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IBF RESPONSE TO THE CONSULTATION ON PUBLICATION OF UCITS RULEBOOK

CONSULTATION PAPER 77

MARCH 2014

The Irish Banking Federation (IBF) is the leading representative body for the banking and financial services sector in Ireland. Our membership comprises banks and financial services institutions both domestic and international operating in Ireland. Our purpose is to foster the development of a stable banking and financial services sector that contributes to the economic and social well-being of the country. Retail banks and building societies serve personal and business customers in Ireland. They provide a safe choice for savings and deposits and enable customers to plan for a stable financial future. IBF members provide a competitive range of products which enable Irish consumers to achieve home ownership, manage their money, fund their lifestyle choices and build financial strength.

Wholesale banks and financial services operations provide corporate, investment, treasury, capital markets and international financial services. Wholesale banks are represented by the Federation of International Banks in Ireland (FIBI), which is affiliated to IBF. FIBI members include 25 of the 50 largest banks in the world.

The IBF welcomes the opportunity to comment on the Central Bank's consultation on publication of UCITS rulebook.

Our members would like to raise the following issues for consideration:

- Guidance notes - If it is the intention to provide a single sourcebook for additional requirements imposed by the Central Bank the Guidance Notes ('GN') should be transferred into the Rulebook in their entirety or incorporated into it. For example, a lot of the background information included in the GN3/03 is not included in the Rulebook. This also applies to GN2/03 which is a notable missing feature and could be incorporated into the eligible assets section of the Rulebook.
- Layout - The layout is inconsistent. For example, the restrictions relating to FDI are mentioned in the Eligible Asset section, the Investment Restrictions section and also the Financial Derivative Instruments section. If the intention of the rulebook is to create a single framework then consolidating requirements into a single section would be much more effective.
- Requirement for Financials - The introduction of the requirement for a second set of 6 monthly financials due 2 months after the period end has been detailed on several occasions. This would mean that three sets of financials would be required, 2 sets of six monthly and 1 on an annual basis. Even though this is only being proposed for management companies and depositaries, and not for the funds themselves, we do not agree with this requirement and seek clarity around the justification for it.

- Valuation - We do agree with the general valuation principles set out in Chapter 1 and we support the CBI's decision to remove the prescriptive approach to the valuation of OTC financial derivative instruments. We believe the CBI is correct to permit a UCITS to value OTC FDI in accordance with the overarching principles contained within Schedule 9 of the UCITS Regulations. However, we do not agree that additional roles should be imposed on depositaries in relation to valuation.
- New Requirements in Chapter 3 and Chapter 1 - In addition to the new tasks related to the valuation of UCITS which have been added to Depositary section (Chapter 3) the requirement to approve competent party are listed in the Product Requirement section (Chapter 1). There is also a new section regarding in specie transfer where depositary has to approve the assets allocation as part of the in specie redemption. In addition, depositary must also vest the assets as part of the in specie subscription. We don't believe that the approvals required are the role of the depositary – this should be a responsibility left to the UCITS. Approving an in specie transfer is akin to providing pre-trade compliance, which is not the responsibility of the depositary.
- Requirement of notification of any breaches – There is a requirement of notification of any breaches which are not resolved for more than 4 weeks. We do not agree with this requirement. To report aged immaterial breaches is an additional requirement that is not required in other jurisdictions and has no clarity in relation to what constitutes an immaterial breach.

We would like to thank the Central Bank for this opportunity to relay our member's views on this consultation. I invite you to contact me if you require any additional information or if we can assist you in any way to engage with our members.

Gavin Purtill
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Irish Banking Federation