INTERNATIONAL MONETARY FUND

IRELAND

DETAILED ASSESSMENT OF OBSERVANCE

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IOSCO OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION

Prepared By
Monetary and Capital Markets Department

This Detailed Assessment Report was prepared in the context of an IMF stand-alone Reports on the Observance of Standards and Codes (ROSCs) mission in Ireland during September–October 2013, led by Antonio Pancorbo, IMF, and overseen by the Monetary and Capital Markets Department, IMF. Further information on ROSCs can be found at http://www.imf.org/external/NP/rosc/rosc.aspx

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GLOSSARY

ACCA	Association of Chartered Certified Accountants
AIF	Alternative Investment Fund
AIFMD	Alternative Investment Fund Managers and amending Directives
APB	Approved Professional Body
ASP	The Central Bank's Administrative Sanctions Procedure
ASB	Accounting Standards Board
CAR	Client Asset Requirements
CARB	Chartered Accountants Regulatory Board
CAST	Client Asset Specialist Team
CCP	Central Counterparty
CEBS	Committee of European Banking Supervisors
CF	Control Function, within the 'fitness and probity' regime of the Central Bank Reform Act 2010
CIMA	Chartered Institute of Management Accountants
CIPFA	Chartered Institute of Public Finance and Accountancy
CIS	Collective Investment Scheme
Commission	Central Bank Commission
COREP	Common Reporting Framework
CRA	Credit Rating Agencies
CRD	Capital Requirements Directive (2006/48/EC)
CRO	Companies Registration Office
CPC 2012	Consumer Protection Code 2012
DPP	Director of Public Prosecutions
EBA	European Banking Authority
EEA	European Economic Area
ECB	European Central Bank
EMIR	European Market Infrastructure Regulation,
ESA	European Supervisory Authorities
ESCB	European System of Central Banks
ESM	Enterprise Securities Market
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
FCA	Financial Conduct Authority (UK regulatory authority)
FOHR	Fixed Overhead Requirement
FRA	Full Risk Assessment
FRC	Financial Reporting Council
FSC	Financial Stability Committee
FSO	Financial Services Ombudsman
FSP	Financial Services Provider
GBFI	Garda Bureau of Fraud Investigations
GEM	Global Exchange Market

IAASA	Irish Auditing & Accounting Supervisory Authority
IAASB	International Auditing and Assurance Standards Board
IAS	International Accounting Standard
ICAAP	Internal Capital Adequacy Assessment Process
ICAI	Institute of Chartered Accountants in Ireland
ICCL	Investor Compensation Company Ltd
IFFS	Investment Firms and Fund Supervision Division, within the Markets Directorate
IFIA	Irish Funds Industry Association
IFRS	International Financial Reporting Standards
IFSAT	The Irish Financial Services Appeals Tribunal
IIA	Investment Intermediaries Act, 1995
IIID	Insurance Investment and Intermediaries Division
IIPA	Institute of Incorporated Public Accountants
IOSCO	International Organization of Securities Commissions
ISA	International Standards on Auditing
ISE	Irish Stock Exchange Ltd.
ISQC	International Standard on Quality Control
KIID	Key Investor Information Document
KRI	Key Risk Indicators
MAD	Market Abuse (2003/6/EC) Directive
MAI	Multi-Agency Intermediary
MICR	Minimum Initial Capital Requirement
MiFID	Markets in Financial Instruments Directive
MIU	Markets Integrity Unit, within the Markets Directorate of the Central Bank
MMOU	IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information
MMR	Monthly Metrics Reports
MOU	Memorandum of Understanding
MSM	Main Securities Market
MTF	Multilateral Trading Facility
NAV	Net Asset Value
NCA	National Consumer Agency
Non-UCITS	Non-UCITS Collective Investment Scheme Legislation [Funds Acts]
ODCE	Office of the Director of Corporate Enforcement
ONR	Online Reporting System, operated by the Regulatory Transactions Division
PAB	Prescribed Accountancy Body
PCF	Pre-approval Control Function, within the 'fitness and probity' regime of the Central Bank Reform Act 2010
PDMR	Person Discharging Managerial Responsibilities
PIE	Public Interest Entity
PIF	Professional Investor Fund
PRISM	Probability Risk and Impact System (the Central Bank's risk based framework)
QIAIF	Qualifying Investor Alternative Investment Fund
QIF	Qualifying Investor Fund

RAB	Recognised Accountancy Body
RAIPI	Restricted Activity Investment Product Intermediary
RIAIF	Retail Investor Alternative Investment Fund
RIS	Regulatory Information Service
RMP	Risk Mitigation Plan
RWAs	Risk Weighted Assets
SAR	Substantial Acquisition Rules, 2007 (under the Irish Takeover Panel Act, 1997)
SI	Statutory Instrument
SIR	Standards for Investment Reporting
SMSD	Securities and Markets Supervision Division, within the Markets Directorate
SRC	Supervisory Risk Committee
STR	Suspicious Transaction Report
TREM	Transaction Reporting Exchange Mechanism
TRMU	Transaction Reporting and Monitoring Unit, within the Markets Directorate of the Central Bank
UCITS	Undertakings for Collective Investment in Transferable Securities
UPU	Unauthorised Providers Unit

SUMMARY, KEY FINDINGS, AND RECOMMENDATIONS

1. Ireland exhibits a high level of implementation of the International Organization of Securities Commissions (IOSCO) principles. The legal framework is robust and provides the Central Bank of Ireland (Central Bank) with broad supervisory, investigative and enforcement powers. There are arrangements for on-site and off-site monitoring of regulated entities. Thematic reviews in selected areas have complemented such monitoring. The Central Bank and the Irish Stock Exchange have also developed sound systems for market surveillance. The Central Bank's key objectives include monitoring and mitigating systemic risk. It routinely reviews the perimeter of regulation. Its powers to cooperate with domestic and foreign counterparts are extensive. Accounting and auditing standards are high.

2. Some areas of supervision and enforcement require strengthening. In particular, the Central Bank should make more use of on-site inspections for all types of market intermediaries. It should also pursue the use of all of its available enforcement authority, including criminal prosecutions.

3. Certain aspects of the legal provisions regarding the governance structure of the Central Bank raise concerns about its independence, although there were no indications of any interference with day-to-day operations. The presence of a member of the Department of Finance on the Commission of the Central Bank and the authority of the Minister to remove a Commissioner for reasons other than misconduct or incompetence may be threats to the Central Bank's independence.

4. The regime that applies to entities that have issued their securities to the public where their securities are not admitted to trading on a regulated market needs to be strengthened. General disclosure requirements for issuers with securities admitted to trading on a regulated market (RM),[1] are detailed and the full ambit market abuse rules apply to these securities. However, there are few equivalent provisions for issuers who offer securities to the public but elect not to have their securities admitted to trading on an RM. Further, both the Irish companies legislation and EU prescribed deadlines for publishing annual and interim reports should be reduced for all issuers, including collective investment schemes.

5. The Central Bank lacks the power to appoint administrators to investments firms in the event of financial difficulties within the firm. The Central Bank does not have authority to appoint an administrator or monitor to step in and run a firm that is in crisis, nor does it have authority to take possession/control of assets held by a firm that is in financial difficulty. The absence of these powers effectively means that the only alternative course of

[1] "Regulated market" is used as that term is defined by Markets in Financial Instruments Directive 2004/39/EC (MiFID). Admitted to trading" means admitted to trading on a regulated market situated or operating within an EU or EEA member state and whose home state is Ireland (Transparency (Directive 2004/109/EC) Regulations 2007, Reg. 4(1)).

action available is to liquidate a company, thereby crystallising potentially significant losses for investors and delaying the investors' access to their assets.

6. There are impediments to the Central Bank's ability to attract and retain high-calibre staff. The Central Bank needs to be able to structure its compensation programs to accommodate the difficulty in recruiting and retaining appropriate skill sets for particular positions.

INTRODUCTION

7. This Detailed Assessment Report was prepared in the context of an IMF stand-alone Reports on the Observance of Standards and Codes (ROSCs) mission to Ireland during September–October 2013 by Tanis MacLaren and Mark McGinness, external technical experts employed for this purpose by the IMF.[2]

A. Information and Methodology Used for Assessment

8. The assessment was carried out using the 2011 IOSCO Methodology for Assessing Implementation of the IOSCO Principles (the Assessment Methodology). As has been the standard practice, Principle 38 was not assessed due to the existence of separate standards for securities settlement systems and central counterparties.

