

STRUCTURES, RIGHTS,
DUTIES AND OBLIGATIONS



Corporate Governance Code

For Fund Service Providers

FOREWORD

The Central Bank of Ireland strongly advocates good corporate governance for all financial services firms. Sound corporate governance is essential as it increases accountability to stakeholders, improves transparency in terms of roles and responsibilities, mitigates risk, and underpins the integrity of an organisation and the market in which it operates. In the past few years, the Central Bank has promoted the adoption by industry of minimum standards of sound corporate governance practices and, in the case of banks and insurers, has introduced a statutory Code on corporate governance.

The Central Bank of Ireland warmly welcomes this initiative by IFIA to introduce a Corporate Governance Code for Fund Service Providers, which follows on from their Corporate

Governance Code for the Collective Investment Schemes and Management Companies which they published in 2012. Given the importance of fund service providers to the funds industry in Ireland it was viewed as critical that strong principles of corporate governance should be adhered to in order to reinforce the credibility and quality of these firms. This Code aims to achieve that by setting the minimum standards of corporate governance in a meaningful and comprehensive way.

The Central Bank supports this Code and encourages its adoption by all fund service providers.

Central Bank of Ireland

INTRODUCTION

The purpose of the Corporate Governance Code For Fund Service Providers is to provide the board of directors of Administrators, Custodians and Depositaries authorised and regulated by the Central Bank of Ireland (collectively "Service Providers"), with a framework for good practice of corporate governance and oversight. The Code provides a set of principles and guidance but is not intended to be prescriptive, rather a codifying of existing practice combined with what is seen as good international practice.

It is recognised that corporate governance will continue to evolve both domestically and internationally and therefore the Code will require review and updating periodically.

This Code has been developed for the industry by the Irish Funds Industry Association ("IFIA") and is recommended by the IFIA.

CORPORATE GOVERNANCE IS ABOUT BEHAVIOUR OF BOARDS AND THEIR DIRECTORS

Any corporate governance code for Service Providers must consider the role of the Service Provider and the regulatory regime to which they are subject.

Some Service Providers will be part of a larger group of companies and many of the standards set out in this Code may be satisfied through reliance on specific functions within the group which have responsibility for the Service Provider and other companies within that group. The Board should maintain appropriate, autonomous control over local operations, manage effectively its legal and regulatory

obligations and manage any conflicts with group companies and/or other companies within that group.

Where a Service Provider falls within the scope of this Code as well as the Central Bank of Ireland's Corporate Governance Code for Credit Institutions and Insurance Undertakings, the Service Provider shall comply with the latter.

Any corporate governance arrangements should be proportionate in nature to the scale of activities and complexity of activities of the Service Provider.

TRANSITIONAL ARRANGEMENTS

Whilst this Code is voluntary in nature, its adoption is recommended by IFIA. It is envisaged that a transitional period of 12 months is reasonable. Compliance and/or the level of compliance with the Code should be disclosed in the Director's report accompanying the Service Provider's annual

report for years commencing on or after 1st January 2015, or alternatively publish the information through a publicly available medium (e.g. the Service Provider's website) detailed in the annual report.

1. BACKGROUND TO FUNDS & DEFINITIONS

WHAT IS A SERVICE PROVIDER?

Service Providers for the purpose of this Code include Administrators, Custodians and Depositaries authorised and regulated by the Central Bank of Ireland to provide services to Collective Investment Schemes.

Service Providers must comply with any rules, conditions, notices, requirements, rulebooks or guidance of the Central Bank and/or AIFMD legislation as applicable to such Service Provider.

WHAT IS CORPORATE GOVERNANCE?

- 1.1 Corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders' role in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place. The responsibilities of the board include setting the company's strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board's actions are subject to laws, regulations and the shareholders in a general meeting.
- 1.2 The requirements in this Code are recommended requirements that a Service Provider should meet in the interest of promoting strong and effective governance.
- 1.3 The Board is the focal point of the governance regime for that Service Provider and is therefore responsible for compliance with this Code.
- 1.4 All Service Providers shall have robust governance arrangements which include 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, adequate internal control mechanisms, including sound administrative and accounting procedures, IT systems and controls and remuneration policies and practices that are consistent with and promote sound and effective risk management. The system of governance shall be subject to regular internal review.
- 1.5 The corporate governance structure and policies shall be articulated clearly and communicated to all appropriate staff within the Service Provider.
- 1.6 Any director who has any material concern about the overall corporate governance of a Service Provider shall report the concern without delay to the Board in the first instance and if the concern is not satisfactorily addressed by the Board within 5 business days, the

director shall promptly report the concern directly to the Central Bank, advising of the background to the concern and any proposed remedial action. This is without prejudice to the director's ability to report directly to the Central Bank.

