



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Guidance Note for Authorisation as an Investment Firm under MiFID

Guidance on completing an application for authorisation under
the European Union (Markets in Financial Instruments)
Regulations 2017

(S.I. 375 of 2017)

2018

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This document provides guidance in relation to the process and requirements of the Central Bank of Ireland (“the Central Bank”) for establishing an investment firm in Ireland. It does not constitute legal advice nor does it seek to interpret relevant legislation.

1. Introduction

MiFID Legislation

The European Union (Markets in Financial Instruments) Regulations 2017 (S.I. 375 of 2017 (“the MiFID Regulations”) (as amended), the Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council), Markets in Financial Instruments Regulation (EU 600/2014), Investment Firms Regulations 2017 (S.I. 604 of 2017), any associated implementing and delegated acts, any European Supervisory Authority guidance including any opinions, guidelines, questions and answers, finally any guidance, which the Central Bank may issue from time to time, together the “MiFID Framework” , provide a comprehensive regulatory regime for investment firms and regulated markets in Ireland.

Regulation 3(1) MiFID Regulations provides:

‘investment firm means any person whose regular occupation or business is the provision of one or more investment services to third parties or the performance of one or more investment activities on a professional basis or both but does not include a natural person unless-

- (a) His or her legal status ensures a level of protection for third parties’ interests equivalent to that afforded by legal persons; and*
- (b) He or she is subject to equivalent prudential supervision appropriate to his or her legal status, and*
- (c) If paragraph (2) is applicable, he or she ensures that the conditions set out in that paragraph are fulfilled.*

Regulation 3(2) MiFID Regulations provides:

However, for the purposes of the definition of “investment firm” in paragraph (1), where a natural person provides services involving the holding of third parties’ funds or transferable securities, the natural person may be considered as an investment firm for the purposes of these Regulations and of Regulation (EU) No 600/2014 only if, without prejudice to the other requirements imposed by these Regulations, by Regulation (EU) No 600/2014, and in Directive 2013/36/EU, he or she ensures that the following conditions are fulfilled:

- (a) the ownership rights of third parties in instruments and funds must be safeguarded, especially in the event of the insolvency of the investment firm or of its proprietors, seizure, set-off or any other action by creditors of the firm or of its proprietors;*
- (b) The investment firm must be subject to rules designed to monitor the firm’s solvency and that of its proprietors;*
- (c) the investment firm’s annual accounts must be audited by one or more persons empowered, under the law of the State or another Member State, to audit accounts;*
- (d) where the investment firm has only one proprietor, he or she must make provision for the protection of investors in the event of the investment firm’s cessation of business following his or her death incapacity or any other such event.*

The Central Bank is the competent authority in Ireland for the authorisation of investment firms and the supervision of investment firms’ compliance with the relevant legislation. Responsibility for the proper management and control of an investment firm, and the integrity of its systems, rests with the board of directors and senior management of the

investment firm. Ethical behaviour and transparency in business dealings are key values expected of boards and senior management.

The Central Bank welcomes applications where the proposed investment firm (hereinafter referred to as “applicant”/“applicant firm”/“the firm”) can meet the legislative requirements relating to investment firms and all other, current, published requirements including the recommendations, opinions and guidance issued by the European Banking Authority (“EBA”) and the European Securities and Markets Authority (“ESMA”), available on their websites, and all new requirements issued by the Central Bank, details of which are published on the Central Bank website – www.centralbank.ie.

Each potential applicant must also consider whether it and its proposed activities/business model:

- require authorisation under the MiFID Legislation;
- can comply with the MiFID Legislation, both at authorisation and on an on-going basis; and
- can comply with the Central Bank’s requirements and any other relevant financial services law, both at authorisation and on an on-going basis.

The provisions of Regulation 13 of the MiFID Regulations regarding competent authorities withdrawing an authorisation should be borne in mind when considering whether or not to submit an application for authorisation.

Scope of Authorisation

Applicants who propose to engage in Investment Business Services as defined in Section 2(1) of the Investment Intermediaries Act, 1995 (as amended) (“the IIA”) that are not listed in Part A of Schedule 1 of the MiFID Regulations (“non-MiFID services/activities”) may seek to have their MiFID authorisation extended to include the provision of these investment business services, or cover these investment instruments, as defined in the IIA.

Freedom of Services

A key element of MiFID is that it enables investment firms to carry on business covered by their authorisation throughout the EEA, by establishing a branch or passporting services, without seeking further authorisation in another member state.

Applicant firms must read this Guidance Note in full prior to filling out the MiFID Application Form pertaining to it.

Applicant firms are expected to know and understand the MiFID Legislation and all other relevant financial services law and are advised to seek professional advice for questions relating to the MiFID Legislation, its applicability to an application or completing any part of the process in applying for authorisation.

Application documentation is available on the Central Bank’s website www.centralbank.ie.

All submissions should be made to the Central Bank via investmentfirmauthorisations@centrabank.ie.

2. Application Process

Process

1. Key Facts Document (“KFD”)

- a) Applicant firms must complete a KFD before submitting an application (refer to Section 4 of this Guidance Note).
- b) The Central Bank will review the KFD and:
 - (i) Revert to the applicant firm in writing with any comments on the KFD as soon as possible but expected to be no later than 20 working days following receipt of the KFD; and
 - (ii) Arrange a preliminary meeting with the applicant as soon as possible but expected to be no later than 20 working days following receipt of an acceptable KFD that addresses, to the satisfaction of the Central Bank, any comments raised under (i) above. The meeting will be scheduled for the earliest possible date.

If the KFD does not contain, or is deficient in relation to, the information required it will not be considered and the applicant firm will be asked to revise and resubmit it with the appropriate level of detail. Applicants should resubmit a revised KFD filing within 20 workings days.

2. Preliminary Meeting

A preliminary meeting will be held with all applicant firms in advance of an application being made.

- a) The KFD will form the basis for the preliminary meeting.
- b) The applicant firm will be informed of the Central Bank’s authorisation process and timeframes.
- c) The Central Bank will advise the applicant firm of significant issues that are apparent at this juncture that might negatively impact the Central Bank’s determination of any application.
- d) It is expected that, no more than one preliminary meeting will be held between the Central Bank and the applicant firm.

3. Receipt and Acceptance of a Complete Application

Upon receipt of a complete application (see below re. ‘Complete Application’) from an applicant firm, acknowledgement of the complete application will issue by the Central Bank within 10 working days with any comments to follow subsequently within the specified timeframe (see below).

Incomplete applications will be returned within 10 working days. The Central Bank will set out why the application is incomplete.

Complete Application

An application will not be accepted by the Central Bank unless it is complete, which means it includes the following:

- a) Fully completed (all tick boxes and document/page references **must** be filled in where applicable) and signed Application Form.
- b) A Programme of Operations which must include details of each of the following:
 - (i) Business strategy along with a business model that illustrates the regulated investment service(s) to be provided to clients;
 - (ii) High level overview of any non-IIA/non-MiFID activity to be carried out (if applicable);
 - (iii) Organisational structure chart along with staff numbers, their roles, responsibilities and reporting lines, Pre-Approval Controlled Functions ('PCF') and details of their experience; and
 - (iv) Corporate governance arrangements, e.g., board of directors, committees (if any). *(see Annex F of the Application Form)*
- c) Fully completed on-line Individual Questionnaires ('IQs') for all Pre-Approved Controlled Function ("PCF") holders, including directors.

