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Response to Discussion Paper on Exchange Traded Funds

*Central Bank of Ireland
Exchange Traded Funds
Discussion Paper response*

11 August 2017

Central Bank of Ireland
New Wapping Street
North Wall Quay
Dublin 1

Sent by email to: fundspolicy@centralbank.ie

11 August 2017

Dear Sir/Madam,

Response to Discussion Paper on Exchange Traded Funds

We are writing to you in response to the Central Bank of Ireland's ("CBI") Discussion Paper on Exchange Traded Funds (the "Discussion Paper"). We welcome the publication of the Discussion Paper and the CBI's focus on bolstering its knowledge with respect to the authorisation and supervision of Exchange Traded Funds ("ETFs").

Ireland is a leading centre for the domiciliation, management and administration of collective investment vehicles, with industry companies providing services to collective investment vehicles with assets totalling in excess of €4.2 trillion. [1] As at March 2017, assets under management in Irish domiciled ETFs, amounted to €315 billion, which constituted 56% of all European-domiciled ETFs. [2]

PricewaterhouseCoopers is Ireland's largest professional services Firm, employing over 2,000 people. Our asset management group is the largest in Ireland with almost 400 investment professionals and staff providing audit, tax and advisory services to investment funds and their service providers. PricewaterhouseCoopers audits ETFs representing 96% of the assets under management in Irish domiciled ETFs.

Since the Discussion Paper was issued on 15 May 2017, we have been actively engaged in discussions with ETF issuers, service providers and other industry stakeholders. We have confined our response to areas of general policy. ETF issuers, service providers and other market participants are best positioned to offer views on operational matters.

Growth of ETFs

Since their inception in 1993, ETFs have grown and evolved significantly from their initial function of tracking large liquid indices in developed markets. Recent years have seen unprecedented levels of growth in both the global and European ETF markets and this is not expected to abate, with our own market research predicting that ETF assets will reach $8 trillion globally by 2021.[3] As acknowledged in the Discussion Paper, given Ireland's leading role as domicile of choice for European ETFs, it is proper that the CBI should be at the forefront of regulation and supervision of European ETFs.

It is important to note that despite the substantial growth in ETFs, they still represent a small portion of the overall market. From a European perspective, ETFs represent approximately 7% of total assets under management in European investment funds and globally, ETFs represent less than 3% of the global equity and fixed income markets.

[1] Irish Funds Industry Statistics Factsheet March 2017
[2] Irish Funds Industry Statistics Factsheet March 2017
[3] ETFs: A Roadmap to Growth, PwC, 2015

ETFs as UCITS

As noted in the Discussion Paper, European ETFs are predominantly UCITS-compliant collective investment schemes. As such, any consideration of the operation of ETFs and potential restrictions on same must be framed within the UCITS framework which provides for the protection of investors. The ETF structure is merely an alternative method of distributing an investment strategy and as such, once that strategy, be it passive or active, complies with UCITS requirements, no further restriction need necessarily apply solely by virtue of the fact that it is distributed in the form of an ETF. This has been considered by ESMA in the past and any concerns were addressed in the form of clear disclosure requirements and the inclusion of "UCITS ETF" in the name of the relevant fund.

Although ETFs are increasingly being used in new ways by new investor segments for the purposes of achieving various different objectives, placing additional regulatory restrictions on ETFs over and above those applicable to other UCITS would be detrimental to the market and does not have sufficient justification from an investor protection perspective.

Disclosure and investor education

The Discussion Paper raises some very interesting questions around various aspects that are unique to ETFs; for example listed and unlisted share classes, transparency around the relationships between the ETF and its authorised participants, transparency of the portfolio in an 'active' ETF, amongst others.

It is our view that the detailed disclosures required in fund documentation, supplemented by investor education which many industry stakeholders are committing significant investment to provide sufficient information and protection for investors, rather than there being a significant need for increased regulation in relation to these unique aspects.

In our view, the extensive investment by industry players in investor education and the robust networks made available to investors for ongoing support and engagement, coupled with the thorough disclosures in the fund's documentation, form a strong layer of protection for investors.

Stakeholder engagement

We would welcome the opportunity to discuss next steps with the CBI and during our own discussions with industry stakeholders, all of those we spoke with were extremely open to dialogue with the CBI on the matters addressed in the Discussion Paper. We would view active participation by both industry players and the CBI in information sessions and practical workshops as an extremely positive step in enhancing the CBI's understanding of practical and operational aspects of the ETF industry.

We note that the CBI is considering the publication of a feedback statement covering some or all of the topics raised in the Discussion Paper and/or one or more specific feedback notes on particular issues. While we understand the significant amount of consideration the responses received by the CBI will merit, we would encourage a relatively short timeframe for taking forward any matters coming out of the consultation process in order to avoid any impediments to evolution and innovation within this fast-paced industry.

Yours sincerely,

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