DEFINITIONS

THE FOLLOWING IS A LIST OF DEFINITIONS OF TERMS USED IN THIS CODE:

Non-executive director: A director without executive management responsibilities for the institution or, in the case of an institution which is part of a group, who may have executive management responsibilities assigned to him or her within the group.

Group director: A director of a Service Provider who would satisfy the criteria for director independence except for existing relationships with the Service Provider's direct or indirect parent and/or any other direct or indirect subsidiary of such parent other than the Service Provider.

Board: The Board of Directors of a Service Provider.

Collective Investment Scheme ("CIS"): A CIS is a Collective Investment Scheme, whether authorised by the Central Bank of Ireland or not, which may present in the form of a unit trust, a common contractual fund, an investment limited partnership, an Irish Collective Asset-Management Vehicle or a corporate vehicle/CIS (either self-managed or with an appointed ManCo).

Independence: Independence is defined as the ability to exercise sound judgement and decision making independent of the views of the Service Provider, political interests or inappropriate outside interests. The following criteria shall be considered by the Board and given reasonable weight when determining if a director is independent:

- whether the director is, or at any time during the past three years was, employed by the Service Provider, the group, or their affiliates;
- whether the director is a significant shareholder of the Service Provider, the group or their affiliates;
- whether the director is, or in the past three years was, in receipt of remuneration directly or indirectly, in the course of providing non-director services to the Service Provider, the group or their affiliates;
- any financial or other obligation the individual may have to the Service Provider, the group or their affiliates or directors of the Service Provider, the group, or their affiliates.

2. LEGAL BASIS

- 2.1 This is a voluntary Code.
- 2.2 Where a Board decides not to apply the Code in its entirety, or any provisions of the Code, the Board should set out its reasons why it is not complying, in the Directors' Report accompanying the annual audited accounts, or alternatively publish the information

through a publicly available medium (e.g. the Service Provider's website) detailed in the annual report. Any alternatives to following a provision may be justified in particular circumstances, if good governance can be achieved by other means. The reasons for any departure from the Code should also be explained to the Service Provider's shareholders in the Director's Report.

3. GENERAL REQUIREMENTS

- 3.1 The requirements are the recommended requirements that a Service Provider should meet in the interest of promoting strong and effective governance.
- 3.2 The Board retains primary responsibility for corporate governance within the Service Provider at all times. Nevertheless, senior management plays an important part in ensuring effective governance and is therefore responsible for operating effective oversight consistent with Board policy.
- 3.3 The governance structure put in place by the Service Provider shall be sufficiently sophisticated to ensure that there is effective oversight of the activities of the Service Provider, taking into consideration the nature, scale and complexity of the activities being conducted.
- 3.4 No one individual should have unfettered decision making powers.

4. COMPOSITION OF THE BOARD

- 4.1 The Board shall be of sufficient size and expertise to adequately oversee the Service Provider's operations. Three Directors are generally recommended as the minimum size for a Service Provider but this may depend on the scale and complexity of activities carried out by the Service Provider. At least one of the Directors shall be an Independent Non-Executive Director.
- 4.2 The Board shall have the appropriate balance of skills, experience and knowledge to enable it to discharge its duties and responsibilities effectively.
- 4.3 At least two of the directors of the Service Provider should be reasonably available to meet the Central Bank at short notice, if so required.
- 4.4 A minimum of two directors on the Board must have Irish residency.
- 4.5 Each member of the Board shall have sufficient time to devote to the role of director and associated responsibilities. Each Service Provider should specify and document at the outset and, on a periodic basis as appropriate, the time commitment it expects from each director. In specifying the time commitment, the Service Provider should have regard to the possibility that meetings in excess of the recommended four Board meetings may be required from time to time to deal with items at short notice, and should ensure that a sufficient buffer is included in the designated time commitment to allow for this. The Board shall document the time commitment expected from each director in a letter of appointment.
- 4.6 Directors are required to disclose in writing to the Board their other time commitments, including time devoted to the role of directors of collective investment schemes both domiciled in Ireland and domiciled in foreign jurisdictions ("Foreign CIS"). The Board must satisfy itself that the directors have sufficient time to fully discharge their duties and in proposing to appoint directors who otherwise have full time jobs, the Service Provider should be required to take fully into account the time constraints associated with the full time job (and also from other directorships held).
- 4.7 In the event that exceptional or extraordinary items arise during the term of a director's appointment which require director's to dedicate significant unexpected additional time to the affairs of the relevant Service Provider, each Board member shall have a duty to re-evaluate his or her aggregate time commitments and make any adjustments thereto as are necessary to ensure that the affairs of the Service Provider receive adequate attention.

4.8 In considering director appointments, the Board shall assess and document its consideration of possible conflicts of interest among its members, including but not limited to personal relationships, business relationships and common directorships among its members or proposed members.

