

## Private & Confidential

Euronext Dublin  
Exchange Buildings  
Foster Place  
Dublin 2

14<sup>th</sup> June 2024

### Re: Consultation Paper 24-1: Consultation on the Launch of the Irish Corporate Governance Code (“the Irish Code”)

To whom it may concern,

Thank you for the opportunity to respond to the proposal by Euronext Dublin to launch the Irish Corporate Governance Code.

The Institute of Directors Ireland (IoD Ireland) is a not-for-profit organisation. We are the leading membership body for directors and business leaders, with membership across all sectors and industries. Our Vision is for Ireland to be an exemplar of corporate governance. Our Purpose is to instill stakeholder trust and confidence in organisations by educating, informing, and supporting directors and business leaders to lead successfully. Being the voice of directors and an advocate for the highest standards of corporate governance in Ireland is a core strategic pillar for IoD Ireland. The IoD has detailed knowledge of best practice standards, codes of practice, particularly the UK Corporate Governance Code (“**UK Code**”), and the techniques and processes associated with high performing boards.

#### Why is IoD Ireland Responding to this Consultation?

We are responding to this consultation as the representative body for directors in Ireland.

Euronext Dublin have invited stakeholders to make general comments on the text of the Irish Code. We refer you to Table 1 attached which includes comments on the proposed changes and related rationale from the UK Code to the Irish Code. In addition to general comments, you have requested stakeholder views on six questions included in CP24-1. Our response to question 1 is included in Table 1. We have no comments on questions 2, 3 and 5. We have included general observations below which incorporate questions 4 and 6.

#### General Observations on the Launch of an Irish Corporate Governance Code by Euronext Dublin

IoD Ireland is broadly supportive of consideration being given to introducing an Irish Code but we have a number of reservations which we wish to highlight:

##### 1. Rationale for the Code

IoD Ireland notes the rationale behind the launch of the Irish Code, as outlined in CP24-1. In the consultation document, Euronext note that *“Ireland is one of only two jurisdictions in the 49 surveyed by the OECD in 2022 (including all OECD, G20 and Financial Stability Board members) which does not have its own national corporate governance code. An Irish Corporate Governance Code, developed within, and for the Irish market, will enable and provide greater clarity for issuers and investors and ensure that changes in corporate governance in the UK can be assessed for relevance and*

*appropriateness before being automatically applicable to Irish companies*". The OECD's reference to Ireland not having its own national corporate governance code ignores important context, including the fact that Ireland has long adopted the code that has set the standard for corporate governance internationally. The Irish Stock Exchange adopted the UK Code (formerly the Combined Code) following the introduction of the 1995 Irish Stock Exchange Act. In July 2010, the Irish Stock Exchange (the ISE) unveiled a proposal for a new Irish Corporate Governance Code and commenced a related consultation process. Arising from this consultation, the Irish Stock Exchange decided not to proceed with the new Irish Corporate Governance Code. As currently noted in the Irish Corporate Governance Annex, *"Euronext Dublin recognises that the UK Corporate Governance Code has set the standard for corporate governance internationally. It is regarded as being the pre-eminent corporate governance code and is widely emulated"*. The Irish Stock Exchange added the Irish Corporate Governance Annex (Irish Annex) to its listing rules in 2010 on foot of an Independent Report on Compliance with the then Combined Code on Corporate Governance (now the UK Code) by Irish Listed Companies undertaken that year. The Irish Annex has supplemented the UK Code ever since, reflecting additional requirements of EURONEXT for listed companies in Ireland. Additionally, it is also worth noting that all the financial institutions, listed on the Irish Stock Exchange, are required to comply with the Central Bank of Ireland's Corporate Governance Code, which is unique to Ireland, so adding another Irish Code may be seen as an additional requirement.

The introduction to the Draft Irish Code states: *"Based on best standards for corporate governance internationally the Code caters for the specifics of the Irish market and legal environment; the broader EU regulatory regime; and developments in best practice"*. We consider that a principles-based corporate governance code should not include specific legislative provisions, and this has indeed been a negative aspect of the UK Code's evolution from an Irish listed company perspective. We note and welcome that the Draft Irish Code makes no reference to any Irish or EU legislation. We also note, however, that having reviewed 10 regimes to ensure that there was a wide consideration of international best practices from a variety of jurisdictions, the Euronext Working Group concluded that the UK Code was the most appropriate base code from which to work, including keeping with the "comply or explain" approach which currently applies.

