committees to ensure continuing appropriateness. Recommendations on revisions shall be provided to the board, where necessary. Such reviews shall be documented and shall take place at least annually.	
56	22.	AUDIT COMMITTEE	
56	22.1	The number of members of an audit committee shall be sufficient to	It appears that the addition of this requirement is written with

		handle the size and complexity of the business conducted by it <u>and shall be composed of at least three members.</u>	a larger complex institution in mind. The requirement to have a committee of three is disproportionate to the nature, scale and complexity of a quasi-captive/low risk institution. As stated in the original sentence the number of members of an audit committee should be sufficient to handle the size and complexity of the business conducted by it.
56	22.2	An audit committee shall be composed of non-executive directors, the majority of directors being independent.	
56	22.3	The Chairman of the audit committee shall be an independent non-executive director.	
56	22.4	<u>The audit committee as a whole shall have relevant financial experience and at least one member shall have an appropriate qualification.</u>	This is disproportionate to the requirements and needs of a quasi-captive/low risk institution. It appears that this was written with a large complex institution in mind.
56	22.5	Subject to the provision contained in Section 4819.1, neither the Chairman of the board nor the CEO shall be a member of the audit committee. The attendance by the CEO or board Chairman at audit committees <u>meetings</u> shall be by invitation and shall be managed to ensure the independence of the committee and the maintenance of appropriate relationships with other parties especially external auditors.	
56	22.6	Audit committee meetings shall be held at regular intervals and, where appropriate, to coincide with important financial reporting dates. They shall usually only be attended by the Chairman and members of the audit committee. However, members may also request the attendance of key individuals such as the external	

		auditor, head of internal audit and the finance director. The audit committee shall operate in a manner consistent with ensuring its independence and shall report its activities and decisions to the board of directors.	
57	22.7	<p>Without prejudice to the responsibility of the board of directors, the responsibilities of the audit committee shall include at least the following:</p> <ul style="list-style-type: none"> a) Monitoring the effectiveness and adequacy of the company's <u>institution's</u> internal control, internal audit and IT systems; b) Liaising with the external auditor particularly in relation to their audit findings; c) Reviewing the integrity of the institution's financial statements and ensuring that they give a "true and fair view" of the financial status of the institution; d) Reviewing any financial announcements and reports and recommending to the board whether to approve the institution's annual accounts (including, if relevant, group accounts); and e) Assessing auditor independence and the effectiveness of the audit process. 	
58	23.	RISK COMMITTEE	
58	23.1	The board shall establish a risk committee separately from the audit committee with responsibility for oversight and advice to the board on the current risk exposures of the entity <u>institution</u> and	

		future risk strategy. Institutions may propose to the Central Bank that the board itself carry out the functions which would otherwise be delegated to a risk committee. The Central Bank's prior approval in writing shall be obtained if an institution wishes to fulfil this requirement without creating a separate committee of the board.	
58	23.2	The <u>number of members of a</u> risk committee shall ensure that there is an appropriate representation of non-executive and executive directors which is appropriate <u>be sufficient to handle</u> the nature, scale <u>size</u> and complexity of the business <u>conducted by it and be composed of at least three members.</u>	
58	23.3	<u>The Chairman of the risk committee shall be a non-executive director.</u>	
58	23.4	<u>The risk committee shall be composed of a majority of non-executive directors.</u>	
58	23.5	<u>The risk committee as a whole shall have relevant financial experience.</u>	
58	23.6	The role of the risk committee shall be to advise the board on risk appetite and tolerance for future strategy, taking account of the board's overall risk appetite, the current financial position of the institution and, drawing on the work of the audit committee and the external auditor, the capacity of the institution to manage and control risks within the agreed strategy. The risk committee shall oversee the risk management function.	
59	23.7	The risk committee shall ensure the development and on-going	

		<p>maintenance of an effective risk management system within the financial institution that is effective and proportionate to the nature, scale and complexity of the risks inherent in the business.</p>	
59	23.8	<p>The risk committee shall advise the board on the effectiveness of strategies and policies with respect to maintaining, on an on-going basis, amounts, types and distribution of both internal capital and own funds adequate to cover the risks of the institution.</p>	
60	24.	REMUNERATION COMMITTEE	
60	24.1	<p>Where a remuneration committee has been established, the number of members of the remuneration committee will depend on the size of the institution.</p>	
60	24.2	<p>Where possible, all members of the remuneration committee shall be independent non-executive directors but, in any event, the majority of members of the committee shall be independent non-executive directors.</p>	
60	24.3	<p>The Chairman of the board shall not be the Chairman of the remuneration committee.</p>	
60	24.4	<p>The remuneration committee shall establish remuneration policies and procedures within the institution based on best practice and any requirements which the Central Bank may issue.</p>	
61	25.	NOMINATION COMMITTEE	
61	25.1	<p>Where a nomination committee has been established, the number of members of the committee will depend on the size of the institution, but the majority of members of the committee shall be</p>	

