IRISH BANKING FEDERATION

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Ms Gina Fitzgerald,
Banking Policy Unit,
Prudential Policy Division,
Central Bank of Ireland,
6-8 College Green,
Dublin 2

1 November 2013

Re: IBF Response to Consultation Paper 74

Dear Gina,

The Irish Banking Federation (IBF) is the leading representative body for the banking and financial services sector in Ireland, representing over 70 member institutions and associates, including licensed domestic and international banks and credit institutions operating in the financial marketplace here. We are pleased to input to the Central Bank of Ireland (CBI) discussion on the Consultation on Competent Authority Discretions and Options in CRD IV and CRR, CP 74. Our aim is to assist with the implementation of CRR/ CRD IV in the most practical manner, with a clear understanding of local requirements and to ensure we are not disadvantaged against the rest of the EU.

The key issues and concerns for the IBF members are summarised below, with some additional points and clarification in the Annex which follows. The IBF members' considered response to all the discretions and options raised in the CP 74 Appendices is in a separate document, attached.

Application of Prudential Requirements – Article 7 provides the CBI with the ability to waive the requirements for subsidiaries to comply with the individual capital and leverage requirements. The CBI has indicated that it does not intend to exercise the discretion to allow institutions to apply for such a waiver.

We request that the CBI exercise this discretion in order to ensure a level playing field across Europe. Failure to allow such waivers may result in trapped capital in ring fenced mortgage banks and may also have particular implications for such banks in meeting their leverage ratio.

FINREP Solo reporting – Article 99(3) CRR – We are looking for clarification of the basis on which FINREP is extended by the CBI to all licensed credit institutions, as our interpretation of the discretion is that it extends consolidated FINREP reporting only in certain circumstances (where reporting of own funds on a consolidated basis using IAS has been required under Article 24.2).

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FINREP solo reporting is not being pursued by many other competent authorities within the EU and we consider it will create an unfair burden of reporting on firms in Ireland and a competitive disadvantage.

Maturity - Article 162.4 - Article 162.4 allows banks to consistently set a maturity of 2.5 years on exposures to corporates in the EU with consolidated sales and assets of under €0.5bn. Our interpretation of the CRR suggests that the CBI does not have the ability to exercise discretion over Article 162.4 and we are seeking confirmation of this. Failure to allow its adoption puts Irish Banks at a distinct disadvantage to its EU peers. We consider that implementing the 2.5 year fixed maturity rule would bring Ireland closer to the implementation approach adopted by 19 EU Member States and is in line with the Commission's desire for harmonisation of capital requirements

Article 8 Liquidity – The CBI has indicated that it will exercise its discretion to allow the derogation of liquidity requirements for institutions of a single liquidity subgroup. However we note that an application will have to be made for such a waiver as there is no automatic carry over from the existing regime. Early engagement by the CBI is sought, to clarify the necessary application requirements to obtain such waivers and to avoid creating significant operational and liquidity reporting challenges. The CBI should also outline reasons why institutions that are already part of a liquidity subgroup might not automatically get a waiver under Article 8.

Article 416 HQLA - It is critical that all Irish HQLA (Sovereign, covered and NAMA bonds) are recognised as HQLA and treated equivalent to all European HQLA. A negative view on Irish debt (for both sovereign and bank) would result in a material increase in funding costs and capacity to raise debt for Irish banks, with the knock on impact on capital. The capacity of Irish banks to meet CRR liquidity requirements would also be challenged. We acknowledge the positive recommendation by the EBA at its October hearing that NAMA bonds should qualify as Level 1 and request the CBI to ensure that the final EBA paper recognises Irish HQLA and equality of treatment with European equivalents.

Liquidity Reporting – Article 415.3(b) – The CBI plans to extend the existing liquidity regulatory reporting requirements up to 2018. This will materially increase the reporting burden in an environment where there are already many challenges in meeting CRR/ CRD/ Basel III reporting obligations. We propose that existing regulatory liquidity requirements are phased out from June 2015, i.e. 6 months post LCR introduction.

Unintended consequences – Impact of capital discretions on LCR and NSFR
There may be unintended consequences for the LCR under Article 178.1(b) and on the NSFR under Article 124.2. While these discretions may be applicable for RWA capital purposes we would strongly suggest not applying them for Liquidity purposes.