9. The IOSCO Assessment Methodology requires that assessors not only look at the legal and regulatory framework in place, but also at how it has been implemented in practice. The ongoing global financial crisis has reinforced the need for assessors to make a judgment about supervisory and other operational practices and to determine whether they are sufficiently effective. Among other things, such a judgment involves a review of the inspection programs for different types of supervised entities, the cycle, scope and quality of inspections, as well as how the relevant authorities follow up on findings, including by using enforcement actions.

10. The assessment relies on information from a detailed self assessment submitted by the authorities, as well as extensive interviews with the staff of the Central Bank, a review of legislation, regulations, guidelines and related materials, along with interviews with the staff of other competent authorities in the jurisdiction, including the Irish Stock Exchange (ISE), Irish Accounting and Auditing Supervisory Authority (IAASA), the Financial Services Ombudsman (FSO), and the Office of the Director of Corporate Enforcement (OCDE), and with market participants and other stakeholders.

11. The assessors are very grateful to the staff of the Central Bank for their extensive cooperation and assistance in the conduct of this assessment. The staff was informed, forthright and helpful throughout. The assessors would also like to thank the other competent

[2] The exception to this is the assessment set out under Principle 22 regarding credit rating agencies (CRAs) that reflects an assessment of the European Securities and Markets Authority (ESMA), as the direct supervisor of CRAs in Europe, in a review conducted by the IMF in December 2012.

authorities, regulated entities, market participants and other stakeholders who generously provided their time and honest insights.

INSTITUTIONAL AND MARKET STRUCTURE—OVERVIEW

12. The Central Bank of Ireland is the primary regulator of the Irish financial system. Its objectives include:

- The stability of the financial system;
- Resolution of the financial difficulties in credit institutions in Ireland;
- The efficient and effective operation of payment and settlement systems;
- Provision of analysis and comment to support national economic policy development; and
- Proper and effective regulation of financial institutions and markets, while ensuring that consumers of financial services are protected.

13. The Central Bank has broad powers to regulate capital markets activities in Ireland. It has regulatory authority over equity securities, debt securities and derivatives, whether traded over-the-counter (OTC) or on organized markets, as well as other capital markets activities such as discretionary portfolio management and the management of collective investment schemes (CIS). While the Central Bank has operational independence, it is, subject to restrictions on the disclosure of confidential information, accountable to the Minister for Finance (Minister).

14. The regulator's responsibilities, powers and authority are established by statute. The Central Bank draws its powers from many laws, including the Central Bank Act, 1942, the Investment Intermediaries Act, 1995 (IIA), the Investment Funds, Companies and Miscellaneous Provisions Act, 2005 (S.I. 323 of 2005), the Markets in Financial Instruments and Miscellaneous Provisions Act, 2007, the Central Bank Reform Act 2010 and the Central Bank (Supervision and Enforcement) Act 2013. It also draws authority from secondary legislation such as the regulations enacted to transpose European Union (EU) directives into local law. These include S.I. 324 of 2005 – Prospectus (Directive 2003/71/EC) Regulations 2005 (Prospectus Regulations), S.I. 277 of 2007 – Transparency (Directive 2004/109/EC) Regulations 2007 (Transparency Regulations) and S.I. No. 60 of 2007 – European Communities (Markets in Financial Instruments) Regulations 2007 (MiFID Regulations).

15. There are two other bodies whose statutory authority directly interlock with the Central Bank's markets mandate: the IAASA and ISE. IAASA is designated as the competent authority for accounting enforcement under the Transparency Directive[3], which includes monitoring to ensure the financial statements of public interest entities comply with accounting standards. It is also the supervisory authority, pursuant to the Companies (Auditing

[3] Note that the Transparency Directive 2004/109/EC only applies to issuers whose securities are admitted to trading on a regulated market in Europe, not to ones only traded on other types of trading systems such as multi-lateral trading facilities or traded only over the counter.

and Accounting) Act 2003 (the Auditing and Accounting Act) and S.I. 220 of 2010 – The European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (Statutory Audit Regulations), charged with supervising how professional accountants who are members of Prescribed Accountancy Bodies (PABs) are regulated and monitored and promoting adherence to high professional standards in the auditing and accountancy profession. The Irish Stock Exchange Ltd. (ISE) is the competent authority for listing in Ireland pursuant to S.I. No. 286 of 2007 – European Communities (Admission to Listing and Miscellaneous Provisions) Regulations 2007 (Listing Regulations). As competent authority for listing, the ISE obtains its powers and authority from the Listing Regulations and the Consolidated Admissions and Reporting Directive (2001/34/EC). The Listing Regulations are designed to ensure that there is no overlap between the listing requirements (for which the ISE is competent authority) and the Transparency Regulations (for which the Central Bank is the central competent administrative authority).

16. Other authorities exist whose activities are relevant to securities markets. Their responsibilities are set out in the law. These other authorities are as follows.

- The ODCE. The principal functions of the ODCE are set out in the Company Law Enforcement Act 2001 and include: (i) encouraging compliance with the Companies Acts; (ii) investigating instances of suspected offences under the Companies Acts; and (iii) enforcing the Companies Acts, including by the prosecution of offences by way of summary proceedings.

- The Takeover Panel, established pursuant to the Irish Takeover Panel Act 1997 as the statutory body responsible for monitoring and supervising takeovers and other relevant transactions in Ireland.

- The FSO, established by the Central Bank Act 1942 (as amended by the Central Bank and Financial Services Authority of Ireland Act 2004) to independently administer complaints from consumers about individual dealings with financial services providers regarding issues that have not been resolved by the providers.

- An Garda Síochána, the Irish Police Force, particularly the Garda Bureau of Fraud Investigation that investigates serious and complex cases of commercial fraud.

- The National Consumer Agency (NCA) is the competent authority established by the Irish Government to enforce consumer law and promote consumer rights in Ireland pursuant to the Consumer Protection Act 2007. The NCA does not have any oversight responsibility regarding the securities markets other than being the primary source of consumer information on financial products.

- The Director of Public Prosecution (DPP) enforces the criminal law in the courts on behalf of the people of Ireland; directs and supervises public prosecutions on indictment in the courts; and gives general direction and advice to the Garda Síochána in relation to summary cases and specific direction in such cases where requested.

17. There is one stock exchange and no derivatives exchange in the jurisdiction. The ISE has been operating an exchange in the jurisdiction since 1793. It is an Irish private company

limited by guarantee, with six member/owner firms. The ISE has a Board of twelve directors (eleven non-executive directors and one executive director). Six of the non-executive directors are elected directors, being partners or directors in the owner firms. In addition, there are five other non-executive directors who represent wider market interests and are not employees or persons associated with member firms of the ISE. The Chief Executive of the ISE also sits on the Board of Directors. The appointment of all directors is subject to prior approval of the Central Bank of Ireland. The ISE has three markets:

- The Main Securities Market (MSM), the principal market for Irish and overseas companies, admits a wide range of security types such as equities, debt securities, and investment funds;
- The Enterprise Securities Market (ESM), an equity market designed for small to medium sized growth companies; and
- The Global Exchange Market (GEM), a specialist debt market for professional investors.

The MSM is a regulated market (RM) and ESM and GEM are multi-lateral trading facilities (MTFs), as those terms are defined by Markets in Financial Instruments Directive 2004/39/EC (MiFID).

18. Virtually all the equities on the ISE are also listed or quoted on another exchange. Only one of the equities listed on the MSM and four traded on the ESM are not also listed or quoted elsewhere. Most of the companies on two exchanges are on both the London Stock Exchange[4] and ISE. For most Irish listed equities the majority of trading takes place on the ISE, with the ISE maintaining a market share of more than 50 percent.

19. The number of listed companies and instruments has declined on all three markets over the past five years, while market capitalization has increased. Equity listings on the MSM and ESM are down 28 percent in number (from 69 to 50) and capitalization has increased by 28 percent on the MSM. The number of listed funds has declined 32 percent overall reflecting activities such as mergers, privatizations and consolidations of investment funds. While the number of trades has remained above two million per annum, turnover, other than in Irish Government Bonds, has declined substantially reflecting a fall in share prices during the period. As is the case in other EU countries, fewer companies have been using the markets to raise funds. In the last two years, the Irish government has re-entered the market and raised over €20 billion in new funds.