		independent non-executive directors.	
61	25.2	The nomination committee shall make recommendations to the board on all new appointments of both executive and non-executive directors.	
61	25.3	In considering appointments the nomination committee shall prepare a comprehensive job description, taking into account for board appointments, the existing skills and expertise of the board and the anticipated time commitment required.	
61	25.4	The nomination committee shall be involved in succession planning for the board, bearing in mind the future demands on the business and the existing level of skills and expertise.	
62	26.	COMPLIANCE STATEMENT	
62	26.1	An institution shall submit to the Central Bank a compliance statement specifying, in accordance with any relevant guideline issued by the Bank, whether the institution has complied with this Code during the period to which the statement relates. This compliance statement shall be submitted to the Central Bank on an annual basis or with such other frequency as the Central Bank may notify to the institution from time to time. The first report will be for the year end 2011 and shall be submitted, with the institution's annual report. <u>Where an institution does not have a financial reporting period coinciding with the calendar year it may submit a compliance statement for the period of its financial year.</u> In the event of the institution deviating materially from the Code, the	

		compliance report shall include a report on any material deviations, advising of the background to the breach and the actual or proposed remedial action.	
63		<u>APPENDIX 1 to the Corporate Governance Code for Credit Institutions and Insurance Undertakings (“The Code”)</u>	
63		ADDITIONAL OBLIGATIONS ON <u>HIGH IMPACT</u> INSTITUTIONS	
63		The following additional obligations apply to Major <u>High Impact</u> Institutions. The numerical references relate to those used throughout the Code. Major <u>High Impact</u> Institutions shall substitute these requirements for those contained in the Code.	
63	7.	COMPOSITION OF THE BOARD	
63	7.1	The board of an institution shall be of sufficient size and expertise to oversee adequately the operations of the institution. The board shall have a minimum of seven directors. The board of a major <u>High Impact</u> institution shall consider whether a larger board is appropriate and shall record such considerations in writing. In particular, the board should comprise sufficient representation by executive directors to ensure that it is not dominated by one individual executive.	
63	7.2	The board shall have a majority of independent non-executive directors (this may include the Chairman). However in the case of institutions that are subsidiaries of groups, the majority of the board may be group non-executive directors, provided that in all cases the subsidiary institution shall have at least three independent non-executive directors or such greater number as is required by the	

		Central Bank. Group directors shall act critically and independently so as to exercise objective and independent judgement.	
64	7.8	The number of directorships held by directors of institutions shall be limited. The Central Bank requires that the number of directorships of credit institutions and insurance undertakings <u>and reinsurance</u> undertakings held by a director shall not exceed three where one of the directorships held is in a Major <u>High Impact</u> Institution- <u>and this shall include directorships of credit institutions and insurance undertakings and reinsurance undertakings authorised outside of the State.</u> This restriction does not apply to multiple directorships within a financial services <u>the same</u> group.	
64	7.9	Where directorships are held outside of credit institutions and insurance undertakings, (i.e. a non-financial institution) the Central Bank considers that an individual holding more than five directorships in a non-financial institution creates a rebuttable presumption that the director has insufficient time available to fulfil his or her role and functions as a director of an institution. However, the nature of the directorships and the time commitments required are also factors, hence fewer than five directorships in non-financial institutions may also indicate a possible constraint on the ability of a director to comply. Where it is proposed that a director of an institution hold more than five directorships, the institution shall satisfy itself as to whether this is appropriate and seek the prior approval of the Central Bank. The institution shall also provide the Central Bank with a detailed rationale together	

		with supporting documentation as to why it considers the number of directorships does not constitute an inordinate constraint on his or her time. Factors that shall be covered in such a submission include the degree to which the directorships held are with respect to companies actively trading, the degree of complexity of the operation of such companies and whether such companies are part of a group	
65	14.	APPOINTMENTS	
65	14.6	At a minimum, a board shall conduct an annual assessment of its own performance and compliance with relevant provisions. Every three years an evaluation by an external evaluator shall be undertaken. Where the external evaluation is critical of the performance of the board, the <u>Central Bank reserves the right to increase the</u> frequency of subsequent evaluations shall be increased to annually until acceptable performance is noted. Any such evaluation shall be provided to the Central Bank.	
65	14.9	<u>The board shall put in place a formal skills matrix to ensure that there is an appropriate skills mix across members of the board and potential new members should be assessed against the skills matrix during the appointment process.</u>	
65	15.	MEETINGS	
65	15.1	The board shall meet as often as is appropriate to fulfil its responsibilities effectively and prudently, reflective of the nature, scale and complexity of the institution. In any event, the board shall meet at least 11 times during any calendar year and at least once	

		per calendar month for 11 months of the year.	
65	19.	COMMITTEES OF THE BOARD	
65	19.1	Major <u>High Impact</u> institutions are required to establish audit, risk, remuneration and nomination committees. Where an institution is part of a wider group where remuneration and nomination committees exist, it may not need separate such committees. The Central Bank shall be informed of this decision promptly and retains the discretion to require the establishment of these committees. <u>No single individual may hold the position of Chairman of the audit committee and risk committee simultaneously.</u>	
66	19.7	<u>The Chairman of the remuneration committee shall be a member of the risk committee and the Chairman of the risk committee shall be a member of the remuneration committee.</u>	