Regulatory Transactions ('RTD') is the Central Bank division whose responsibilities include reviewing IQs. As part of the MiFID application process but after the preliminary meeting, once the applicant firm communicates to the Central Bank that it wishes to proceed to submit a MiFID Application Form, the applicant firm must email the following information to the Central Bank Authorisation's Team (investmentfirmauthorisations@centralbank.ie) pertaining to its nominated Systems Administrator:

- Name of proposed person;
- Telephone Number of proposed person; and
- Email Address of proposed person.

The nominated System Administrator will then have the capability to file PCF IQs on-line. RTD will contact the applicant firm to notify it that the Systems Administrator has received the requisite capability in order for the filing to commence.

- d) Hard copy IQs for individuals who are qualifying shareholders.
- e) Shareholder information including group structure and required supporting documentation. This should also include the impact of close links and applicability of consolidated supervision. *(see Annex C and Annex E of the Application Form)*
- f) Financial Projections (EUR) for the first 3 years of operation (with detailed notes explaining each line item). This must include:
 - (i) P&L and Balance Sheet for the first three years (year 1 of the P&L account to be in monthly format);
 - (ii) Audited accounts and latest management accounts, where applicable;

- (iii) Regulatory capital calculations for first three years; and
- (iv) Details of any charges, guarantees, indemnities or other security to third parties. (*see Annex E of the Application Form*)
- g) National Discretion/Derogation requests under the Regulation (EU) No. 575/2013 and S.I. No. 158 of 2014 (*see Annex E Question E6 of the Application Form*);
- h) Required client asset documentation, where applicable (*see Annex F Question F10 of the Application Form*); and
- i) Arrangements for both the orderly and forced winding down of the firm which ensures the protection of client assets and fair treatment of clients (*see Annex F Question F19 of the Application Form*).

Return of Application

The Central Bank will return the application to the applicant firm if it is incomplete on receipt. The timeframe undertaken by the Central Bank to make a determination on the application will not commence until a complete application is submitted. See 4. *Review of the Application* below for details of the determination timeframe.

Stopping/Starting the Central Bank's determination timeframe

Without prejudice to Article 7(3) of MiFID, upon receiving a complete application, the Central Bank's determination timeframe as set out below will be stopped and no longer apply under the following circumstances:

- a) Any material changes (e.g. change to business model, investment services/financial instruments applied for etc.) made to the applicant's Programme of Operations at any time during the review process;
- b) Any changes to the applicant's shareholder structure during the review process; and/or
- c) Where the applicant fails to respond to comments from the Central Bank for a period exceeding 20 or 10 working days, as the case may be, as per the Central Bank's determination timeframe set out below.

The Central Bank will at its discretion commence a new determination timeframe, as described above, and apply it in accordance with Article 7(3) MiFID at the point which caused the previous timeframe to be stopped, once it is satisfied that the application can proceed.

4. Review of the Application

- a) The Central Bank will issue comments to the applicant firm within 40 working days of receipt of the complete application;
- b) The applicant firm must respond within 20 working days of receiving the first comments at (a) above;
- c) A second round of comments will be issued to the applicant firm within 20 working days of receipt by the Central Bank of the responses at (b) above; and

- d) The applicant firm must respond within 10 working days of receiving the second round of comments at (c) above.

It is expected that all issues/comments will be addressed in the applicant firm's second submission of comments at (d) above and therefore the Central Bank will not review more than three submissions (comprising: (i) complete application; (ii) responses at (b) above; and (iii) responses at (d) above) before reaching a decision on the application.

In order to be in a position to meet its timeframe targets on an application for authorisation, the Central Bank cannot engage in an exhaustive verification exercise of the information provided and therefore the onus is on the applicant firm to ensure all information in the application form meets the relevant requirements and, where applicable, this should be verified by the applicant prior to making its filing.

5. Decision on the Application

A determination will be made on the application within 6 months of receipt of a complete application.

3. Obligations of an Investment Firm

An applicant firm must familiarise itself with the obligations and requirements of an investment firm authorised under the MiFID Legislation and such obligations and requirements include but are not limited to the following:

- a) MiFID Legislation;
- b) Books and Records Requirements as published by the Central Bank;
- c) Regulation (EU) No. 575/2013, S.I. No. 158/2014 and S.I. No. 159/2014 (Capital Requirements);
- d) Regulations made under Section 32D of the Central Bank Act 1942 (as inserted by the Central Bank Reform Act 2010)
- e) Supplementary Supervisory Requirements¹
- f) The Investor Compensation Act 1998 (as amended);
- g) The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended);
- h) S.I. No. 104/2015 (Client Assets);
- i) Consumer Protection Code 2012; and
- j) Minimum Competency Code 2017.

Successful applicant firms are issued with a letter of authorisation by the Central Bank that sets out their authorisation requirements and any conditions of authorisation.

¹ Available on the Central Bank website.

4. Key Facts Document

The KFD must include the following:

1. Brief background of the applicant firm.
2. The reason(s) why the applicant firm has selected Ireland as a location from which to carry out investment services and apply for MiFID Authorisation.
3. Business Model
 - a) An overview of the business model/strategy of the applicant firm;
 - b) Details of the products and services to be provided;
 - c) Anticipated assets under management for the first 3 years;
 - d) A clear and unambiguous analysis/assessment² on how the business proposal³ falls to be regulated (basis and identification of regulation to be provided where relevant); and
 - e) Mapping of core services, ancillary services and financial instruments to be offered with reference to Schedule 1 of the MiFID Regulations services and instruments.
 - f) Please indicate any services and instruments required by the firm under the Investment Intermediaries Act 1995.
 - g) Please indicate the firm's compliance framework.
 - h) Please indicate the firm's risk framework.
 - i) The amount, type and rationale for outsourcing of core and shared services should be provided. This should include the detail of proposed delegates and sub-delegates, due diligence carried out on said delegates, Service Level Agreements etc.
 - j) Market Abuse monitoring and reporting: if applicable, please provide details of the policies, procedures and resources the firm will have in place in order to meet their monitoring and reporting obligations under the Market Abuse Regulation (EU) 596/2014 (MAR) and related legislation.
 - k) Please indicate the firm's transaction reporting requirements and if applicable, the no of daily transactions to be reported to the Central Bank.
4. Client Assets
 - a) Whether the applicant firm proposes holding client assets and anticipated level of assets.
 - b) The arrangements the firm propose to establish to manage client assets in accordance with Central Bank Regulations
5. Clients
 - a) Who the client is (i.e. institutional, collective investment schemes, individuals);
 - b) Type (retail, professional, eligible counterparty); and
 - c) Number and type of clients in each of the first three Years of operation.

² The applicant will be asked to provide a professional analysis/assessment if the information pertaining to this point is unclear in the KFD.

³This should be provided for each MiFID investment service/IIA investment business service selected.

- d) Applicability of the Investor Compensation Scheme to the firms activities
- e) Applicability of the Minimum Competency Code 2017 to the firms activities.

6. Applicant's Structure

- a) Qualifying Shareholders;
- b) Full Ownership structure chart;
- c) PCFs for board members and senior staff, including whether these individuals have previously been approved by the Central Bank (Board and Senior Management);
- d) Number of FTE employees, whether any are shared with other group entities; and
- e) Staff Organisational Chart with reporting lines.

7. High-Level Capital Projections for the first 3 years including

- a) Regulatory capital and Operational funding levels;
- b) Turnover (total income/revenue generated) for first 3 years;
- c) Profitability; and
- d) Sources of Regulatory and Share Capital/Funding.