4.9 Appointments shall not proceed where possible conflicts of interest may emerge which are significant to the overall work of the Board.

In any matter for consideration before the Board where a Director believes that a conflict may arise affecting him/her personally unless otherwise generally disclosed in accordance with the provisions of Section 194 of the Companies Act 1963 he/she shall disclose such conflict to the Board before the issue is considered by the Board.

Service Providers should formally review Board membership at least once every three years, and should consider the balance of experience and independence sought.

4.10 Appointments to the office of director of a Service Provider require the prior approval of the Central Bank. Any departure from the office of director must be made known to the Central Bank together with reasons

for the departure and confirmation that the departure is not linked to issues with the Service Provider.

4.11 The Board of a Service Provider acting as administrator must not have directors in common with the Board of directors of a Service Provider which acts as Depositary/Custodian.

4.12 Directors are required to disclose to their Board all concurrent directorships.

4.13 Prior to the appointment of a new Director, the Board must be satisfied that he or she meets the Central Bank's fit and proper standards. "Fitness" requires that a person appointed as a Director has the necessary qualifications, skills and experience to perform the duties of that position. "Probity" requires that a person is honest, fair and ethical.

4.14 A proposed Director shall be aware of the obligations and the duties of a director of a company under the Companies Acts and be aware of his/her responsibilities arising from legislation, regulations, codes of practice, guidance notes, guidelines and any other rules or directives, which are of relevance to the proposed position.

5. CHAIRMAN

5.1 There shall be a Chairman appointed to the Board of the Service Provider. The Chairman shall be either a non-executive director or an independent non-executive director.

5.2 The Chairman shall lead the Board, encourage critical discussions and challenge mindsets. In addition, the Chairman shall promote effective communication between all directors.

5.3 The roles of Chairman and CEO shall be separate. An individual who has been the CEO during the previous 3 years shall not advance to the role of Chairman of that institution.

5.4 The Chairman shall attend and chair board meetings. A deputy chair should be appointed as required.

5.5 The Chairman of the Board should be reviewed at least once every 3 years.

X. Chief Executive Officer

X.1 The Chief Executive Officer is the top executive responsible for the institution with ultimate executive responsibility for the institution's operations, compliance and performance. The CEO serves as the main link between the Board and the executive.

Y. Independent and Non-Executive Directors, Group Directors, Executive Directors:

Y.1 The role of the independent and non-executive directors and group directors, under the Chairman's leadership is:

- to ensure that there is an effective executive team in place
- to participate actively in constructively challenging and developing strategies proposed by the executive team, and in the case of a group director to ensure that the local strategy is aligned to the parent's strategy;
- to participate actively in the Board's decision making process, which includes, participation on Board committees (where necessary); and
- to exercise appropriate oversight over execution by the executive team of the agreed strategies, goals and objectives and to monitor reporting of performance.
- while all directors on the Board owe a duty to act independently, fairly and in the interest of its shareholders, the appointment of an independent director may represent an additional layer of oversight of the activities of a Service Provider.
- independent directors shall be identified clearly in the service Providers' annual report.
- the independent director shall have a knowledge and understanding of the organisation and the regulatory environment to enable them to contribute effectively.

Y.2 The role of executive directors, led by its Chief Executive Officer is to propose strategies to the Board and following the Board's review and scrutiny of such strategies, to execute the agreed strategies to the highest possible standards.

6. ROLE OF THE BOARD

- 6.1** The Board is responsible for:
- the effective, prudent and ethical oversight of the Service Provider;
 - setting the business strategy for the Service Provider; and
 - ensuring that risk and compliance are properly managed in the Service Provider.
- 6.2** The role and responsibilities of the Board shall be clearly documented.
- 6.3** All directors must act in what they consider to be the best interests of the Service Provider, consistent with their statutory duties.
- 6.4** Each member of the Board shall have:
- the necessary knowledge, skills, experience, expertise, competencies, professionalism, fitness, probity and integrity to carry out their duties;
 - a full understanding of the nature of the Service Provider's business, activities and related risks;
 - a full understanding of their individual direct and indirect responsibilities and collective responsibilities; and
 - an understanding of the Service Provider's financial statements.
- 6.5** The Board may delegate authority to sub-committees or management to act on behalf of the Board in respect of certain matters but, where the Board does so, it shall have mechanisms in place for documenting the delegation and monitoring the exercise of delegated functions. The Board cannot abrogate its responsibility for functions delegated.
- 6.6** Where a Service Provider, being part of a larger group, applies group policies or uses group functions, the Board shall satisfy itself as to the appropriateness of these policies and functions for its business and in particular that these policies and functions take full account of Irish laws and regulations and the supervisory requirements of the Central Bank.
- 6.7** Where a Service Provider outsources one or more activities, the Board retains ultimate responsibility for such outsourced activity.