Leverage ratio implications for Article 9 – Clarification is sought from the CBI as to whether the derogation under Article 9 (1) for parent institutions could also be applied to the calculation of the leverage ratio requirement under Article 6.5.

Unrealised gains and losses on exposures to Central Governments - Articles 467/468 – We note that the CBI intends to exercise this discretion on treatment around Sovereigns

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classified in the AFS category. Is it the CBI intention to extend this derogation beyond the transitional period? Can the CBI also confirm that the use of the filter is optional by the institution?

Implementation Guidance - Timing of the CBI CRD IV/ CRR Implementation Guidance is indicated for before end 2013. We consider the guidance must be addressed as a matter of urgency, for clarity of requirements and some level of lead in time for implementation.

Revised Application Processes – Clarity is also required as soon as possible on any revised application processes for the various items raised within the Consultation paper, such as the application process for discretions and options.

Unattributed discretions – there are a number of discretions where the responsible authority has not yet been confirmed by the Department of Finance. We seek such clarity as a matter of urgency and an indication on how these discretions may apply, in particular for aspects that will have immediate effect from January 2014.

The IBF is available to discuss with you any aspect of our response to the CBI Consultation on Competent Authority Discretions and Options in CRD IV and CRR.

Yours sincerely,

Mary Doyle

Head of Prudential Supervision & Risk

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Annex

Additional Observations

Chapter 1: Overview

- Transposition and Implementation

  We note that the Central Bank of Ireland (CBI) is to issue an update to its current "Implementation of the CRD" Regulatory document before end 2013 and that this document will confirm the CBI approach towards the exercise of CA discretions and options. We strongly urge that this document is issued as soon as possible and if necessary in draft format.

- Implications of the Single Supervisory Mechanism (SSM)

  As the SSM is empowered to determine the exercise of CA discretions and options upon commencement of 'effective supervision' for significant credit institutions, it is important that any engagement through the CBI is shared with the impacted Irish Licensed credit institutions immediately. Requests for data from the SSM on top of the new CRD IV / CRR reporting requirements will need careful planning and resourcing for each institution.

- Scope of this Consultation Paper

  - It is noted that the authority to be responsible for exercising the capital buffers and broader macro prudential discretions and options have not yet been confirmed by the Department of Finance. Where it is the case that the CBI is confirmed as the designated authority the process for advising the Industry will need to be put in place swiftly given the short time frame to CRD IV implementation.
  - The paper indicates that each institution is responsible for applying for discretions and options where appropriate and that the CBI "will shortly communicate with institutions on the process for applying such discretions". Can you please revert with timelines in this regard as the timeframes for turning such applications around are important given 1 January 2014 compliance?
  - Please confirm that where a discretion or option is being exercised on a general basis there is no requirement for the institution to apply to the CBI for permission to apply this.

Chapter 2: Capital Buffers

- It is noted that this chapter is for information only as all capital buffers provision on CRD IV are new and discretions and options arising under these provisions are a matter for the Department of Finance to appoint Designated Authority.

- As it is more than likely that the CBI will be appointed as the Designated Authority we request guidance on the methodology to be used in setting capital buffers as soon as is practicable.

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Chapter 3: Corporate Governance

- It is noted that as well as the discretions and options contained within this paper, institutions should also refer to the Corporate Governance Code as well as the Fitness & Probity Regime to meet CBI expectations in this area.

Chapter 6: Credit Risk

- We note that it is imperative for institutions to ensure that they have accurate and robust credit risk management in place irrespective of whether they are applying Standardised or Internal Ratings Based (IRB) Approaches.

- This paper confirms that the CBI will issue revised guidance on procedures for IRB model applications and permissions under CRR within its CRD Implementation Guidance in late 2013. As per a previous point it will be important for institutions to get early sight of this guidance given the short timeframe remaining for CRD IV implementation.

- Exposures secured by mortgages – Article 124 (2) CRR. There may be an unintended consequence in applying this discretion, impacting the NSFR calculation. We strongly suggest applying this for Risk Weighted Assets purposes but not for liquidity purposes. This discretion places Irish banks and portfolios at a disadvantage relative to peers in other jurisdictions, e.g. the UK uses an 80% LTV (75% here) and also Buy to Let Mortgages can be 35% risk weighted. The discretion is intended for Risk Weighted Asset purposes yet, for a Bank that is on an IRB approach only, this discretion only impacts the NSFR unfavourably.

