

Markets Infrastructure Team
Markets Policy Division
Central Bank of Ireland
Block D
Iveagh Court
Harcourt Road
Dublin 2

23rd January 2015

Consultation Paper 90 ‘Supervision of Non-financial Counterparties under EMIR’

Dear Sir/Madam

Chartered Accountants Ireland (‘the Institute’) is pleased to respond to the above Consultation Paper (‘CP 90’).

We have engaged previously on this issue with both the Department of Finance (specifically on implementation of EU Regulation 648/2012) and with the Central Bank of Ireland (‘CBI’) during its formulation of proposals for implementation of the EMIR Regulations and the possibility of a reporting role by auditors/reporting accountants.

Our comments focus primarily on the proposed role of the ‘Third Party Assessor’ (‘TPA’) and the proposed approach to reporting on the Emir Regulatory Return (‘ERR’) based on International Standard on Reporting Services 4400 (‘ISRS 4400’). We note also that CP 90 contains certain caveats regarding the issue by the CBI of ‘rules and standards’ which will provide greater clarity on the role of the TPA and the need to discuss further the format of the sample TPA report contained in CP 90. We look forward to engaging further on both issues and would welcome an early indication of when this consultation might take place.

Third Party Assessor

CP 90, from pages 11 through 14, discusses necessary attributes of the TPA in the context of Regulation 12 of Statutory Instrument 443 of 2014 and includes expressions such as ‘detachment’, ‘potential conflict of interest’ and ‘requisite expertise’.

To a large extent, these expressions and their underlying implications are familiar to the audit & accountancy profession. Indeed, such matters are addressed in mandatory professional standards which are set internationally by independent bodies. These standards (contained in the Code of Ethics of the International Ethics Standards Board for Accountants (‘IESBA’)) are referenced specifically in ISRS 4400 issued by the International Audit & Assurance Standards Board.

Of course, the Central Bank should have discretion to mandate any appropriate individual or firm to act as a TPA. However, it will need to ensure that equivalent ethical requirements apply consistently across all TPAs it may approve.

Use of ISRS 4400

We believe that the proposal in CP 90 that the TPA engagement is conducted in accordance with ISRS 4400 is appropriate. It is however, important that there is a common understanding of the nature and purpose of engagements conducted in accordance with this standard. ISRS 4400 establishes standards and provides guidance for auditors when they are engaged to perform ‘agreed upon procedures’ (‘AUP’).

The objective of an AUP engagement is for the auditor to perform certain procedures to which the auditor, the entity, and, if relevant, an appropriate third party have agreed. The output of this engagement is a report by the auditor on factual findings from carrying out these procedures. As such, therefore, an AUP report from an auditor will express no assurance. Rather, the users of the report (the Central Bank in this case) assess for themselves the procedures and findings reported by the auditor and draw their own conclusions. In the context of a report on an ERR therefore, it will be important for the Central Bank to be satisfied that the procedures it seeks to have performed are sufficient for its purpose and for the TPA to be satisfied that such procedures are capable of being performed.

While we note that CP 90 acknowledges that the reporting format will require further development and, indeed, engagement with professional bodies, we have a concern that the narrative in CP 90 regarding the role and objective of the TPA does not align fully with the framework set out in ISRS 4400 on which the TPA engagement and report is to be based.

Additional remarks

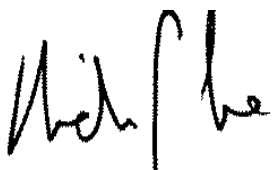
With regard to the criteria proposed for classification of an entity as a small non-financial counterparty ('NFC'), we have some concern that a threshold of €100m might be too low. It would be helpful therefore for the Central Bank to undertake some research to understand better the number of entities falling to be classified as medium under the current proposals when classification as 'small' might be more appropriate.

We note that the Central Bank is proposing to engage further with interested parties early in 2015. We look forward to participating further in this process.

We hope you find these comments helpful. Please contact me if you require further clarification.

Kind regards

Yours sincerely



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