The KFD must be limited to the points specified above and the information must clearly and precisely address each point. The KFD should be no longer than 4,000 to 6,000 words, depending on the complexity of the business model. Failure to provide the KFD in this format will result in it being returned. The Central Bank does not intend to go into an exhaustive analysis of the KFD prior to the submission of a complete application for authorisation.

5. Application Form

Please take the time to read these notes carefully. They will help you to complete the Application Form correctly.

It is important when completing the Application Form that you provide accurate and complete information including disclosure of all relevant information.

Annex A: General Information

App Form Ref.	
A1	No additional notes.
A2	No additional notes.
A3	No additional notes.
A4	No additional notes.
A5	<p>What constitutes a "head office"/"principal place of business" depends on the particular circumstances of each case. In general, the Central Bank interprets head office/principal place of business to mean the location of the mind and management of the applicant firm and the place where the day-to-day decisions about the direction of the applicant firm's business are taken. This location/place should be in Ireland if seeking authorisation in this jurisdiction.</p> <p>There should be a significant senior management presence in Ireland to ensure that full authority and effective control of the applicant firm rests within the head office/principal place of business.</p> <p>The onus of meeting all statutory requirements and satisfying the Central Bank that adequate and effective control of an entity rests in Ireland and not abroad lies with the applicant firm.</p> <p>Indications of this may include:</p> <ul style="list-style-type: none"> • decision making at board and committee level taking place within Ireland; • significant senior management presence in Ireland; and • financial control, legal and compliance, and risk management included in functions located within the head office/principal place of business.
A6	No additional notes.
A7	This must be someone who possesses knowledge of the applicant firm's business model and its requirements under the MiFID Legislation. It cannot be a professional advisor.
A8	No additional notes.
A9	No additional notes.
A10	No additional notes.
A11	No additional notes.
A12	No additional notes.
A13	No additional notes.

A14	See definitions of "Systematic internaliser", "Algorithmic trading" and "High-frequency algorithmic trading technique" in Article 4 of MiFID. Where the applicant firm proposes to act as a Systematic Internaliser, an Algorithmic Trader and/or a High Frequency Trader, the Central Bank may have additional requirements. These will apply on a case by case basis and will be notified to the applicant firm at the preliminary meeting stage.
A15	No additional notes.
A16	No additional notes.
A17	No additional notes.
A18	<p>For the purposes of this question, "applicant firm" refers to the legal entity in respect of whom the application relates, its qualifying shareholders (both Legal and Natural persons) (and persons who effectively direct the business thereof), its subsidiaries and undertakings.</p> <p>Details which could impact on the authorisation decision include, but are not limited to:</p> <ul style="list-style-type: none"> • any current regulatory approvals or membership of a professional association or trade body; • any other current or previous applications for regulatory approval or membership of a professional association or trade body; • any refusal or withdrawal of authorisation or membership by a regulatory body, professional association or trade body; • any decision not to proceed with an application for authorisation or membership by a regulatory body, professional association or trade body; • any petition (whether pending or otherwise) for the compulsory winding up, application for a dissolution order, scheme of arrangement or composition of debts with creditors, appointment of a receiver or examiner or bankruptcy petition; • any settlement agreements, either in or out of court; • any legal convictions or regulatory sanctions (including proceedings currently in being). • Details of any fines imposed.
A19	No additional notes.
A20	No additional notes.

Annex B: Capital

App Form Ref.	
B1	<p>Where the applicant firm intends to use private financial resources, details of the type, source and availability of such resources must be provided to the Central Bank. Such details should include but are not limited to:</p> <p>a) The amount of funds and the type of capital it falls under;</p>

	<p>b) Source of funds including evidence of build up over time;</p> <p>c) Whether the funds are solely or jointly owned;</p> <p>d) Details on the liquidity/accessibility/availability of the funds;</p> <p>e) Any liens and encumbrances over funds;</p> <p>f) A statement of net worth;</p> <p>g) Details of any other personal commitments and/or guarantees;</p> <p>h) Details of any other financial interests/relationships; and</p> <p>i) Details of any other investments/businesses.</p>
B2	<p>Common Equity Tier 1 items (CET1) must comply with Article 26 of Regulation (EU) No. 575/2013 (the “CRR”), Additional Tier 1 items must comply with Article 51 of the CRR, Tier 2 items must comply with Article 62 of the CRR and deductions made from regulatory capital must be in accordance with Part Two of the CRR.</p> <p>Under the 'Category of Capital' column the applicant firm should insert the relevant tier of capital - CET1, Additional Tier 1 or Tier 2.</p> <p>If an 'Other' type of capital is listed, a full explanation must be provided as to what this relates to.</p>
B3	<p>Evidence of paid-up share capital and other types of capital raised may include copies of relevant capital instruments and corresponding bank statements.</p>
B4	<p>Article 26(3) of Regulation (EU) No. 575/2013 requires all CET1 instruments to be approved by the Central Bank before being used in regulatory own funds.</p>
B5	<p>Where the applicant firm uses or expects to use borrowed funds, all pertinent details of the facility(ies) should be provided. Such details should include but are not limited to:</p> <ul style="list-style-type: none"> • name of lender(s); • maturity date(s); • terms; • pledges; • guarantees; • origin of funds (where lender is not a supervised financial institution)
B6	<p>The Central Bank expects applicant firms to have contingent plans in place for obtaining financial resources should they be required subsequent to authorisation. Applicant firms should provide details including the sources, types and amounts of potential funds and the terms attached to such funds.</p>

Annex C: Shareholders

App Form Ref.	
C1	For the definition of 'qualifying holding' see Regulation 3(1) MiFID Regulations and Articles 9, 10, 12(4) and 12(5) Directive 2004/109/EC.

	<p>The applicant firm must provide a chart outlining its full ownership structure including all direct and indirect qualifying shareholders and their percentage ownership.</p> <p>Where the applicant firm is part of a group the chart must include all entities (including their branches) in the group and the nationality/country of incorporation of the natural/legal person as the case may be.</p> <p>In the case of a legal entity the country where the entity's head office/principal place of business is situated must also be disclosed.</p> <p>Disclose in the chart whether each natural/legal person is regulated/unregulated along with the identity of the regulatory body where applicable.</p> <p>The chart provided must be consistent with the information provided in the tables in sections C2 and C3.</p>
C2	<p>The applicant must identify all persons (whether natural or legal) with a direct qualifying holding in the applicant firm.</p> <p>Where the beneficial owner of the direct qualifying holding differs from the legal owner the applicant firm must consider whether the beneficial owner is also a qualifying shareholder.</p> <p>Where the beneficial owner falls to be a qualifying shareholder in the applicant firm, they must be included both in the shareholder chart at C1 and in the table at C2.</p> <p>For any persons who are in a position to exercise significant influence the Programme of Operations must disclose the relationship and the nature of influence.</p> <p>The Programme of Operations must disclose the reason(s) why close links exist or do not exist between the applicant firm and other natural persons.</p> <p>For the definition of 'close links' see Regulation 3(1) MiFID Regulations and Articles 22(1) and (2) directive 2013/34/EU.</p>
C3	<p>The applicant must identify all persons (whether natural or legal) with an indirect qualifying holding in the applicant firm.</p> <p>Where the beneficial owner of the indirect qualifying holding differs from the legal owner the applicant firm must consider whether the beneficial owner is also a qualifying shareholder.</p> <p>Where the beneficial owner falls to be a qualifying shareholder in the applicant firm, they must be included both in the shareholder chart at C1 and in the table at C3.</p> <p>For any persons who are in a position to exercise significant influence the Programme of Operations must disclose the relationship and the nature of influence.</p> <p>The Programme of Operations must disclose the reason(s) why close links exist or do not exist between the applicant firm and other natural persons.</p>
C4	<p>Where a partner is performing a PCF an Individual Questionnaire (IQ) must be submitted on-line to the Regulatory Transactions Division. Where a partner is</p>

