

In response to your consultation paper CP86, I have the following comments to make.

Under your questions for consideration:

2. Is the breakdown of revised managerial functions correct? Should other managerial functions be provided for? What are your observations about what the operational effectiveness function might entail and how this might be performed? Do you see any obstacles to the Chairperson performing the operational effectiveness function?

I think Remuneration should go under Supervision of Delegates and Organisational Effectiveness as this is not a regulatory issue.

3. Is relaxing the two Irish resident director requirement the correct approach? Will relaxing this requirement have an adverse impact on the ability of the Central Bank to have issues with distressed investment funds resolved? If so, how could this be addressed?

This is a perplexing suggestion as the Irish Inland Revenue treats funds as companies. Funds are subject to the full rigour of the Companies Act. A central part of that Act is the role and responsibilities of the Irish directors within the company (Mind & Matter). This runs contrary to your suggestion to have a single company resident director and this might put the company in a parlous state as regards the tax as many of these companies rely on Irish double taxation treaties.

Also, a single Irish Director may find themselves in a very difficult position in instances where non-Irish promoters, managers or directors decide not to provide support and would significantly increase the risk of a serious problem developing within the fund and for the director.

4. What are your views on the proposed approach to measuring time spent in Ireland? Can you suggest any alternatives or any enhancements to the definition proposed by the Central Bank?

I think this should be left as an Irish Resident as recognised in company and tax law and as applied by the Irish Inland Revenue. I am not in favour of any other test.

5. Is there a downside to requiring fund management companies to document the rationale for the board composition? Will fund management companies require a transitional period during which they can alter their board composition to ensure they have sufficient expertise and how long do you consider would be a reasonable timeframe for such adjustments?

Managers and Promoters spend a great amount of time selecting boards and I do not see any need to have this documented by law.

6. Are there any other elements which should be included by the Central Bank in a Fund Management Company Effectiveness – Delegate Oversight initiative?

Proportionality is important for this. Materiality and Scale are important to the industry. Larger funds to have greater resources.

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