[4] The dual quoted companies with shares admitted to the ESM are on AIM in London.

ISE Summary of Key Statistics					
	2012	**2011**	**2010**	**2009**	**2008**
Market Capitalization	**EUR millions**				
Equities - Main Securities Market (MSM)	139,210	131,647	127,032	122,441	108,670
Equities - Enterprise Securities Market (ESM)	29,138	37,913	2,147	1,613	964
ETF	18	15	241	126	20
Irish Government Bonds	90,176	72,455	74,892	71,831	42,552
Turnover	**EUR millions**				
Equities - MSM	36,867	34,947	44,909	52,732	110,948
Equities - ESM	469	721	631	593	1,036
ETFs	11	16	69	107	222
Irish Government Bonds	64,748	64,125	208,090	149,054	50,185
Treasury Bills	2,338	1,107	23,201	35,100	n/a
Trade Volumes					
Equities - MSM	2,339,240	2,325,810	2,067,310	2,223,050	2,461,030
Equities - ESM	84,258	91,076	47,728	64,084	58,932
Total Equities	**2,423,498**	**2,416,886**	**2,115,038**	**2,287,134**	**2,519,962**
ETF	674	978	1,778	2,822	5,032
Irish Government Bonds	23,388	30,632	57,267	34,077	9,050
Treasury Bills	270	93	1,004	960	n/a
Total Irish Government Securities	**23,658**	**30,725**	**58,271**	**35,037**	**9,050**
Money Raised	**EUR millions**				
Equities - MSM	196	2,071	4,767	2,447	170
Equities - ESM	141	5,113	147	73	69
Total Equities	**337**	**7,184**	**4,914**	**2,520**	**239**
Number of Companies Raising Funds	10	11	13	13	10
Irish Government Bonds	9,715	0	19,884	34,897	10,929
Treasury Bills	2,000	0	11,652	25,785	n/a
Total Irish Government Securities	**11,715**	**0**	**31,536**	**60,682**	**10,929**

Source: Irish Stock Exchange.

Numbers of Listed Entities					
	2012	**2011**	**2010**	**2009**	**2008**
Number Of Companies (Domestic & Foreign)					
MSM	27	30	36	39	42
ESM	23	25	23	25	27
Total	**50**	**55**	**59**	**64**	**69**
Number of ETFs	1	1	14	14	14
Investment Funds					
Funds (Including Umbrella Funds)	932	1,052	1,167	1,270	1,605
Sub-funds	1,647	1,841	1,842	1,939	2,209
Total	**2,579**	**2,893**	**3,009**	**3,209**	**3,814**
Debt					
Programs	552	520	579	546	n/a
Non Programs	2,628	2,628	2,790	3,430	n/a
Total	**3,180**	**3,148**	**3,369**	**3,976**	**n/a**
Source: Irish Stock Exchange.					

20. Trading on the Irish market consists predominantly of equity and sovereign debt transactions. Trading in equity securities takes place on ISE Xetra®. Debt securities and investment funds admitted to listing and trading on the ISE typically do not trade on the exchange. They trade on an OTC basis - this is similar to other markets such as London and Luxembourg. Trading in Irish government bonds takes place on non-ISE trading systems (e.g., EuroMTS (including MTS Ireland), Brokertec and BGC Partners) with the executed trades being reported to the ISE at the end of the trading day.

21. The growth in the assets under management in retail CIS over the 2010 to 2013 YTD has been significant. **Overall, assets are up almost** 30 percent **(to EUR 1.4 trillion), with bond funds almost doubling (up 94** percent **to EUR 426 billion).** Real estate funds (down 38 percent to EUR 1.9 billion) and money market funds **(down 17** percent **to EUR 298 billion) are the only exceptions to the growth trend.**

Retail Investment Funds—Assets Under Management (EUR millions)				
Fund Type	**2013**	**2012**	**2011**	**2010**
Money Market	297,856	297,322	287,600	359,015
Bonds	425,891	492,233	389,307	219,155
Equities	329,498	295,032	260,368	267,817
Hedge	93,120	95,862	82,118	61,060
Mixed	119,963	122,531	96,026	80,710
Real Estate	1,935	3,214	3,093	3,142
Other	66,633	72,656	50,273	37,721
Total	**1,334,895**	**1,378,850**	**1,168,786**	**1,028,620**
Source: Central Bank.				

22. The growth in the wholesale CIS market has been in line with that of the retail market. The number of funds sold only to institutional investors and other sophisticated parties has increased by about a quarter (from 513 to 631), with assets under management up 36 percent (from USD 228 billion (€171bn) to USD 307 billion (€232bn)) over the 2010 to 2012 period.

Non-Retail (Wholesale) Funds			
	2010	**2011**	**2012**
Number of Funds	513	590	631
No. of Funds (incl. sub-funds)	1422	1598	1820
Assets Under Management (billions)	US$228 (€171)	US$266 (€206)	US$307 (€232)
AUM as percent of GDP*	105	122	141
*based on 2011 GDP of US$ 217.3 billion (€167.9bn)			
Source: Central Bank.			

23. Overall, the number of authorized intermediaries in the jurisdiction is declining. While the number of ISE member firms (which includes MiFID firms and credit institutions), has increased, the number of those that are domestic firms has declined (see Table 1). The number of MiFID firms has declined by 11 percent while the number of retail intermediaries authorized under the IIA for securities markets related activities declined 13 percent (see Table 2). These figures reflect both consolidation of firms and market exits given the difficult economic conditions. Increasing costs of compliance were also cited by market participants for the drop.

Table 1. ISE Member Firms					
	2012	2011	2010	2009	2008
Domestic Firms	7	8	9	9	9
International Firms	38	39	40	35	28
Total Number of Member Firms	45	47	49	44	37
Source: Irish Stock Exchange.					

Table 2. Numbers of Market Intermediaries			
Authorisation Type	**2012**	**2011**	**2010**
MiFID Investment Firms (excluding branches)	124	130	140
IIA Non-Retail Investment Business Firms	11	13	13
IIA Retail Intermediaries[1]	2138	2321	2465
Collective Investment Schemes (including sub-funds)	5305	5062	4743
Source: Central Bank.			
[1] Retail Intermediaries include authorised advisors and multi-agency intermediaries. The number of Retail Intermediaries in the 2012 Annual Report includes Investment Intermediaries (authorised advisors, multi-agency intermediaries, mortgage intermediaries) and Insurance/Reinsurance Intermediaries, but excludes firms such as credit institutions, credit unions, etc. which also hold a retail intermediary authorisation. Of the 3,238 firms referenced in Table 8 on page 53 of the 2012 Annual Report, 2,138 were authorised advisors or multi-agency intermediaries.			

24. The regulatory structure in Ireland makes limited use of self-regulatory organizations (SROs) that exercise some direct oversight responsibilities for certain market participants and whose rules are subject to meaningful sanctions. There are three such SROs in the jurisdiction. All are professional accounting associations that have rules that bind their members who have been approved to provide limited investment business services. The SROs are subject to the oversight of the Central Bank. They are required to observe high standards of conduct in carrying out their tasks.

PRECONDITIONS FOR EFFECTIVE SECURITIES REGULATION

25. The preconditions for effective supervision appear to be in place in the jurisdiction. Foreign issuers can access the markets under similar conditions to domestic issuers. The authorization process does not distinguish between domestic and foreign corporations that want to provide investment services, including CIS management, or to operate an RM or an MTF. The tax system may be hampering the growth in the equity market as trades in equities are subject to a 1% stamp duty. However, in Budget 2014, delivered on October 15, 2013 (immediately after the mission concluded), the Minister for Finance announced that transfers of shares on the ESM will be exempt from stamp duty.

26. The companies legislation is fairly modern and includes provisions pertaining to the management of the company, rights of shareholders, duties of directors and officers, preparation and audit of company accounts and proceedings of shareholder meetings. In many cases there are requirements that apply to ordinary companies and more detailed ones for companies whose shares are admitted to trading on a regulated market. Companies laws, coupled with additional rules, govern the liquidation, winding up or restructuring of insolvent companies. These provisions are dated and insolvency procedures are protracted. There is a new Personal Insolvency Act governing bankruptcy of individuals that went into effect in March 2013.