	<p>not performing a PCF an IQ must be submitted in hard-copy with the application form.</p> <p>A list of PCF roles can be found on the Central Bank's website www.centralbank.ie.</p>
C5	<p>The existence of close links must not prevent the Central Bank from effectively supervising the applicant firm. Possible examples of the kind of issues that might prevent the Central Bank's effective supervision of an investment firm include anything that might:</p> <ul style="list-style-type: none"> • affect an investment firm's ability to provide adequate information to the Central Bank at any time; • hinder the flow of information from an investment firm or an investment firm's close link to the Central Bank at any time; • prevent the Central Bank from being able to assess the overall financial position of an investment firm or its close link at any time. <p>The applicant firm must therefore set out what action, structures and mechanisms it has in place to prevent the existence of such close links from preventing the Central Bank from effectively supervising the applicant firm.</p>
C6	<p>The following requirements are required for each category of qualifying shareholder:</p> <p><u>Qualifying shareholders who are individual/natural persons</u></p> <ol style="list-style-type: none"> a) Individual Questionnaire (the IQ must be filed in hard copy with the application form). b) Shareholder register of the applicant firm evidencing the individual's qualifying shareholding. c) An original letter signed by the individual stating the identity(ies) of the beneficial owner(s) of those shares registered in his/her name. d) A description of the individuals business activities. e) Financial information including credit ratings and publicly available reports on all undertakings controlled or directed by the natural person and financial information, if applicable, on the individual. f) An up-to-date certified net asset statement from the individual that discloses each asset and liability category and the monetary amount held in that category along with details of sources/amounts of income and any personal guarantees or pledges granted or received by the individual. g) Details regarding any financial or non-financial interests or relationships that the individual has with any other party/parties related to the applicant firm. Financial interests include, but are not limited to, credit operations, guarantees and pledges. Non-financial interests may include, but are not limited, family relationships. h) Information on any other of the individual's interests or that are in conflict with or have the potential to conflict with those of the applicant firm and possible solutions to those actual and potential conflicts of interest. <p><u>Qualifying shareholder that is a company, partnership, trust, nominee company (each referred to below as the "entity")</u></p>

	<p>a) Documents certifying the business name and registered address of the entity's head office, postal address (if different), contact details and its national identification number.</p> <p>b) Regulatory status of the entity including by which regulatory body.</p> <p>c) Shareholder register of the applicant firm evidencing the entity's qualifying shareholding</p> <p>d) An original letter from the entity stating the identity(ies) of the beneficial owner(s) of those shares registered in its name.</p> <p>e) Description of the entity's main activities.</p> <p>f) The share register for each entity in the qualifying shareholder ownership.</p> <p>g) Audited financial statements for the last three years including: the balance sheet; the profit and loss account or income statement; the annual reports and financial annexes; and any other document registered with the relevant registry or authority in the jurisdiction of the entity. If audited financial statements are not available, management accounts should be provided instead. Where the entity is a newly established entity, forecast balance sheets and profit and loss accounts or income statements must be provided for the first three years from date of authorisation, including planning assumptions used.</p> <p>h) Evidence of the credit rating of the entity and its group.</p> <p>i) Details of the proposed interaction with the applicant firm and whether the interaction is limited to group reporting or otherwise.</p> <p>j) A complete list of individuals who effectively direct the business of the entity, including their name, date and place of birth, address, contact details, their national identification number (i.e. passport number) and a detailed curriculum vitae stating relevant education and training, previous professional experience, any professional activities or other relevant functions currently performed.</p> <p>k) Information regarding any individual who effectively directs the business of the entity, any individual who directs any undertaking under the entity's control, and any individual shareholder exerting significant influence on the entity, including:</p> <ul style="list-style-type: none"> • Criminal records, criminal investigations or proceedings, relevant civil and administrative cases, or disciplinary actions, including disqualification as company director or bankruptcy, insolvency or similar procedures, through an official certificate if available within the relevant Member State or third country, or through another equivalent documents; • Open investigations, enforcement proceedings, or sanctions, of which the person was a subject and that resulted in a sanction or another enforcement decision against the entity; • Refusal of registration, authorisation, membership, or licence to carry out a trade, business or profession; withdrawal, revocation or termination of such a registration, authorisation, membership or licence; or expulsion by a professional body or association; • Dismissal from employment or a position of trust, fiduciary relationship, or similar situation in relation to any person who effectively directs the business of the entity and any shareholder exerting significant influence on the entity. <p>l) State whether an assessment of reputation of the entity or any person who effectively directs the business of the entity has already been</p>
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	<p>conducted by another supervisory authority. If so, state the identity of that authority and provide evidence of the outcome of the assessment.</p> <p>m) Details of any instances where the entity has been the subject of a winding up, a dissolution, insolvency or bankruptcy proceedings at any time.</p> <p>n) A detailed organisational chart of the entity showing all shareholders in a position to exercise significant influence over the entity and their respective share of capital and voting rights including information on any shareholder agreements. If the entity is part of a group, the chart must include the entire corporate structure and information on the share of capital and voting rights of shareholders with significant influence of the entities of the group. Please provide via a supplementary narrative, information on the activities currently performed by the entities of the group, the relationships between the financial entities and the non-financial entities of the group, and the name of the supervisory authority for each regulated entity within the group must be disclosed.</p> <p>o) The identity of all individuals who are beneficial owners of the entity, their name, date and place of birth, address, contact details and their national identification number (i.e. passport number).</p> <p>p) Details of all financial or non-financial interests or relationships that the entity or its group has with any other party/parties related to the applicant firm. Financial interests include, but are not limited to, credit operations, charges and indemnities, guarantees and pledges. Non-financial interests include, but are not limited to, family relationships.</p> <p>q) Information on any other interests or activities of the entity that are in conflict with or have the potential to conflict with those of the applicant firm and possible solutions to those actual and potential conflicts of interest.</p> <p>r) Certificate of Solvency from a director, partner or trustee of the entity in the following format: <i>'I certify that at this time, to the best of my knowledge and belief, and having made full enquiry, the total of [Name of Entity] assets exceeds the total of [Name of Entity] liabilities, and that [Name of Entity] is able to meet those liabilities as they fall due. I am not currently aware of any circumstances that would cause this position to change within the next twelve months. I acknowledge that if this statement is found to be false, inaccurate or misleading in any respect, I may be guilty of an offence under Regulation 16 of the European Union (Markets in Financial Instruments) Regulations 2017. I also undertake to notify the Central Bank of Ireland immediately if at any time [Name of Entity] financial circumstances change to an extent which would render my unable to complete this certification.'</i></p> <p>s) Where the entity has its head office in a third country the applicant firm must provide the following additional information:</p> <ul style="list-style-type: none"> • a certificate of good standing, or equivalent, from the third country authority; • a declaration by the third country authority that there are no obstacles or limitations to the provision of information necessary for the supervision of the applicant firm; and • general information on the regulatory regime of the third country as applicable to the entity.
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	<p>t) Where the entity is a partnership a description of the partnership including the names of all general and limited partners and their roles in the partnership.</p> <p>u) Where the entity is a trust the applicant firm must provide the following additional information:</p> <ul style="list-style-type: none"> • Reasons for a trust structure in the applicant firm's ownership; • Identity of all trustees, settlors and beneficiaries and their respective shares in the distribution of income; and • Completed IQ forms for the settlors, trustees and beneficiaries of the trust must be filed in hard copy and must accompany the main application form. Where any beneficiary is a minor an IQ form is not required. The only information required is: their name; independent certification of their age from a legal advisor or certified copy of a passport or birth certificate; and the rationale for their role as beneficiary of the trust. <p>v) Where the entity is a nominee company, items (a) to (s) above must be provided in relation to both the nominee company itself and also in relation to the beneficiary of the nominee company's shareholding in the applicant firm if that beneficiary is a qualifying shareholder.</p> <p><u>Note: All share registers must be certified by a party independent of the applicant firm such as an accountant or professional advisor.</u></p>
C7	The chart provided must be consistent with the information provided in the tables in section C8.
C8	No additional notes.