7. APPOINTMENTS

- 7.1** The Board shall be responsible for appointing a Chief Executive Officer, and senior management with appropriate integrity and adequate knowledge, experience, skill and competence for their roles.
- 7.2** The Board shall be responsible for endorsing the appointment of people who may have a material impact on the risk profile of the Service Provider and monitoring on an ongoing basis their appropriateness for the role, including their time commitments.
- 7.3** The Board shall ensure that directors are given adequate training about the operations and performance of the Service Provider. The Board shall routinely update the training as necessary to ensure that they make informed decisions.
- 7.4** The Board shall define and document the responsibilities of the Board of directors and Board committees to ensure that no single person has unfettered control of the business.
- 7.5** The Board shall ensure that there is an appropriate succession plan in place for the persons referred to in this section.
- 7.6** The Board shall review its overall performance and that of individual directors, relative to the Board's objectives, annually. The review shall be documented.

8. MEETINGS

- 8.1** The Board shall meet as often as is appropriate to fulfill its responsibilities effectively and prudently, reflective of the nature, scale and complexity of the Service Provider. In any event, the Board shall normally hold two meetings per half year. Physical attendance by Board members at each Board meeting is recommended, and a minimum of one meeting must be held in person on an annual basis. Attendance by directors should be minuted.
- 8.2** A detailed agenda of items for consideration at each Board meeting together with minutes of the previous Board meeting, sufficient and clear supporting information and papers shall be circulated in advance of the meeting to allow all Directors adequate time to consider the material. Reports from risk, compliance and finance functions should be included on the agenda for each Board meeting.

8.3 Detailed minutes of all Board meetings shall be prepared with decisions, discussions and points for further actions being documented. The minutes of meetings shall provide sufficient detail to evidence appropriate Board attention where necessary and shall be agreed at the subsequent Board meeting.

8.4 The Board shall establish a documented 'conflict of interest' policy for its members and where conflicts of interests arise, the Board shall ensure that they are noted in the minutes.

8.5 If ongoing conflicts of interest arise, which the Board believe cannot be resolved in the best interests of the Service Provider, consideration shall be given to changing the membership of the Board.

9. RESERVED POWERS

9.1 The Board shall establish a formal schedule of matters specifically reserved to it for decision. This schedule shall be documented and updated in a timely manner.

10. COMMITTEES OF THE BOARD

10.1 The Board may establish committees comprising one or more persons provided it has the authority to do so pursuant to the applicable constitutional documents. Any committee(s) should have at least two members. The Board is responsible for the oversight of each of its committees.

10.2 Committees shall have documented terms of reference evidencing all delegated authorities given to them.

10.3 When appointing committee members, the Board shall review and satisfy itself as to the relevant expertise and skills of members and their ability to commit appropriate time to the committee.

10.4 Committees should be provided with sufficient resources to undertake their duties.

10.5 Agendas and all relevant material for meetings shall be circulated to all committee members in a timely manner in advance of the meetings.

10.6 Detailed minutes of all committee meetings shall be prepared recording the time of meeting, location held, attendees, all key decisions and discussions.

10.7 Committees shall report regularly to the Board and the minutes of all sub-committees shall be circulated to the Board in advance of Board meetings.

10.8 Committee members shall attend committee meetings regularly. Where a member is unable to provide sufficient time to attend over the medium to long term, the Board shall remove such member from the committee and replace them with a member with appropriate availability, experience and expertise.

11. TERMS OF REFERENCE OF COMMITTEES OF THE BOARD

11.1 The authority, functions, membership and reporting lines of the committees as well as meeting frequency, voting rights and quorums shall be clearly outlined in written terms of reference established by the Board.

11.2 The terms of reference shall be reviewed regularly by the committees to ensure continuing appropriateness and recommendations on revisions shall be provided to the Board, where necessary. Such reviews shall be documented and shall take place at least annually.

12. RISK APPETITE

- 12.1** The Board is required to understand the risks to which the Service Provider is exposed and shall establish a documented risk appetite for the Service Provider. It shall be subject to annual review by the Board.
- 12.2** The Board shall ensure that the risk management framework and internal controls reflect the risk appetite and that there are adequate arrangements in place to ensure that there is regular reporting to the Board on compliance with the risk appetite. Any director who becomes aware of a material deviation from the risk

appetite of the Service Provider Company should inform the entire Board promptly.

The Board shall ensure that it receives timely, accurate and sufficiently detailed information from risk and control functions.

- 12.3** The Board shall ensure that there are appropriate legal and governance frameworks in place for any activities that it has decided to outsource or offshore.

13. COMPLIANCE

- 13.1** The Service Provider will detail its compliance with this Code and explain any deviation from the Code in the Directors' Report accompanying the annual audited accounts, or alternatively publish the information through a publicly available medium (e.g. website) detailed in the annual reports.



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