27. Rules governing takeovers have been published by the Irish Takeover Panel (the Panel) under the powers granted to it by the Irish Takeover Panel Act 1997 and by the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006. These rules have the force of law and are administered by the Panel.

28. The judiciary is independent and there are specialized commercial courts available, but the court process is slow owing to high volumes of matters.

29. The accounting and auditing standards operative in the jurisdiction are of a high and internationally accepted quality. The standards that apply to most issuers are International Financial Reporting Standards (IFRS) and UK and Irish Generally Accepted Accounting Principles (GAAP). Ireland uses auditing standards that conform to International Standards on Auditing (ISA) as issued by the International Auditing and Assurance Standards Board (IAASB).

A. Main Findings

30. Principles 1–8, Principles relating to the regulator: The Central Bank has a clear mandate defined by law. The ISE and IAASA are also assigned discrete responsibility for aspects of the securities markets. Five other competent authorities also play a role. The Central Bank has established formal and informal cooperation arrangements with these agencies. Day-to-day operational issues are under the control of the Commission of the Central Bank and delegated appropriately to senior management. While it operates independently, there are some gaps in the legal provisions that support the Central Bank's independence. Persons affected by decisions of the Central Bank are afforded a full range of procedural protections, including the right to be heard. The Central Bank has sufficient powers to regulate the participants in the capital market in Ireland. Funding has been adequate but it will face challenges as the economy improves. The Central Bank has effective policies and governance practices in place. The Central Bank has an active Consumer Protection Unit. It makes its rules, codes of conduct and guidance materials easily available. The laws and some of the applicable regulations are less accessible in practice. Regulatory actions undertaken by the Central Bank are fair and reasonable, transparent and comprehensible to the affected persons and the marketplace. Central Bank staff observe high standards of professional conduct and are subject to a Code of Ethics, including provisions on conflicts of interest and confidentiality**.** The Central Bank and the legal regime in Ireland have processes and requirements in place to address conflicts of interest and misalignment of incentives. Central Bank staff, issuers, intermediaries, the ISE, self-regulatory organizations and CIS are subject to extensive requirements regarding conflicts of interest.

31. Principle 9, Principle relating to self-regulation: There are three organizations in Ireland that exercise some direct oversight responsibility for certain market participants. These professional accounting associations have rules that bind their members who have been approved to provide limited investment business services and these rules are subject to meaningful sanctions. All three are subject to the oversight of the Central Bank and are required to observe high standards of conduct in carrying out their tasks. Further, the conditions that are imposed on the ISE and the oversight arrangements that are in place at the Central Bank meet the standards under this Principle.

32. Principles 10–12, Principles relating to enforcement of securities regulation: The Central Bank has broad inspection, investigation and surveillance powers. It also has comprehensive powers to investigate and take action against anyone who breaches the laws it administers. Its ability to investigate and sanction has been enhanced by changes to the Central Bank Act in 2013 that increases fines, allows for restitution and investigation costs and gives the Central Bank the authority to apply to the Court for an enforcement order restraining a person from engaging in conduct which would involve the contravention of financial services law. The Central Bank's risk-based system, PRISM, informs its supervisory and investigative program supplemented by thematic reviews, formal and informal reports. The supervisory approach for firms that fall into the Low Impact category relies heavily on reactive processes. For Low Impact firms, no minimum frequency of onsite reviews and engagement with firms is prescribed. An Administrative Sanction Procedure has proved a successful approach to obtaining significant monetary sanctions through settlement; the results have been published.

However, since 2010 no matters referred by the Central Bank to the criminal authorities have resulted in a conviction – either summarily or on indictment.

33. Principles 13–15, Principles for cooperation in regulation: The Central Bank has the ability and capacity to share information and cooperate with regulators in Ireland, within Europe and internationally. It can share confidential information with any other foreign regulatory authority and has a record of active cooperation. The Central Bank is a signatory to the IOSCO MMOU, an MOU with ESMA and a number of bilateral MOUs with its international counterparts. It has bilateral MOUs with the ISE, the Financial Services Ombudsman, the ODCE, and the IAASA. The Central Bank does not require the permission of any outside authority to share or obtain information, nor does it require an independent interest in the matter to assist.

34. Principles 16–18, Principles for issuers: The initial disclosure requirements for offers of securities to the public are extensive. The reporting deadlines for annual audited and semi-annual financial statements prescribed by the EU (for securities admitted to trading on an RM) and by the Companies Act (for all other corporate issuers) are slow compared to reporting practices in major markets outside the EU. There are some additional continuing disclosure requirements that apply only to issuers admitted to trading on an RM or traded on the ESM and GEM. IAASA examines whether the annual and half-yearly reports of Irish issuers whose securities are admitted to trading on an RM have been drawn up in accordance with the relevant reporting framework. The Central Bank and ISE contribute to the monitoring and review of the non-financial disclosure of issuers admitted to trading on an RM and/or quoted on ESM. The ISE has programs to review disclosure by companies listed or quoted on its three markets. No one is responsible for review of any of the continuing disclosure of issuers who offered securities to the public but whose securities are not admitted to trading on an RM or traded/quoted on an MTF; however, the Central Bank advised that there are few of these issuers. Investors are treated equitably with respect to voting and the ability to participate in any takeover bid. Full information must be provided for any takeover bid and the price paid to shareholders must be equitable. There are extensive disclosure requirements for substantial shareholders, officers, directors and other parties. The information required to be provided to shareholders of companies other than ones admitted to trading on an RM is limited. All companies are required to prepare their accounts using high quality and internationally accepted accounting standards.

35. Principles 19–23, Principles for auditors, credit rating agencies and other information service providers: There is a system in place that subjects auditors to appropriate levels of oversight. IAASA, an independent statutory body, oversees the supervision applied to auditors by their professional associations (Recognized Accountancy Bodies – RABs). The resources at IAASA are not sufficient for the tasks assigned. There are extensive requirements for auditors to be independent of the entities they audit and these requirements are enforced by the RABs, subject to oversight by IAASA. The financial statements included in prospectuses, listing documents and publicly available annual reports must be audited in accordance with the International Standards on Auditing (ISAs) (UK and Ireland) as issued by the Financial Reporting Council in the UK. The ISAs (UK and Ireland) are based on the ISA as issued by the IAASB. All credit rating agencies (CRAs) that provide services in Ireland were subject to a thorough registration process, through colleges of European regulators. ESMA has conducted on-site

inspections of the large CRAs. Entities that provide analytical or evaluative services are caught either by MiFID or the IIA and have to be authorized by the Central Bank.

36. Principles 24–28, Principles for collective investment schemes and hedge funds: The Central Bank authorizes and supervises CIS regimes under the Undertakings for Collective Investment in Transferable Securities Directive 2009/65/EC (UCITS Directive) and the Alternative Investment Fund Managers Directive 2011/61/EU (AIFMD). Funds offered to the public and their operators and distributors are subject to authorization and reporting requirements. Both regimes require the operator and fund Management Company to have appropriate organizational and operational structures in place, including risk management systems and internal controls. On-site inspections and off-site reviews are performed and a discrete supervisory team is devoted to Low Impact funds. All publicly offered funds must be approved by the Central Bank, which reviews the detailed prospectus containing comprehensive information about the CIS. Assets are segregated from those of the operator and distributor and held by a depositary or custodian. The timeframes to deliver audited statements are slow. Securities and other assets are required to be valued fairly and independently. Continuous disclosure of the price is also prescribed. However, there are no requirements in place addressing pricing errors. "Hedge fund" is not a defined term in Ireland but it is treated by the Central Bank as a CIS regardless of its legal structure under national law. The AIFM framework governs registration, internal organization and operational conduct for hedge funds and their operators.

37. Principles 29–32, Principles for market intermediaries: A framework is in place for authorization and to apply on-going requirements for market intermediaries. Applicants are subject to detailed off-site reviews before being authorized. There are initial and ongoing capital requirements for all types of intermediaries to ensure that they have adequate resources to meet their business commitments and address the risks of their businesses. Market intermediaries are required to have extensive systems of risk management and internal controls in place. If a firm has an internal audit function, this function must review these systems annually; otherwise there is no compulsory review of the internal controls by any 'objective' party. There are regulations for proper protection of clients, including requirements for segregation of clients' assets and business conduct rules, such as 'know your client' and suitability. The rules regarding conflicts of interest and protection of client assets are extensive. The Central Bank has plans in place for dealing with a firm's failure. The Central Bank does not have the authority to appoint an administrator to run a firm that is in crisis, nor can it take possession of the assets held by the intermediary. In relation to insolvent firms the appropriate option of liquidation is available to the Central Bank under both the MiFID Regulations and the IIA. There are investor compensation funds available in the event of losses, but the maximum that can be claimed is only €20,000, the EU minimum pursuant to the EU Investor Compensation Scheme Directive.