Annex D: The Management Body and Persons Who Direct the Business

App Form Ref.	
D1	<p>A list of CF and PCF roles can be found on the Central Bank website www.centralbank.ie.</p> <p>See Section 2.3 of this Guidance Note re “Complete Application” for details on the Individual Questionnaire filing process for PCFs. Equivalent information should be sought with regard to CFs, who are not required to submit an online Individual Questionnaire.</p> <p>The Central Bank requires the board to have a balance of executive and non-executive directors.</p> <p><u>The Central Bank requires a minimum of two directors direct the business of the investment firm and have at least one Independent Non-Executive Director on (INED) the board of directors. A minimum of two INEDs may be required depending on the nature, scale and complexity of the applicant firm.</u></p> <p>The following Independent Directors criteria must be considered and given reasonable weight in order to assess whether a director is independent:</p> <p>a) Any financial or other obligation the individual may have to the applicant firm or its directors;</p>

- b) Whether the individual is or has been employed by the applicant firm or a group company in the past and the post(s) so held;
- c) Whether the individual is or has been a provider of professional services to the applicant firm in the recent past;
- d) Whether the individual represents a significant shareholder in the applicant firm;
- e) Previous experience in the role of independent non-executive director;
- f) Any additional remuneration received in addition to the director's fee, related directorships or shareholdings in the applicant firm; and
- g) Any close business or personal relationship with any of the applicant firm's directors or senior employees.

For each person listed in the table in D1, a description must be given of any financial and non-financial interests or relationships of the person and his/her connected persons as defined in Section 220(1) of the Companies Act 2014 to:

- members of the management body and key function holders of the applicant firm;
- the parent institution and subsidiaries; and
- shareholders.

Financial interests may include interests such as credit operations, guarantees and pledges, and non-financial interests may include interests such as family or close relationships.

Please clarify whether or not any such connected person has any competing interests with the firm, its parent or subsidiaries.

For each person listed in D1 clarify:

Whether or not he/ she has held a position of political influence (nationally or locally) over the last two years; and

Whether he or she is being proposed on behalf of any one significant shareholder.

For each person listed in D1, please provide a list of the predominately commercial mandates which the individual holds and:

- Whether or not privileged counting rules in Article 91(4) CRD IV apply, where it does an explanation of any synergies which may arise between the companies;
- The size of the companies or organisations where those mandates are held, including total assets, whether or not the company is listed and the number of employees;
- A list of any other additional responsibilities which are associated with those mandates (for example a chair of a committee); and
- The number of meetings per year dedicated to each mandate

The institution should provide a statement regarding its overall assessment of the collective suitability of the management body as a whole including how any individual listed in D1 is to be situated in the overall suitability of the

	management body. This should include the identification of any gaps or weaknesses.
D2	The results of due diligence procedures carried out by the applicant firm must be made available to the Central Bank upon request.
D3	No additional notes.

Annex E: Financial Information

App Form Ref.	
E1	Where the applicant firm is part of a group, a submission must accompany the application explaining why consolidated supervision will (including identification of the level)/will not apply to the applicant firm. Additionally the rationale for the answer must be justified by reference to the Regulation (EU) 575/2013 and/or S.I. No. 158 of 2014.
E2	<p>The financial projections (EUR) must be submitted in the following format:</p> <ul style="list-style-type: none"> a) The projected period must commence at Day 1 of the proposed authorisation period and each period must be titled Year 1, Year 2 and Year 3; b) The Profit and Loss Account must be presented as follows: <ul style="list-style-type: none"> Income <u>Less</u> Expenses <u>Equals</u> Gross Profit (Loss) <u>Less</u> Taxation <u>Equals</u> Net Profit (Loss) <u>Less</u> Dividends <u>Equals</u> Retained Profit (Loss) c) Year 1 of the Profit and Loss Account must be broken up into monthly periods. Year 2 and Year 3 may be shown as yearly totals. d) The Income section of the Profit and Loss Account must be broken up into separate line items that distinguish between each service listed in the tables in Sections A11 and A12. e) The Expenses Section of the Profit and Loss Account must break down each individual expense item to the extent that distinguishes between the different categories of expenses. For example, categories of expense should include salaries, rent, utilities, subscriptions etc. Where an applicant firm is not currently trading it must be clear how the applicant's set up costs are borne and, where borne by the applicant firm, the Central Bank expects to see management accounts providing for them. f) The Industry Funding Levy and fee to the Investor Compensation Company Limited must be included as separate line items in the Expenses section of the Profit and Loss Account. g) The Retained Profit (Loss) must also incorporate the latest financial position of the applicant firm, i.e. where an applicant is currently trading it must carry forward its latest Retained Profit (Loss).

