

Consultation on Corporate Governance Requirements for Investment Firms (CP94)  
Risk, Governance, Accounting and Auditing Policy Division  
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5 August 2015

## **Corporate Governance Requirements for investment firms Consultation Paper 94**

Dear Sirs

We, Pershing Securities International Limited ("PSIL"), refer to the Central Bank of Ireland's ("Central Bank") Consultation on Corporate Governance Requirements for Investment Firms (Consultation Paper 94) and welcome the opportunity to participate in the public consultation process. PSIL, a MiFID authorised investment firm incorporated in Ireland, is an affiliate of Pershing LLC, a wholly owned subsidiary of The Bank of New York Mellon Corporation (BNY Mellon). Our primary business is the provision of integrated execution, settlement, clearance and custodian services to institutional and wealth advisor clients located in Ireland.

PSIL believes that the financial services industry requires good corporate governance and is supportive of this position. It appears to us, however, that the additional requirements proposed for Medium High and High Impact investment firms have been written with larger firms in mind and may not be appropriate for smaller firms such as PSIL. To be effective, it is our view that the proposals should be proportionate to the nature, scale and complexity of the investment firm, with the more onerous requirements applying to larger firms with direct exposure to retail clients where a higher level of corporate governance is more appropriate.

### **Consultation Paper**

#### **Section 6 Composition of the Board**

Including independent non-executive directors on the board can be an important mechanism for providing independent corporate oversight. However, for firms (such as PSIL) that are subsidiaries of groups, oversight can be achieved by utilising group non-executive directors. The diverse experience that non-executive directors, from different lines of business within a group, are able to bring to a board supports informed and robust challenge and effective corporate governance. We consider the proposal that subsidiaries of groups should have at least two independent non-executive directors does not fully recognise the role that group non-executive directors perform and suggest that a board comprised of a combination of a majority of non-executive directors and independent non-executive directors would be more proportionate.

Directors: Niall Harrington, Patrick Mahon, Michael Cole-Fontayn (UK), Joseph Duffy, Kevin Bonar (UK), Gregory Hutt (UK), Joseph Wheatley

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**Section 7 Chairman**

With regard to the proposal that prior approval of the Central Bank shall be obtained prior to the Chairman taking on any other directorships, we would welcome clarification of the criteria upon which approval will be given (or declined). We would also welcome clarification on whether the obligation to seek prior approval would rest with the firm or the individual. Under the Fitness and Probity regime, prior Central Bank approval is required for the roles of Executive director, Non- Executive director and Chairman of the board; does the Central Bank envisage this process to be the prior approval as required in section 7.9?

We note the proposed requirement that an individual who has been the CEO, executive director or member of senior management of the firm during the previous five years cannot perform the role of Chairman. The proposed code defines independence in terms of directors and we would suggest that rather than set a restrictive time period the same criterion is used in determining the independence of the Chairman, who under the proposed requirements is required to be an independent non-executive director or, in the case of a firm which is a subsidiary, a group director. Alternatively, to allow for consistency, a term of three years is more appropriate and is the timeline outlined in the Central Bank's Corporate Governance Code for Financial Service Providers definition of "Director Independence".

**Section 12 Appointments**

The proposal that a formal board evaluation be undertaken by an external evaluator every three years has already become a practice within the financial services industry but we would suggest that for investment firms, other than larger investment firms, it may be more appropriate for the external evaluation to be undertaken every five years.

Further guidance and/or a definition of an acceptable external evaluator would be appreciated. We would expect that this definition to include, in the case of group structures, group internal audit and/or the group risk function.

**Section 20 Audit Committee and Section 21 Risk Committee**

With regard to the proposal for the establishment of an Audit and a Risk Committee, we feel that for smaller investment firms who are subsidiaries of a group, it would be counter-productive to move the consideration of risk and audit to a firm specific committee. One of the advantages of being a part of a group is the ability to draw upon a wide range of expertise, particularly in the Audit and Risk disciplines and leverage that expertise for the benefit of the firm. Imposing Audit and Risk committees on such firms would not be conducive to the effective running of the firm and would be unnecessarily cumbersome.

In light of the above, we would ask the Central Bank to reconsider its proposals with regard to Medium High and High impact investment firms to ensure that any additional requirements are proportionate to the nature, scale and complexity of the firm concerned.

Yours faithfully



**Niall Harrington**  
Director, Pershing Securities International Limited

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