38. Principles 33–37, Principles for the secondary markets: Exchanges, as RMs, and MTFs are subject to authorization by the Central Bank. There are specified criteria that any applicant must meet, including requirements regarding systems and other infrastructure capacity, technical competence etc. There is a comprehensive oversight system for exchange supervision that includes on-site examinations and off-site reviews of rules and other matters. There is both pre-trade and post-trade real-time transparency of prices on the ISE for most

trades. The exceptions are subject to clearly defined conditions and prompt post-trade reporting. There are rules in place with respect to market manipulation and insider trading that currently apply only to activities with respect to securities admitted to trading on RMs. Trading in securities traded only on MTFs or off-exchange are subject only to insider trading prohibitions in the companies legislation. Trades in Irish securities are settled on systems physically located outside Ireland and supervised by foreign regulators. The Central Bank is relying on those regulators without conducting any independent due diligence on relevant issues. There are large exposure limits in place, coupled with reporting requirements. The default rules at the clearing and settlement systems are public. The Central Bank has MOUs with only some of the relevant regulators. There are provisions in place addressing short selling.

B. Summary Implementation of the IOSCO Principles—Detailed Assessments

Principle	Grade	Findings
Principle 1. The responsibilities of the Regulator should be clear and objectively stated.	FI	The Central Bank has a clear mandate defined by law. The ISE and IAASA are also assigned discrete responsibility for aspects of the securities markets. Five other competent authorities, the ODCE, the Takeover Panel, NCA, the Financial Services Ombudsman and the Garda Síochána, also play a role. The Central Bank has established formal and informal cooperation arrangements with these agencies. Despite the number of bodies, there is a consistent regulatory approach among them.
Principle 2. The Regulator should be operationally independent and accountable in the exercise of its functions and powers.	PI	The Central Bank operates free of influence from the government and the industry on a day-to-day basis. Operational issues are under the control of the Commission of the Central Bank and delegated appropriately to senior management. However, there are two impediments to independence. The Minister for Finance may remove an appointed member of the Commission from office for reasons other than misconduct or incompetence. Secondly, the Secretary General of the Department of Finance is an ex-officio member of the Commission. Persons affected by decisions of the Central Bank are afforded a full range of protections, including the right to be heard, to written reasons and to rights of appeal. While Central Bank officers and employees are covered by legal immunity provisions, there is no provision for the Central Bank to pay those persons' legal costs if sued. As a matter of practice, the Central Bank reimburses staff for legal expenses but does not indemnify them so that costs are met during the course of a suit.
Principle 3. The Regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise	PI	The Central Bank has sufficient powers to carry out its functions in the capital markets. It has full authority to license, inspect, enforce and

Principle	Grade	Findings
its powers.		regulate the participants in the capital market in Ireland. The Central Bank has effective policies and governance practices in place. Training programs for staff have been enhanced. The Central Bank has an active Consumer Protection Unit. The effect of the government's recent legislation imposing a pay-cut on Central Bank staff has a constraining effect on the Central Bank's ability to seek and retain experienced regulators. Resources required for the breadth and number of institutions and the resource demands of the PRISM process may result in under-resourcing allocated to the medium and low impact institutions. Additional resources are required.
Principle 4. The Regulator should adopt clear and consistent regulatory processes.	BI	The Central Bank publishes consultation papers ahead of legislative changes. The Central Bank website makes available its rules, codes of conduct and guidance materials but the laws and regulations need to be consolidated. Regulatory actions undertaken by the Central Bank are fair and reasonable, transparent and comprehensible to the affected persons and the marketplace, and there is consistent application of relevant principles. Persons affected by decisions of the Central Bank are afforded a full range of protections, including the right to be heard, to written reasons and to rights of appeal.
Principle 5. The staff of the Regulator should observe the highest professional standards, including appropriate standards of confidentiality.	FI	Central Bank staff observe high standards of professional conduct and are subject to a Code of Ethics, including provisions on conflicts of interest and confidentiality. However the Code is not publicly available. Employee Trading Rules impose restrictions and require disclosure. A disciplinary procedure is in place to deal with employee misconduct.
Principle 6. The Regulator should have or	FI	A key objective of the Central Bank is to

Principle	Grade	Findings
contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.		monitor and mitigate systemic risk. The Financial Stability Committee and Risk Governance Committee share expertise with Central Bank personnel. A Cross-Sector team within the Risk Division of the Central Bank identifies common risk for supervisors. The Supervision Divisions and its risk-based program, PRISM, underlie a comprehensive new regulatory process. Domestic authorities have protocols in place and meet regularly to address systemic issues.
Principle 7. The Regulator should have or contribute to a process to review the perimeter of regulation regularly.	FI	The Central Bank regularly reviews the perimeter of regulation. The Supervisory Risk Committee, the Financial Stability Committee and the Policy Committee provide fora for senior management to discuss risks posed to investor protection, markets and systemic risk. The Central Bank's Unauthorized Providers Unit also monitors unauthorized activity. The output of these activities can and have led to law reform. In the European context, the Central Bank is represented on the European Systemic Risk Board. The Central Bank also shares information with ESMA through its MOU and within its expert groups.
Principle 8. The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.	FI	The Central Bank and the legal regime have processes and requirements in place to address conflicts of interest and misalignment of incentives. Central Bank staff, issuers, intermediaries, the ISE, self-regulatory organizations and CIS are subject to extensive requirements regarding the avoidance, mitigation, management and disclosure of conflicts of interest.
Principle 9. Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and	FI	There are three organizations in Ireland that exercise some direct oversight responsibility for certain market participants. These approved professional bodies have rules that bind their members who have been approved to provide limited investment business services and these rules are subject

Principle	Grade	Findings
confidentiality when exercising powers and delegated responsibilities.		to meaningful sanctions. All three are professional accounting associations that are subject to the oversight of the Central Bank (and other regulatory and governmental bodies in Ireland). They are required to observe high standards of conduct in carrying out their tasks. The confidentiality rules that bind all authorities (including the SROs) may inhibit efficient cooperation in oversight efforts.
Principle 10. The Regulator should have comprehensive inspection, investigation and surveillance powers.	FI	The Central Bank has broad inspection, investigation and surveillance powers.
Principle 11. The Regulator should have comprehensive enforcement powers.	FI	The Central Bank has comprehensive powers to investigate and take action against anyone who breaches the laws it administers. Its ability to investigate and sanction has been enhanced by changes to the Central Bank Act in 2013 increasing fines, allowing for restitution and investigation costs and giving the Central Bank the authority to obtain an order restraining a person from contravening financial services law.
Principle 12. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.	PI	The Central Bank's risk-based system, PRISM, informs its supervisory and investigative program supplemented by thematic reviews, formal and informal reports. Apart from CIS which have a dedicated team for Low Impact funds, the supervisory approach for firms that fall into the Low Impact category relies heavily on reactive processes. For Low Impact firms no minimum frequency of onsite reviews and engagement is prescribed. An Administrative Sanction Procedure has proved a successful approach to obtaining significant monetary sanctions through settlement. These sanctions are published. However, the success of this approach may have been at the expense of criminal remedies; since 2010 no matters referred by the Central Bank to the criminal authorities have resulted in a conviction – either summarily or on