	<p>h) The Balance Sheet must be presented as follows:</p> <p style="padding-left: 40px;">Fixed Assets <u>Plus</u> Current Assets <u>Less</u> Current Liabilities <u>Equals</u> Net Assets Capital & Reserves <u>Plus</u> Current Period Retained Profit (Loss) <u>Equals</u> Shareholders' Funds</p> <p>i) It is critical that the applicant firm ensures that the Retained Profit (Loss) figure in the Balance Sheet reconciles with the Profit and Loss Account while ensuring, in cases where an applicant is currently trading, its Retained Profit (Loss) figures to date (based on audited accounts and/or latest management accounts) are accurately being carried forward into the projections.</p>												
E3	<p>The applicant firm must provide workings/detailed calculations for each month/year in order for the Central Bank to reconcile the projected income to be derived from each line of activity against its assumptions for that activity (for example in the case of an investment management fee: projected assets under management X rate of fee).</p> <p>The applicant firm must provide a note describing all line items accounted for in the Profit and Loss Account and Balance Sheet. The description can be appropriately brief as long as it is sufficiently clear what the entry is providing for. Furthermore, where an amount in a line item is fluctuating by greater than 10% per year, or month in the case of Year 1 of the Profit and Loss Account, an explanation must be provided in the note to explain the rationale behind the movement.</p>												
E4	<p>Where the applicant firm expects any clients to individually produce more than 10% of its gross annual income, such income should be disclosed separately in the financial projections and the circumstances explained as part of the assumptions.</p>												
E5	<p>0% indicates that the applicant firm will not at any time be providing investment services to that category of client.</p>												
E6	<p>The Programme of Operations must include a detailed explanation, along with appropriate legislative references, as to whether or not the applicant firm is within the scope of the Capital Requirements Directive 2013/36/EU ("CRD") and the CRR. Refer to below table setting out the categories of MiFID investment firms within CRD and CRR.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 55%;">Categories</th> <th style="width: 20%;">Initial Capital Requirements</th> <th style="width: 20%;">Own Funds Requirements</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Firms falling under CRR 4(1)(2)(c) that only provide reception and transmission and/or investment advice.</td> <td>€50,000 - CRD 31(1)</td> <td>Fixed Overhead Requirement</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Firms falling under CRR 4(1)(2)(c) that only provide reception and transmission and/or investment advice and are registered under Directive 2002/92/EC (Insurance Mediation).</td> <td>€25,000 - CRD 31(2)</td> <td>Fixed Overhead Requirement</td> </tr> </tbody> </table>		Categories	Initial Capital Requirements	Own Funds Requirements	1	Firms falling under CRR 4(1)(2)(c) that only provide reception and transmission and/or investment advice.	€50,000 - CRD 31(1)	Fixed Overhead Requirement	2	Firms falling under CRR 4(1)(2)(c) that only provide reception and transmission and/or investment advice and are registered under Directive 2002/92/EC (Insurance Mediation).	€25,000 - CRD 31(2)	Fixed Overhead Requirement
	Categories	Initial Capital Requirements	Own Funds Requirements										
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3	Firms falling under CRR 4(1)(2)(c) that perform, at least, execution of orders and/or portfolio management. ("CRD exempt FOR firms").	€50,000 - CRD 31(1)	CRR 95(2)*
4	Investment firms falling under the definition provided in CRR 4(4) operating as a "local firm"	€50,000 - CRD 30	
5	Investment firms not authorised to perform deals on own account and/or underwriting/placing with firm commitment that do not hold client funds/securities.	€50,000 - CRD 29(3)	CRR 95(1)
6	Investment firms not authorised to perform deals on own account and/or underwriting/placing with firm commitment but hold client funds/securities.	€125,000 - CRD 29(1)	CRR 95(1)
7	Investment firms that only perform deals on own account to execute client orders.	€730,000 - CRD 28(2)	CRR 96(1)(a)
8	Investment firms that do not hold client funds/securities, only perform deals on own account, and have no external clients.	€730,000 - CRD 28(2)	CRR 96(1)(b)
9	All other investment firms	€730,000 - CRD 28(2)	CRR 92

*The Central Bank has exercised its discretion under Article 95(2) CRR to impose the own funds requirements in the national transposition measures in force on 31 December 2013 for Directives 2006/48/EC and 2006/49/EC. This means that, *inter alia*, the Pillar 1 binding capital requirements and Pillar 2 Internal Capital Adequacy Assessment Process ("ICAAP") and the Supervisory Review and Evaluation Process ("SREP") applicable as at 31 December 2013 continue to apply to the CRD exempt FOR firms on both an individual and consolidated basis as applicable.

A detailed calculation must also be provided in respect of the Fixed Overhead Requirement, where applicable.

Where consolidated supervision will apply, the applicant firm must also provide projected consolidated calculations for a period of three years from the date of authorisation at the level where consolidated supervision will apply.

Where a national discretion or a derogation is to be applied for/requested, a detailed submission must accompany the application. The submission must include all relevant legislative references and demonstrate how the applicant firm meets any criteria/requirements specified in the relevant legislation.

Firm's with an Initial Capital Requirement of €730K have obligations under the Banking Resolution and Recovery Directive (Directive 2014/59/EU) ("BRRD"), which applies to all EU banks and certain investment firms. The BRRD was transposed in to Irish Law on 14 July 2015 through S.I. 289/2015 - European Union (Bank Recovery and Resolution) Regulations 2015 (the "BRR Regulations") effective 15 July 2015.

Regulation 3 of the BRR Regulations defines an in scope investment firm for the purpose of the BRR Regulations, i.e. an investment firm, as defined in point (2) of Article 4(1) of Regulation (EU) No 575/2013 (the Capital Requirements Regulations) that is subject to the initial capital requirement laid down in Article 28(2) of Directive 2013/36/EU (CRD IV).

	There is a requirement for the Firm to provide resolution specific information in line requirements outlined in the BRRD. This information will allow the Central Bank's Resolution Division to complete an assessment of the authorisation proposal from a resolution perspective. Please liaise with the Authorisation Team in regard to the Firm's requirements under the BRRD.
E7	The Management Accounts must be the latest available at the time. The Central Bank reserves the right to request more updated management accounts as the application progresses in order to assess the updated capital position of the applicant firm.
E8	No additional notes.

Annex F: Organisation of the Firm

App Form Ref.	
F1	<p>If the applicant firm proposes to establish a branch, the Programme of Operations must disclose the following:</p> <ul style="list-style-type: none"> a) the role and responsibilities of the branch and how these are linked to the operations carried out at the principal business address of the applicant firm; b) how the Managing Director/Chief Executive of the applicant firm maintain oversight of the branch as well as how the Head of the Branch oversees the operations of the branch; c) summary details of the arrangements in place to ensure compliance with client asset rules (if applicable), local conduct of business rules, anti-money laundering, and monitoring and controlling of critical outsourcing (if applicable). <p>The answers provided to the remainder of questions in Annex F of the application form must incorporate the branch, e.g. the group and staff organisational charts must incorporate the branch and the branch staff; the financial projections (EUR) must incorporate the running of the branch as well as its costs of establishment; etc.</p> <p>Any proposed branches outside of Ireland and within the EEA will require passporting notification from the Central Bank. While passporting notification cannot be obtained until after such time as the applicant firm receives its authorisation, if the applicant firm wishes to do so, it can submit any branch passporting notification requests during the authorisation process in order to speed up the notification process post authorisation. Details on how to apply for a passporting notification can be found on the Central Bank's website.</p>
F2	If the applicant firm proposes to appoint a tied agent, the Programme of Operations must disclose the following:

	<ul style="list-style-type: none"> a) the services that will be provided by the tied agent and how these are linked to the operations carried out at the principal business address of the applicant firm; b) how the applicant firm will maintain oversight of the tied agent; c) summary details of the arrangements in place to ensure the tied agent complies with the applicant firm's obligations and requirements under MiFID; and d) a description of the steps taken by the applicant firm, and the outcome thereof, to establish whether the tied agents which they propose to appoint are of sufficiently good repute and possess the appropriate general, commercial and professional knowledge and competence so as to be able to deliver the investment service or ancillary service and to communicate accurately all relevant information regarding the proposed service to the client or potential client. <p>The answers provided to the remainder of questions in Section F of the application form must incorporate the operations of all tied agents.</p>
F3	No additional notes.
F4	<p>Relevant information in the Programme of Operations shall include:</p> <ul style="list-style-type: none"> a) an outline of the applicant firm's business strategy and clear details of its business model for each service and activity listed in Sections A11 and A12; b) transaction order flows from start to finish of the business process for each proposed activity i.e. from initial interaction with the client through to carrying out the transaction on the trading venue or with another service provider vendor. The transaction flow should be demonstrated using a diagram in conjunction with a detailed narrative and should outline each leg of the transaction along with the function within the applicant firm responsible for performing that leg; c) a detailed overview of the nature and objective of all 'Other Regulated' (for example insurance mediation business) and 'Unregulated' services/activities currently or proposed to be carried out along with details of the function within the applicant firm responsible for carrying out the activity or activities; d) a description of all activities currently or proposed to be carried out outside of the State including the objective and nature of the activity and whether or not it is a regulated activity; e) the domicile of prospective clients/targeted investors; f) the marketing and promotional activity and arrangements, including languages of the offering and promotional documents; identification of the Member States where advertisements are anticipated to be most visible and frequent; type of promotional documents (in order to assess where effective marketing will be mostly developed); and g) the identity of direct marketers, financial investment advisers and distributors, and the geographical localisation of their activity.
F5	No additional notes.

