



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Notice of Intention in relation to the location requirement for directors and designated persons of Irish Fund Management Companies

4 February 2019

Notice of Intention in relation to the location requirement for directors and designated persons of Irish Fund Management Companies

The Central Bank of Ireland (the Central Bank) introduced an “Effective Supervision Requirement”¹ for Fund Management Companies² as part of a review of the organisation and effectiveness of Irish Fund Management Companies. The text of the requirement is set out in the Annex to this Notice.

Existing Fund Management Companies must be in compliance with the Effective Supervision Requirement as and from 1 January 2019. Fund management companies which sought Central Bank authorisation after 1 July 2017 were obliged to be organised in such a way as to comply with the Effective Supervision Requirement.

On 30 March 2019, the United Kingdom will become a third country. The Central Bank recognises that there may be considerable disruption in the event that the United Kingdom withdraws from the European Union without ratifying a withdrawal agreement.

Should such an eventuality arise, the Central Bank will consider whether the UK is a country to be determined as meeting the Effective Supervision Requirement. For the period while this is under consideration, the Central Bank does not propose adopting a default position which would treat the UK as not satisfying the Effective Supervision Requirement. After consideration of the above, the Central Bank will determine whether the UK, as a country, continues to satisfy the Effective Supervisory Requirement and the Central Bank will confirm same by publishing a notice on its website. Such determination may be changed, including if circumstances change.

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¹ This requirement is applied to UCITS Management Companies by Regulation 100 of the Central Bank UCITS Regulations. The requirement is applied to Alternative Investment Fund Managers as a condition of authorisation and is set out in the Central Bank Guidance.

² “Fund Management Company” means a UCITS management company, an authorised Alternative Investment Fund Manager (AIFM), a self-managed UCITS investment company and an internally managed Alternative Investment Fund which is an authorised AIFM.

Annex

Extract from Regulation 100 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015

...(4) Subject to paragraph (4B), a management company shall have a minimum of 2 directors resident in the State.

(4A) A management company shall conduct a preponderance of its management in the EEA or such other country as the Bank may, taking into account criteria regarding effective supervision, determine and advise by notice published on the website of the Bank. Such determination may be changed, including if circumstances change.

(4B) Where a management company has a PRISM impact rating of—

(a) Medium Low or above, the management company shall have at least—

- (i) 3 directors resident in the State or, at least, 2 directors resident in the State and one designated person resident in State,
- (ii) half of its directors resident in the EEA or such other country as determined in accordance with paragraph (4A), and
- (iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as determined in accordance paragraph (4A), or

(b) Low, the management company shall have at least—

- (i) 2 directors resident in the State,
- (ii) half of its directors resident in the EEA or such other country as determined in accordance with paragraph (4A), and
- (iii) half of its managerial functions performed by at least 2 designated persons resident in the EEA or such other country as determined in accordance with paragraph (4A).

T: +353 (0)1 224 6000
E: xxx@centralbank.ie
www.centralbank.ie



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