Principle	Grade	Findings
		indictment.
Principle 13. The Regulator should have authority to share both public and non-public information with domestic and foreign counterparts.	FI	The Central Bank has the ability and capacity to share information and cooperate with other authorities in Ireland, within Europe, and internationally. It can share confidential information with any other foreign regulatory authority and has a record of active cooperation.
Principle 14. Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.	FI	The Central Bank is a signatory to the IOSCO MMOU, an MOU with ESMA and a number of bilateral MOUs with its international counterparts. It participates in a Supervisory College overseeing an international fund manager. It has bilateral MOUs with the ISE, the Financial Services Ombudsman, the ODCE, and the IAASA.
Principle 15. The regulatory system should allow for assistance to be provided to foreign Regulators who need to make inquiries in the discharge of their functions and exercise of their powers.	FI	The Central Bank became a signatory to the IOSCO MMOU in December 2012 and it has shared information under that agreement. The Central Bank does not require the permission of any outside authority to share or obtain information; nor does it require an independent interest in the matter to obtain or share information.
Principle 16. There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investors' decisions.	PI	The initial disclosure requirements for offers of securities to the public are extensive. All public issuers are required to prepare audited annual financial statements. Issuers with securities admitted to trading on an RM and ESM companies are required publish half yearly reports. Only annual financial statements are mandated for wholesale debt securities on GEM and other public issuers. The reporting deadlines for the issue of financial statements prescribed by the EU directives and Irish companies law are slow compared to reporting practices in major markets outside the EU. For all issuers, a change of auditor must be notified within a month of the change, unless the securities of the issuer are admitted to trading

Principle	Grade	Findings
		on an RM and the information is deemed to be price sensitive. IAASA examines whether the annual and half-yearly financial reports of Irish issuers admitted to trading on an RM have been drawn up in accordance with the relevant reporting framework. The Central Bank and the ISE contribute to the monitoring and review of the non-financial disclosure of issuers admitted for trading on an RM and/or quoted on ESM. ISE reviews the disclosure by companies on its three markets. Very little continuing disclosure is required of public issuers who offered securities to the public but whose securities are not admitted to trading on an RM or traded/quoted on an MTF and no one is responsible for review of any of the continuing disclosure of these other public issuers.
Principle 17. Holders of securities in a company should be treated in a fair and equitable manner.	BI	Investors are treated equitably with respect to voting and the ability to participate in any takeover bid. Full information must be provided for any takeover bid and the price paid to shareholders must be equitable. There are extensive disclosure requirements for substantial shareholders, officers, directors and other parties. However, the trigger thresholds vary, as do the persons caught, the timing applicable to the disclosure, the associates who must be included and the relevant securities (or transactions) that must be disclosed. Only some of the requirements apply to public issuers that are not admitted to trading on an RM. The information required to be provided to shareholders of companies other than ones admitted to trading on an RM is limited.
Principle 18. Accounting standards used by issuers to prepare financial statements should be of a high and internationally acceptable quality.	FI	Companies generally are required to prepare their accounts using either: • IFRS; or • The U.K. and Irish Generally Accepted Accounting Principles (GAAP). Certain issuers can also use alternative bodies of accounting standards (US GAAP, Canadian

Principle	Grade	Findings
		GAAP and Japanese GAAP). Where certain third country accounting standards have been deemed equivalent by ESMA, they also are permitted to be used in Ireland. U.K. and Irish GAAP are the accounting standards comprising the Financial Reporting Standards (FRS) issued by the Financial Reporting Council (FRC) in the .. If the company is required to prepare consolidated accounts and admitted to trading on an RM (or is a bank or insurance company that has listed equity or debt on an RM), it must use IFRS as endorsed by the European Union.
Principle 19. Auditors should be subject to adequate levels of oversight.	BI	There is a system in place that subjects auditors to appropriate levels of oversight. Auditors must be a member of and supervised by a Recognized Accountancy Body (RAB), which is then overseen by the IAASA, an independent statutory body. The RABs conduct examinations of auditors. The IAASA examines the RABs' exercise of these powers. Both have the power to sanction breaches of the standards. The resources at IAASA are not sufficient for the tasks assigned.
Principle 20. Auditors should be independent of the issuing entity that they audit.	FI	There are extensive requirements for auditors to be independent of the entities they audit and these requirements are enforced by the RABs, subject to oversight by IAASA.
Principle 21. Audit standards should be of a high and internationally acceptable quality.	FI	The financial statements included in prospectuses, listing documents and publicly available annual reports must be audited in accordance with the International Standards on Auditing (ISAs) (U.K. and Ireland) as issued by the Financial Reporting Council in the U.K.. The ISAs (and Ireland) are based on International Standards of Auditing (ISAs) as issued by the IAASB.
Principle 22. Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit	BI	This grade is that given to ESMA, as the direct supervisor of CRAs in Europe, in a review conducted in December 2012. There are no

Principle	Grade	Findings
rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.		local CRAs in Ireland. All CRAs that provide services in Ireland were subject to a thorough registration process by colleges of European regulators. ESMA has conducted on-site inspections of the large CRAs and is in the process of implementing a risk framework to support its supervisory program. Additional resources are necessary for ESMA to carry out its functions effectively.
Principle 23. Other entities that offer investors analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.	FI	Entities that provide analytical or evaluative services are caught by legislation and have to be authorized by the Central Bank.
Principle 24. The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.	FI	The Central Bank authorizes and supervises two CIS regimes - under the UCITS Regulations and EU UCITS Directive and under the Alternative Investment Fund Regulations and the EU AIFMD. Funds offered to the public and their operators and distributors are subject to authorization and reporting requirements. Both regimes require the operator and fund manager to have appropriate organizational and operational structures in place, including risk management systems and internal controls. There is an extensive and detailed reporting process. On-site inspections and off-site reviews are informed by PRISM and supplemented by thematic reviews, sampling and reports. Outsourcing is permitted and has been availed of but subject to detailed requirements.
Principle 25. The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.	FI	Fund prospectuses are obliged to contain detailed information on the legal form of the CIS and the rights of investors. Assets are segregated from those of the operator and distributor and are required to be held by a depositary or custodian. While there is no prohibition of separation of management in a group, it is prohibited for the function of the

Principle	Grade	Findings
		custodian or the depositary to be performed by the same legal entity responsible for the investment functions. There must be functional independence between these entities and no persons are permitted to sit on the boards of both entities.
Principle 26. Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.	BI	All publicly offered funds must be approved by the Central Bank, which reviews the detailed prospectus containing comprehensive information about the CIS. Material changes must be notified. Prospectus amendments require the consent of the Central Bank prior to registration. Investor protection provisions are robust. The reporting requirements for both AIFs and UCITS, although regular and adopted through the EU, are too slow to be effective.
Principle 27. Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.	BI	Securities and assets are required to be valued fairly and independently. The prospectus of the fund must contain information about valuation, pricing and the applicable provisions governing purchase and redemption of funds. Continuous disclosure of the price is also prescribed. However, it is not clear that the valuation of CIS assets is to be performed in accordance with IFRS or U.K. and Irish GAAP, or some other high quality accepted accounting standard. While there is industry guidance, the Central Bank has not issued rules prescribing how pricing errors are to be treated by CIS.
Principle 28. Regulation should ensure that hedge funds and/or hedge funds managers/advisers are subject to appropriate oversight.	FI	"Hedge fund" is not a defined term in Ireland but it is treated by the Central Bank as a CIS regardless of its legal structure under national law. The AIFM framework governs registration, internal organization and operational conduct. The operator must be authorized by the Central Bank and subject to inspection in accordance with PRISM and supplemented by other supervisory initiatives.

Principle	Grade	Findings
Principle 29. Regulation should provide for minimum entry standards for market intermediaries.	FI	A framework is in place for authorization and to apply on-going requirements for market intermediaries. Applicants are subject to detailed off-site reviews before being authorized. On-site reviews are not routinely performed as part of the authorization process other than by the ISE. There are some gaps in the information posted on the Central Bank's website regarding authorized firms.
Principle 30. There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.	FI	There are initial and ongoing capital requirements for all types of intermediaries to ensure that they have adequate resources to meet their business commitments and address the risks of their businesses. The capital requirements for MiFID firms trading on their own account or holding client assets are based on the EU Capital Requirements Directive and address the range of risks to which the firms are exposed, including market and credit risk. Liquidity and operational risk are addressed via the Basel II 'Pillar 2' Internal Capital Adequacy Assessment Process. The capital formulae for other intermediaries are fairly simple, reflecting the nature of operations that are carried on in practice.
Principle 31. Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.	BI	Market intermediaries are required to have systems of risk management and internal controls in place. If a MiFID firm has an internal audit function, this function must review these systems annually and the results of that review must be reported to the Board of Directors of the firm. If an intermediary holds client assets, an auditor's review of the systems and controls of the intermediary in relation to the safekeeping of and accounting for client assets is required on at least an annual basis. Otherwise there is no compulsory review of the internal controls by an objective party. There are regulations for proper protection of clients, including requirements for segregation of clients' assets and business conduct rules, such as 'know your client' and suitability. The rules