F6	<p>The applicant must detail all aspects of the operation of the MTF / OTF / Trading Venue and ensure it has the required rules and procedures in place as mandated by Commission Implementing Regulation (EU) 2016/824. Additionally Table 1 in the Annex must be submitted to the Central Bank in electronic format. The Central Bank may request the applicant provide the rules in the form of a “Rulebook” as well as any procedures as part of the application submission.</p>
F7	<p>The Central Bank expects applicant firms to have a comprehensive corporate governance structure that is sufficient to ensure that there is effective oversight of the activities of the applicant firm taking into consideration the nature, scale and complexity of the business being conducted.</p> <p>The applicant firm must demonstrate how it will promote strong and effective corporate governance through robust arrangements including a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which it is or might be exposed and adequate internal control mechanisms, including sound administrative and accounting procedures, IT systems and controls, remuneration policies and practices that are consistent with and promote sound and effective risk management both on a solo basis and at group level.</p> <p>Consideration must be given to the composition of the board: <u>independence</u>; induction and training; diversity; suitability assessment; reporting delegate responsibilities and senior management.</p> <p>The organisational chart must clearly highlight:</p> <ol style="list-style-type: none"> a) the function(s) each staff member is responsible for; b) their reporting line within the applicant firm along with relevant reporting lines to the Board; c) whether they hold/ will hold a CF or PCF; and d) whether they will be employed on a full or part time basis. <p>Where the applicant firm has committees/ sub-committees in place, the objective and modus operandi of the committees must be disclosed.</p>
F8	<p>The heads of internal management and supervisory functions may not all be PCF holders. Therefore, it is expected that the biographies included in the Programme of Operations may consist of persons holding CF roles in addition to all of the PCF holders.</p>
F9	<p>No additional notes.</p>
F10	<p>The Central Bank will need to be satisfied that the applicant firm's rationale for applying for authorisation to hold client assets is central to the applicant firm's business model and that such a significant authorisation is required. Furthermore, the Central Bank will need to be satisfied that the organisational structure and control environment of the applicant firm is sufficient to mitigate client asset risks.</p> <p>The applicant firm should consult the Central Bank's Guidance on Client Asset Regulations for Investment Firms (the “CAR Guidance”), in particular the Guidance on the Principle of Risk Management, when drafting its CAMP.</p> <p>Information to be disclosed in the CAMP should include, but is not limited to:</p>

	<ul style="list-style-type: none"> • A formal description of the applicant firm’s proposed business model. This should include details of any regulated and unregulated activities, types of clients and products provided by the firm; • A rationale for holding client assets; • The investment cycle of transactions, from the initial receipt of client assets to the final distribution to the client. Consideration should be given to the mechanism and control processes in place; • The range and type of client assets to be held; • Details of any mixed remittances or unregulated assets, including an overview of relevant controls; • A detailed overview of the applicant firm’s client asset arrangements including how the firm will organise itself to meet its obligations under the CAR. This should include details of: <ul style="list-style-type: none"> a) staff and their duties and responsibilities in relation to the applicant firm’s CAR obligations; b) any outsourcing arrangements for the safeguarding of client assets; c) governance arrangements; d) compliance arrangements; e) details of any proposals to operate collateral/margin arrangements or any proposals to provide securities lending/borrowing services; and f) IT systems; • The key risks to safeguarding client assets and mitigation of these risks; • Materiality threshold levels and related triggers, including an outline of the basis for judgements made in this regard; and • Detailed plan for how the applicant firm would manage client assets in the event of the firm’s insolvency. <p>The seven core principles of the CAR are:</p> <ol style="list-style-type: none"> 1. Segregation; 2. Designation and Registration; 3. Reconciliation; 4. Daily Calculation; 5. Client Disclosure and Consent; 6. Risk Management; and 7. Client Asset Examination. <p>When outlining the proposed approach to the seven core principles of the CAR the applicant firm should consult the CAR Guidance, in particular the CAR Guidance No’s 3-9.</p>
F11	<p>Please confirm the Applicant has the following policies and procedures in place, , these policies and procedures should be in compliance with the MiFID framework and ESMA guidance (RTS, ITS, Q&A and Opinions):</p> <ol style="list-style-type: none"> a) Inducements; b) Complaints handling; c) Personal transactions;

	<ul style="list-style-type: none"> d) Conflicts of interest [noting Close links, demonstrating effective control and monitoring by management of the firm acting in the best interests of clients]; e) Information to clients and potential clients; f) Investment advice; g) Assessment of suitability and appropriateness; h) Reporting to clients; i) Best execution. To comply with the requirements of the MiFID Framework and encompassing consideration of risks from use of single venues, intragroup links, technology links, disclosure to clients, hedging client orders on a back-to-back basis, selection of hedging venues, firms must consider how these impact the delivery of best execution for their clients; j) Intra-group hedging arrangements [oversight and deliverance of best execution] k) Client order handling; l) Safeguarding of Client assets m) Eligible counterparties; n) Record-keeping; and o) Obligations of investment firms when appointing tied agents. p) Application of Conduct of Business Rules for Branch's established by the firm. q) Outsourcing [in particular where it concerns Placing or Best execution in a non-EU jurisdiction] <p>While the Central Bank does not require the actual Conduct of Business Manual as part of the application process, this document must be made available to the Central Bank upon request. The applicant may be requested to provide any of the above policies and procedures as part of the application submission documentation or through-out the authorisation process.</p>
F12	No additional notes.
F13	<p>Where the applicant firm will be engaging in outsourcing pursuant to MiFID, technology and shared services, the Programme of Operations must detail the following information:</p> <ul style="list-style-type: none"> a) Demonstrate that proposed outsourcing aspects are compliant with Commission Delegated Regulation (EU) 2017/565 Article 31 and 32, ESMA Opinions ESMA35-43-762 and ESMA70-154-270. b) the firm must self-certify that the EU entity providing outsourcing services has the required knowledge, expertise and experience and is compliant with the EU regulatory framework. c) All outsourcing of functions must be preceded by the firm's written due diligence undertaken on the proposed service provider and possible substitutes (if any) in regard to the outsourcing element. d) The objective reasons for the outsourcing of each aspect proposed to be outsourced and the selection of the delegate. e) The firm's plans to cease the outsourcing and to take back any aspects proposed to be outsourced (phase out of outsourcing arrangements), and to include the timeframe for taking outsourced activities back in-house.