The application of the UK Code by Euronext Dublin, formerly the Irish Stock Exchange, in addition to the Irish Annex, has had a positive impact on corporate governance standards of listed companies and non-listed companies across many sectors in Ireland. Thus, we consider that the rationale for introducing an Irish Code needs to be based on generally accepted grounds such as the evolution of the UK Code to reflect UK legislation in response to corporate governance and audit practice failures particular to the UK. Within this context, consideration must be given to the alternative of disapplying certain provisions of the UK Code that are UK specific and therefore not applicable to listed companies in Ireland. The Irish Annex could be further expanded to specify those provisions.

## **2. Custodian of an Irish Code**

In the UK, the Financial Reporting Council (FRC) is the custodian of the UK Code and responsible for its evolution. It applies to all premium listed companies on the London Stock Exchange. The Code is maintained by the FRC and underpinned by the Financial Conduct Authority's Listing Rules. We suggest that, before an Irish Code is contemplated, consideration should be given to custodianship of said code. While any custodian of a corporate governance code should consult with stakeholders, including Euronext Dublin, it is important that the custodian is impartial with a clear purpose related to enhancing corporate governance standards. We note the intention to establish a Corporate Governance Panel but absent a clear Terms of Reference for this committee, we cannot opine on this mechanism. We suggest

that a critical evaluation of models of code custodianship in the European Union as well as the UK/FRC model be undertaken with a view to determining the optimum code custodian model for Ireland. Notwithstanding our observations, in the event that a Governance Panel is established IoD Ireland would welcome the opportunity to participate.

### **3. Code Compliance and Accountability**

CP 24-1 states that: *“It is proposed that Euronext Dublin, working with other market participants monitor compliance with the Irish Code on a biennial basis. In addition, as with any comply or explain code, including the UK Code, an element of self-policing by shareholders is expected.”* IoD Ireland consider that a corporate governance code should be viewed as a market mechanism to influence best in class governance standards of listed companies, as distinct from a regulatory mechanism. It is important that the integrity of the existing market mechanism where accountability on a company’s compliance is created at the level of the investor, is not compromised.

The Irish Code is aligned to the UK Code. We consider that the role of the custodian of the Irish Code should be to monitor the appropriateness of this alignment on an on-going basis as distinct from monitoring compliance by listed companies with the code itself. The FRC regularly update the Code to reflect the evolution of best practice in response to evolving externalities. We welcome the statement in CP24-1: *“The FRC conducts an annual review of reporting in UK listed companies against the UK Code. Because of the intended alignment of the proposed Irish Code, these reviews will continue to provide an insight into the strengths and weaknesses of the reporting system and highlight what needs to be improved”*.

### **4. Listing Rules and the Irish Code**

An Irish Code for companies listed on Euronext Dublin must be consistent with Euronext Dublin’s Listing Rules. We consider that, in the first instance, the Listing Rules should be reviewed with proposed changes being put out to consultation prior to further consideration of an Irish Code.


### **5. Investor Perceptions**

The consultation observes that *“The UK Code is synonymous with best international practice. Research shows that when issuers are governed according to principles of good corporate governance, they find it easier to tap capital markets and attract investors. Maintaining a strong alignment between the Irish Code and the UK Code will allow Irish listed companies to retain the same high standards of governance and to meet this internationally recognised benchmark standard”*. Given the size of the listed sector in Ireland versus the UK, and the appetite of investors to simplify, insofar as possible, their stewardship processes, we are concerned that adoption of an Irish Code is potentially disadvantageous to listed companies in Ireland. Moreover, if a company is dual-listed in both Ireland and the UK, under the Euronext proposal, it will have the option to either follow the Irish Code or the UK Code. The Financial Conduct Authority will oblige adoption of the UK Code. It may be inefficient for companies with dual listings to comply with two codes. Companies that have a primary listing on Euronext Dublin only will be subject to the Irish Code. Whether the number of such firms merits an Irish Code should be considered further.

The UK Code stands alongside the UK Stewardship Code and, in the context of investor stewardship and the work of the Investment Association in supporting and providing additional guidance on the application of both Codes. The Draft Irish Code is silent on this relationship and makes no reference to or engagement with the Irish Association of Investment Managers. We suggest this merits consideration.


In conclusion, we welcome that consideration is being given to the adoption of an Irish Code. We have highlighted a number of important points, as outlined above, that we believe merit consideration. As reflected in Table 1 attached to this document, we also believe that certain of the proposed changes should be revised and strengthened, so as to maintain the spirit of the UK Code. We suggest that Euronext Dublin reflects further on the launch of the Irish Code and would be delighted to discuss our submission with you.

Yours sincerely,



---

**John Reynolds**  
President  
IoD Ireland



---

**Caroline Spillane**  
CEO  
IoD Ireland