Principle	Grade	Findings
		regarding conflicts of interest and protection of client assets are extensive.
Principle 32. There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	BI	The Central Bank has plans in place for dealing with a firm's failure. The plans are flexible to include action to restrain conduct, to ensure clients' assets are properly managed and to provide relevant information to the regulators. The Central Bank does not have the authority to appoint an administrator to run a firm that is in crisis, nor can it take possession of the assets held by the intermediary. There are investor compensation funds available in the event of losses, but the amounts available are fairly low at €20,000 (the EU minimum). Where a failure has cross border implications, MOUs are in place to facilitate information sharing.
Principle 33. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.	FI	Securities exchanges, as RMs, and MTFs, are subject to authorization by the Central Bank. There are specified criteria that any applicant must meet, including requirements regarding systems and other infrastructure capacity, technical competence, etc. No routine on-site visits are performed before authorization is granted. The conditions that are imposed on the ISE and the oversight arrangements that are in place at the Central Bank generally meet the standards under the SRO Principle.
Principle 34. There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.	FI	There is a comprehensive oversight system for exchange supervision that includes on-site examinations and off-site reviews of rules and other matters. The Central Bank may suspend the operations of a stock exchange or MTF. Surveillance of the markets is carried on by the ISE and Central Bank.
Principle 35. Regulation should promote transparency of trading.	FI	There is both pre-trade and post-trade real-time transparency of prices on the ISE for trades, in accordance with the provisions of MiFID. Certain specified trades are permitted to take place outside the automatic trading

Principle	Grade	Findings
		system, subject to clearly defined conditions and prompt post-trade reporting. A specific waiver from pre-trade transparency must be granted for these types of transactions. All transactions in any securities undertaken by market intermediaries must be reported to the Central Bank by T+1 at the latest.
Principle 36. Regulation should be designed to detect and deter manipulation and other unfair trading practices.	PI	There are rules in place with respect to market manipulation and insider trading that apply only to securities admitted to trading on RMs. Trading conducted on securities quoted/traded only on MTFs or trading that takes place off-exchange is currently subject only to insider trading prohibitions provided for in the companies legislation. Proposed EU amendments to the Market Abuse Directive are expected to address this gap.
Principle 37. Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.	PI	Trades in Irish securities are settled on systems physically located outside Ireland. No ISE clearing member is established in Ireland. The functions of monitoring market exposures that are sufficiently large to create a substantial risk to the market or to a clearing firm are performed by supervised entities outside of the Central Bank's jurisdiction. The Central Bank is relying on the supervision of the regulator in those jurisdiction without conducting any independent due diligence on relevant issues. There are large exposure limits in place, coupled with reporting requirements. The default rules at the clearing and settlement systems are public. The Central Bank has does not have specific information sharing MOUs relating to these matters in place with all of the relevant regulators. However, they are all parties to the general ESMA and IOSCO MMOUs. There are provisions in place addressing short selling.
Principle 38. Securities settlement systems and central counterparties should be subject to regulatory and supervisory requirements that	NA	Not assessed.

Principle	Grade	Findings
are designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.		
Fully Implemented (FI) – 23, Broadly Implemented (BI) – 8, Partly Implemented (PI) – 6, Not Implemented (NI) – 0, Not Applicable (NA) – 1.		

RECOMMENDED ACTION AND AUTHORITIES' RESPONSE

A. Recommended Action

Recommended Action Plan to Improve Implementation of the IOSCO Principles	
Principle	Recommended Action
Principle 2	The law should be amended to state that a Commission member may only be removed for specified, objective causes (such as bankruptcy, persistent failure to attend meetings, acting in conflict of interest, etc.). The Government should amend the Central Bank Act 1942 to remove the inclusion of a Ministry official on the Central Bank Board. Consideration should be given to including provisions permitting the Central Bank to indemnify staff, officers and Commissioners for their legal costs in the event they are sued in relation to Central Bank duties and make those moneys available to pay costs during the course of the suit.
Principle 3	The government should give the Central Bank additional resources and the flexibility to depart from the civil service compensation rules.
Principle 4	The process of official consolidation of the laws for public use needs to be accelerated. In the meantime, a competent authority in the State or some part of the government should prepare and post 'unofficial' consolidated versions of the key financial services acts and regulations.
Principle 5	Publish the Employee Code of Ethics on the website so that the public are informed of the high standards of ethical behavior that Central Bank staff are expected to meet.
Principle 9	Consideration should be given to exploring adjustments that might be made to the confidentiality requirements to facilitate more open discussions and greater sharing of information among the relevant authorities.
Principle 12	A more proactive approach to supervision of firms designated by PRISM as Low Impact should be implemented. More prosecutions should be pursued against individuals. The government should consider raising the maximum fines that the District Court can impose on defendants in summary criminal matters to provide a more significant deterrent.
Principle 16	All companies that have issued shares to the public should be subject to continuing disclosure requirements, regardless of

Recommended Action Plan to Improve Implementation of the IOSCO Principles	
Principle	Recommended Action
	their status as a listed company or the nature of the system on which their securities are traded or quoted. Larger companies should be expected to issue their audited financial statements in a maximum of ninety days; smaller issuers may be given somewhat longer. The reporting period for interim statements of ESM companies should be shortened from three to two months at the longest. A change in auditor should be considered to be a material change that gives rise to an obligation for all public companies to immediately inform the relevant authorities, both IAASA and the Central Bank. The continuing disclosure documents issued by public companies should be subject to at least a periodic review by a competent authority.
Principle 17	Detailed guidance on the information that must be included in any materials sent to shareholders in connection with a shareholder meeting should be issued by a competent authority and those requirements should apply to all public issuers. Consideration should be given to rationalizing and simplifying the requirements that apply to substantial shareholders, officers, directors and other parties. This regime should apply equally to all public issuers.
Principles 18 & 19	As for the Central Bank, IAASA should be given additional resources and greater freedom to contract with staff on appropriate terms in order to recruit and retain staff with the necessary expertise.
Principle 26	The periods within which CIS are required by EU directives to publish annual and semi-annual financial statements should be reduced to enhance transparency for investors and the ability to take prompt investigative or remedial action. (See also the recommendation in Principle 16.)
Principle 27	The Central Bank should issue clear guidance that the valuation of CIS assets are to be performed in accordance with IFRS or U.K. and Irish GAAP, or some other high quality accepted accounting standard applied on a consistent basis. The Central Bank should publish rules relating to pricing errors.
Principle 29	The Central Bank should supplement the information made available to the public on the register of firms posted on its

Recommended Action Plan to Improve Implementation of the IOSCO Principles	
Principle	Recommended Action
	website to add: • the permitted activities for each investment product intermediary under the IIA; and • the identity of senior management and names of other authorised individuals who act in the name of a MiFID investment firm or an IIA firm.
Principle 31	The Central Bank should introduce a general requirement that all firms conduct an annual review of risk management and controls. This review should be required to be performed to objective standards and by a function or entity that is independent of the business of the firm.
Principle 32	The Central Bank should be given the authority to appoint an administrator or monitor to step in and run a firm that is in crisis.
Principle 33	As part of the review conducted by the Central Bank before a new trading venue is authorized it would be prudent to conduct an on-site inspection either immediately before the venue is given authorization or very shortly thereafter. See also the recommendations under Principle 37
Principle 36	The Companies Law should be amended or other legislation introduced to prohibit the full scope of activities that are abusive to the market regardless of where that trading takes place or whether the securities are admitted to trading on an RM.
Principle 37	The Central Bank should carry out reasonable due diligence on the regimes where the principal clearing and settlement of trades by Irish intermediaries or in Irish securities take place, both on the regulatory oversight conducted and the effects of bankruptcy/ insolvency regimes on positions (client or intermediary) held in that jurisdiction. Obtaining opinions from legal counsel on the treatment of assets and positions on insolvency, particularly in Belgium, the U.K. and Germany, would also be prudent. The MOU with the U.K. authorities regarding oversight of CREST should be updated and one should be put in place with BaFin regarding the oversight of Eurex Clearing to ensure an effective gateway for clearing related information.