	<p>f) The firm should ensure all Service Level Agreements on outsourcing provide for ceasing the outsourcing arrangement and provide for transfer of the outsourcing to a 3rd party or to take in-house.</p> <p>g) Details of the outsourced functions, services or activities (or those intended to be outsourced);</p> <p>h) Details of the contracts concluded or foreseen with external providers; and</p> <p>i) Resources allocated to the control of the outsourced functions, services or activities, in particular, human and technical, and the internal control system.</p> <p>j) Confirmation the outsourcing provider(s) that are carrying out outsourcing activities are appropriately authorised and regulated for the activity.</p> <p>k) Confirmation that functions/services provided by outsourced entities are in compliance with all applicable EU requirements.</p> <p>l) Where outsourcing is to non-EU and EU delegates, consideration of all risks and their mitigants</p> <p>m) Consideration of the ability of the Central Bank to supervise the outsourcing as well as access by the Central Bank to the outsourced entity.</p> <p>n) Outsourcing arrangements comply with the MiFID framework and to EU data protection restrictions on data transfer outside the EU, and recovery and resolution provisions.</p> <p>o) Firms outsourcing safekeeping functions should pay particular attention to the service providers' local laws and how these may impact its duties towards EU clients and their rights to access own assets.</p> <p>p) Firms outsourcing to the cloud must ensure any outsourcing is implemented in a manner that complies with applicable European legislation.</p> <p>The employee of the applicant firm assigned with the responsibility of overseeing the services carried out by the outsourced Service Provider must have sufficient seniority and expertise to ensure the work is carried out to the minimum standard agreed with the outsourcing party.</p> <p>Please note: the Central Bank may request the applicant provide the Service Level Agreement(s) ("SLA") and other documentation on the due diligence undertaken by the firm in relation to outsourcing.</p>
F14	<p>The Central Bank requires the applicant have policies and procedures to manage Conflicts of Interest as mandated by the MiFID Framework. Policies and procedures that deal with the firm's Conflicts of Interest may be requested by the Central Bank during the authorisation process.</p>
F15	<p>The Programme of Operations should detail all aspects of IT systems used for Algotmetric trading and / to provide direct electronic access. It should include IT Risk's to the firm, Business Continuity Planning arrangements for IT infrastructure.</p>
F16	<p>In completing this section of the application form, firm's must consider all MiFID legislation, and in particular Organisation Requirements in the Commission Delegated Regulation and the MiFID regulations.</p>

At a minimum, the following list of principles must be included or addressed in the applicant firm's Compliance Manual and disclosed in the Programme of Operations:

- a) Identification, assessment, monitoring and control of compliance;
 - b) Compliance testing at least annually;
 - c) Updating and training staff in relation to compliance issues;
 - d) Compiling and the implementation of a compliance plan on an annual basis;
 - e) Ensuring the firm acts within its legal and regulatory constraints;
 - f) Monitoring customer complaints;
 - g) Escalation of compliance issues; and
 - h) The frequency of interaction between the Compliance Officer and other functions/staff.
- i) The firm shall establish, implement and maintain adequate compliance policies and procedures which identify the risks of failure by the firm to comply with its obligations under the MiFID framework.

While the Central Bank does not require the actual Compliance Manual as part of the application process, this document must be made available to the Central Bank upon request. The Central Bank may request documentation from the applicant during the authorisation process.

At a minimum, the following list of principles must be included or addressed in the applicant firm's Internal Control & Risk Management Manual and disclosed in the Programme of Operations:

- a) The compilation of a Risk Management Framework that identifies all risks relevant to the firm and mitigating actions taken against each risk to prevent that risk occurring;
 - b) On-going monitoring and testing of the adequacy and effectiveness of the firm's risk management policy and procedures;
 - c) Compiling and sending Risk Management Reports to the Managing Director and the Board of Directors;
 - d) That the risk management procedures are freely and easily accessible to all staff;
 - e) Escalation of risk issues; and
 - f) Frequency of interaction between Risk Manager and other staff/functions in order to identify risks.
- g) The firm shall establish, implement and maintain adequate compliance policies and procedures which identify the risks relating to the firm's activities, processes and systems, and where appropriate, set the level of risk tolerated by the firm.

Where there is/will be a separate internal audit function, the following list of principles, at a minimum, must be included or addressed in the applicant firm's Internal Control & Risk Management Manual and disclosed in the Programme of Operations:

- a) Who is responsible for compiling and approving the Audit Plan;
- b) Frequency of internal audit;
- c) Who is the Internal Audit Report escalated to;
- d) That the Internal Auditor has unrestricted access to all individuals, information and data; and

	<p>e) Who is responsible for ensuring any remedial action from the internal audit has been taken.</p> <p>f) The firm where appropriate and proportionate in view of nature, scale and complexity of their business establish, implement and maintain an adequate internal audit function which is separate and independent from other functions.</p> <p>g) The internal audit function must examine and evaluate the adequacy and effectiveness of the investment firm's systems, internal control mechanisms and arrangements, issue recommendations and report to senior management in relation to internal audit matters in accordance with the MiFID Framework.</p> <p>While the Central Bank does not require the actual Internal Control & Risk Management Manual as part of the application process, this document must be made available to the Central Bank upon request. The Central Bank may request documentation from the applicant during the authorisation process.</p>
F17	While the Central Bank does not require the actual Anti-Money Laundering Manual as part of the application process, this document must be made available to the Central Bank upon request.
F18	The applicant is expected to have policies and procedures as part of its Business Continuity Planning process that comply with the MiFID framework ⁴ . These should take account of the resourcing and systems required in the event of failure of outsourcing arrangements.
F19	<p>The board is required to have separate detailed plans for an orderly and forced wind-down. Each plan must include specific action and trigger points and must be constructed on a phased basis, with each phase clearly setting out the projected timelines for that phase and the resources (in terms of costs and manpower) needed to conclude each and every stage.</p> <p>Each plan must also clearly demonstrate how client assets are protected (if applicable) and how fair treatment of clients is ensured until the firm is successfully wound down.</p> <p>In addition, each plan must also demonstrate how the firm would be financially prepared if a wind-down situation arose.</p> <p>The applicant firm's Internal Capital Adequacy Assessment Process ('ICAAP') must provide for the costs of a wind-down scenario.</p> <p>While the Central Bank does not require the actual wind-down plans and ICAAP as part of the application process, these documents must be made available to the Central Bank upon request. In the case of applicants considered to be Market Infrastructure firms or to be of a medium PRISM impact, the Central Bank may request the ICAAP as part of the application submission process.</p>
F20	While the Central Bank does not require the actual Record Management, Record-Keeping and Record Retention Manuals as part of the application process, these documents must be made available to the Central Bank upon request.
F21	No additional notes.

⁴ Article 6 of the RTS on Authorisation

6. Post Authorisation

The Central Bank authorises investment firms on the basis of the information provided as part of the application process and in this regard all investment firms are required to operate in accordance with the information provided in support of their application for authorisation and in accordance with applicable legislation and requirements.

The Central Bank expects applicant firms to display a proven track record in accordance with the original application (including the Programme of Operations) be displayed before a newly authorised investment firm can amend/expand its investment services. The original application must therefore cover activities that are proposed to be undertaken in the first twelve months post authorisation.

Investment firms must monitor and, on a regular basis, evaluate the adequacy and effectiveness of the policies and procedures, systems, internal control mechanisms and arrangements in place (ensuring that they are kept up to date) and promptly take appropriate measures to address any deficiencies. Policies and procedure documentation must be made available to the Central Bank, for review, upon request.

Once authorised the firm will be subject to prudential supervision under the Central Bank's PRISMTM framework. PRISMTM is a risk based framework for the supervision of all entities regulated by the Central Bank. Detailed guidance can be found on the Central Bank's website.