- Maturity: Article 162.4 allows banks to consistently set a maturity of 2.5 years on exposures to corporates in the EU with consolidated sales and assets of under €0.5bn. Our interpretation of the CRR suggests that the CBI does not have the ability to exercise discretion over Article 162.4 and we are seeking confirmation of this. Failure to allow its adoption puts Irish banks at a distinct disadvantage to its EU peers. We consider that implementing the 2.5 year fixed maturity rule would bring Ireland closer to the implementation approach adopted by 19 of the EU Member States and is in line with the Commission's desire for harmonisation of capital requirements.

- Default of an Obligor – Article 178.1(b). There may again be an unintended consequence in applying this 90 days past due requirement for credit purposes, specifically impacting the LCR. If a loan is past due, its inflows cannot be included in the LCR. The application of the 90 day requirement therefore places Irish Banks' LCR at a disadvantage relative to peers in some other jurisdictions.

Chapter 7: Own Funds

- Pre-Approval of Capital Instruments
  References are made to an approval process. Is there a new approval process to be introduced with CRD IV and if so when will this be shared with institutions?

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We note the discontinuance of BSD S1/04 as of 31/12/13.

- Reporting on Own Fund Requirements and Financial Information
  We strongly recommend that the Central Bank of Ireland reconsider its approach to exercising the Article 99(3) discretion on reporting at licensed entity level. The requirement for FINREP reporting at a solo level will result in a major reporting burden across all institutions that have more than one license and impact on costs and resourcing. It is noted that other Competent Authorities have stated that they will not be applying this discretion.

- Transitional Provisions for Own Funds
  We believe there may be an error in the table on Page 28 section 7.20. The proposed treatment for 2015 on the top half of the table is at 60% whereas we believe it should be 40% if the intention is to include the same percentage of unrealised losses as gains in CET1 in 2015. This error is repeated in the Appendices and where appropriate we have identified this.

- Article 478
  Article 478 assists the Bank's capital base by allowing for the phasing in of the Deferred Tax Assets (DTA) deduction. Similarly, consideration could be given to phasing in the funding factor to be applied to the DTA for NSFR purposes in a consistent manner.

Chapter 9: Liquidity

- Accelerated Phase-in of the Liquidity Coverage Requirement

  We note that the Article 412(5) discretion to accelerate the LCR requirement to 100% is a matter for the Department of Finance. The IBF would oppose this discretion being exercised.

- Solo Waiver : Article 8 CRR
  The IBF appreciates this approach but considers the timetable is tight for implementation. There are a number of areas that require clarification and we have included them in the detailed Appendix response. Such items include; Clarification of the Application Process; Timelines for approvals; Waiver requirements.

- Intra-Group Liquidity Flows
  The application process and requirements to obtain preferential treatment for intra group outflow factors need to be outlined.

- Reporting
  We suggest a definitive review process be undertaken in early 2015 to consider the current reporting framework. This should determine any benefit of retaining the existing reporting framework in light of the new requirements. We suggest current reporting should be trimmed, to avoid unnecessary duplication, overheads and costs involved. Maintaining the dual reporting through to 2014 will create an uncompetitive overhead cost relative to some EU competitors. We propose that existing regulatory liquidity requirements are phased out from June 2015, i.e. 6 months post LCR introduction.

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- Article 416 (1) HQLA
  We welcome the draft recommendations by the EBA and Irish efforts to include NAMA Bonds as Level 1 assets.
  It is important that Irish HQLA (Sovereign and Covered Bonds) are recognised as HQLA across the EU. Otherwise, the market for such assets may be restricted, thereby increasing the cost of funding for both the Sovereign and Irish Banks with knock on impacts for credit demand and credit cost in the Irish economy. We request that the CBI continues its engagement to ensure Irish HQLA be considered HQLA across the EU.

Chapter 11: Consolidation

- Clarification is sought from the CBI as to whether the derogation under Article 9 (1) for parent institutions could also be applied to the calculation of the leverage ratio requirement under Article 6.5.

Chapter 12: MIFID Investment Firms

- Will there be a separate communication/guidance document issued for Investment Firms by CBI? If not it would be important that within the Guidance to be issued in late 2013 that there is specific coverage with respect to the reporting requirements on an individual basis for Investment Firms under CRD IV with regard to :
  - Liquidity reporting
  - Leverage ratio
  - Capital buffers
  - ICAAPs.