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Consultation on Corporate Governance Requirements for Investment Firms,
Risk Governance, and Accounting Policy Division,
Central Bank of Ireland,
Block D,
Iveagh Court,
Harcourt Road,
Dublin 2.

Sent by email to: CP94@centralbank.ie

5th August 2015

Dear Sir/Madam,

Consultation on Corporate Governance Requirements for Investment Firms

Irish Funds¹ welcomes the opportunity to comment on this Consultation Paper regarding Corporate Governance Requirements for Investment Firms (the 'Consultation Paper').

We have set out below our comments on the Consultation Paper;

General comment

There is currently no guidance within the 2015 Code in relation to transitional periods for complying with a higher level of compliance as a result of a change in a Firms' PRISM rating. One of the main potential impacts of a change in PRISM rating is the requirement for additional independent non-executive directors to be appointed and a transition period of between three and six months may be required to identify an appropriate candidate and seek the appropriate regulatory approval.

Definitions

The definition of Group Director refers only to meeting the criteria for independence where it is not for their existing group relationships. For consistency, it has been suggested that this definition be aligned to the definition within the Corporate Governance Code for Credit Institutions and Insurance Undertakings:

- ***“Group Director: A group director may be an executive, an executive director, a non-executive director or an independent non-executive director of an entity within the group.”***

Chairman

¹ Irish Funds (IF) is the industry association for the international investment fund community in Ireland, representing custodians, administrators, managers, transfer agents and professional advisory firms. Ireland is a leading centre for the domicile and administration of investment funds. As the leading international funds centre, there is in excess of €3.8 trillion of assets in over 13,000 funds administered in Ireland. These assets are comprised of €1.9 trillion in 5,897 Irish domiciled funds (including sub-funds). Additionally, the industry services €1.9 trillion in non-Irish funds administered in Ireland.

Section 7.7 requires additional guidance in relation to a situation where the Chairman is “*temporarily unavailable*”. Does this scenario relate to (i) where the Chairman is on an extended leave of absence (for example, due to illness) or does it relate to (ii) where the Chairman is unavailable to Chair a Board meeting.

- In scenario (i), would the temporary Chairman be required to seek pre-approval from the Central Bank for the role of Chairman of the Company in place of the absent Chairman or for the role of Deputy Chairman?
- In scenario (ii), presumably no Central Bank approval would be required as the person would be acting as Chairman for a single meeting and not assuming the role of Chairman of the Company.

Section 7.7 also provides that the role of Chairman within a subsidiary can be a group director (presumably a non-executive). In this regard it is proposed that the final sentence of Section 7.7 be modified to provide that “*If the Chairman is temporarily unavailable (or has a conflict of interest), the role may be taken by a group director.*” Using the definition of group director as suggested above.

Board Meetings

In Sections 14.2 and 14.3, there is a requirement that draft minutes of a meeting be presented at the subsequent board meeting for agreement. This could potentially place the Firm in a position where it would be in breach of the 2015 Code due to multiple meetings being held in a short period of time. It is proposed that the 2015 Code be modified to reflect that the draft minutes be circulated in a timely manner as may be determined by the board from time to time.

Committees

In Section 20.1 (Audit Committee), it would be helpful if a similar provision to that contained in Section 21.1 (Risk Committee) could be introduced whereby “*A firm with only three directors may propose to the Central Bank that the board itself carry out the functions which would otherwise be delegated to an audit committee but the firm shall ensure that the board does not carry out such functions in the absence of having obtained the Central Bank’s prior approval in writing to do so.*” This would remove unnecessary duplication of work where the audit committee membership was identical to the board membership.

In addition, and with reference to the above, Section 17.1 should also be amended to provide consistent guidance in relation to the requirement to establish committees and/or allowing the board to carry on the business itself.

In relation to Section 17.2 whereby “*A firm shall ensure that, where a firm is part of a wider group which has a group audit committee and/or 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 firm and that the board has documented its assessment in this regard*”, will this arrangement be subject to the pre-approval of the Central Bank?



Section 17.6 provides that “A firm shall ensure that, irrespective of a firm’s designation under ‘PRISM’, the board shall, where it deems it appropriate having had regard to the firm’s corporate governance arrangements, appoint a remuneration committee and/or a nomination committee”, however, Section 17.1 of Appendix 1 conflicts with this statement by stating that “a firm that is High Impact or Medium High Impact shall ensure that the board establishes audit, risk, remuneration and nomination committees.” A provision requiring Medium-Low Firms to consider establishing a remuneration committee and/or a nomination committee might be more appropriate within Section 17.6.

We hope you find these comments helpful, and we remain at your disposal to discuss the issues raised in this response further.

Yours faithfully,

A handwritten signature in black ink that reads 'Pat Lardner'.

Pat Lardner
Chief Executive