B. Authorities' Response to the Assessment[5]

The Irish authorities welcome the IMF's review of Ireland's supervisory and regulatory framework for securities and markets regulation. After significant changes over the last three years, the review comes at an important time in the evolution of the framework. The Irish authorities wish to express their appreciation to the IMF for the co-operative and positive manner in which the assessment was performed, and for the open and helpful dialogue throughout.

The IMF's overall assessment recognizes that Ireland exhibits a high level of compliance with the IOSCO Objectives and Principles of Securities Regulation. In that light, the Irish authorities note all the recommendations made in the report, in particular those made in the *Summary*. The Irish authorities commit to critically appraise current practices in light of the IMF recommendations with a view to taking action where appropriate, proportionate and practical.

The Irish authorities would like to make an important observation in relation to principle 37. This principle is clearly aimed at jurisdictions that have domestic clearing and settlement market infrastructures. As pointed out in the report, Ireland does not fit easily with the Principle given that trades in Irish securities are cleared and settled on systems physically located outside the State. The Central Bank disagrees with the assertion in the report that the State has "outsourced" its clearing and settlement functions. It is more correct to state that clearing and settlement for the Irish securities markets is provided within the EU Single Market by regulated service providers in other EU Member States. The European System of Financial Supervision allows Member States in the EU to mutually recognize and rely on the supervisory practices of other EU competent authorities. These practices are subject to monitoring and oversight measures at EU level by the ESAs and the European Systemic Risk Board. This avoids duplication and, in particular, the need for numerous bi-lateral agreement with other EU competent authorities. Given the purpose and intent of this Principle, the Irish authorities believe that a"*not applicable*" rating is more appropriate.

Finally, the Irish authorities wish to acknowledge that the assessment report provides a valuable point-in-time assessment of the Irish regulatory and legislative regime. The Irish authorities will carefully consider the comments and recommendations made in the report which will inform priorities and work-load for the coming years.

[5] If no such response is provided within a reasonable time frame, the assessors should note this explicitly and provide a brief summary of the authorities' reactions at the conclusion of the discussions.

DETAILED ASSESSMENT

The purpose of the assessment is primarily to ascertain whether the legal and regulatory requirements of the country pertaining to securities markets and the operations of the securities regulatory authorities in implementing and enforcing these requirements in practice meet the standards set out in the IOSCO Principles. The assessment is to be a means of identifying potential gaps, inconsistencies, weaknesses and areas where further powers and/or better implementation of the existing framework may be necessary and used as a basis for establishing priorities for improvements to the current regulatory scheme.

The assessment of the country's observance of each individual Principle is made by assigning to it one of the following assessment categories: fully implemented, broadly implemented, partly implemented, not implemented and not applicable. The IOSCO assessment methodology provides a set of assessment criteria to be met in respect of each Principle to achieve the designated benchmarks. The methodology recognizes that the means of implementation may vary depending on the domestic context, structure, and stage of development of the country's capital market and acknowledges that regulatory authorities may implement the Principles in many different ways.

- A Principle is considered **fully implemented** when all assessment criteria specified for that Principle are generally met without any significant deficiencies.
- A Principle is considered **broadly implemented** when the exceptions to meeting the assessment criteria specified for that Principle are limited to those specified under the broadly implemented benchmark for that Principle and do not substantially affect the overall adequacy of the regulation that the Principle is intended to address.
- A Principle is considered **partly implemented** when the assessment criteria specified under the partly implemented benchmark for that Principle are generally met without any significant deficiencies.
- A Principle is considered **not implemented** when major shortcomings (as specified in the not implemented benchmark for that Principle) are found in adhering to the assessment criteria specified for that Principle.
- A Principle is considered **not applicable** when it does not apply because of the nature of the country's securities market and relevant structural, legal and institutional considerations.

A. Detailed Assessment of Implementation of the IOSCO Principles

Principles Relating to the Regulator	
Principle 1.	The responsibilities of the regulator should be clear and objectively stated.
Description	*Responsibilities* The Central Bank's objectives are: • The stability of the financial system; • Resolution of the financial difficulties in credit institutions in Ireland; • The efficient and effective operation of payment and settlement systems; • Provision of analysis and comment to support national economic policy development; and most relevantly • Proper and effective regulation of financial institutions and markets, while ensuring that consumers of financial services are protected. The last of these falls primarily to the Markets Directorate, whose regulatory responsibilities are contained within the following broad categories: • Supervision of Investment Firms, Fund Service Providers and Collective Investment Schemes • Safeguarding of Client Assets • Transaction Reporting and Market Surveillance • Market Abuse • Irish Stock Exchange and Markets Infrastructure Supervision • Stockbroking Supervision • Prospectus Approval • Transparency Regulations • Short Selling Regulations • Authorization of Collective Investment Schemes (Undertakings for Collective Investment in Transferable Securities [UCITS] and Alternative Investment Funds [AIFs]). The objectives and powers of the Central Bank are set out in various statutes and subsidiary regulations. There are two exceptions to the Central Bank's markets mandate. 1. Irish Auditing and Accounting Supervisory Authority (IAASA) is designated as the competent authority for accounting enforcement under the Transparency Directive. It is also the supervisory authority, pursuant to the Companies (Auditing and Accounting) Act 2003 (No. 44 of 2003) (Auditing and Accounting Act), charged with: • supervising how the prescribed accountancy bodies regulate and monitor their members, • promoting adherence to high professional standards in the auditing and accountancy profession, and • acting as a specialist source of advice to the Minister for Finance on auditing and accounting matters. 2. The Irish Stock Exchange Ltd. (ISE) is the competent authority for listing in Ireland pursuant to the European Communities (Admission to Listing and Miscellaneous

	Provisions) Regulations 2007 (S.I. No. 286 of 2007) (Listing Regulations). As competent authority for listing, the ISE obtains its powers and authority from the Listing Regulations and the Consolidated Admissions and Reporting Directive (2001/34/EC). Listing Regulation 3(3)(ii) is designed to ensure that there is no overlap between the listing requirements (for which the ISE is competent authority) and the– Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. 277 of 2007) (Transparency Regulations) (for which the Central Bank is competent authority). In addition, Listing Regulation 11 sets out that nothing in the Listing Regulations shall affect any obligation on issuers of securities admitted to official listing imposed by or under any other enactment. Other authorities exist whose activities are relevant to securities markets. Their responsibilities are set out in statute. These other authorities are as follows. The Office of the Director of Corporate Enforcement (ODCE). The principal functions of the ODCE are set out in the Company Law Enforcement Act 2001 and include: (i) encouraging compliance with the Companies Acts; (ii) investigating instances of suspected offences under the Companies Acts; (iii) enforcing the Companies Acts, including by the prosecution of offences by way of summary proceedings; (iv) referring cases, at the Director's discretion, to the Director of Public Prosecutions (DPP) where the Director of Corporate Enforcement has reasonable grounds for believing that an indictable offence under the Companies Acts has been committed; and (v) exercise, insofar as the Director feels it necessary or appropriate, a supervisory role over the activity of liquidators and receivers in the discharge of their functions under the Companies Acts. The Takeover Panel, established pursuant to the Irish Takeover Panel Act 1997 as the statutory body responsible for monitoring and supervising takeovers and other relevant transactions in relevant companies in Ireland and designated as the competent authority to undertake certain regulatory functions pursuant to the Directive on Takeover Bids (2004/25/EC). The Takeover Panel is responsible for making rules to ensure that takeovers and other relevant transactions comply with the General Principles set out in the Schedule to the Takeover Panel Act 1997. The Financial Services Ombudsman (FSO), established pursuant to the Central Bank and Financial Services Authority of Ireland Act 2004 to independently administer complaints from consumers about individual dealings with financial services providers regarding issues that have not been resolved by the providers. Mediation is offered to the parties. Should mediation be rejected, The FSO will investigate and adjudicate. Decisions are legally binding, appealable to the High Court. An Garda Síochána (the Irish Police Force), particularly the Garda Bureau of Fraud Investigation (GBFI), which investigates serious and complex cases of commercial fraud, check and payment card fraud, counterfeit currency, money laundering, computer crime and breaches of the Companies Acts and the Competition Act. Cases are accepted by the GBFI based on the complexity and gravity of the offences. The GBFI does not investigate every referred case of suspected fraud. For optimum resource utilization, investigations are focused on major and complex fraud based on the following criteria: (i) monetary loss; (ii) investigations involving a significant international dimension; (iii) investigations involving widespread public concern; (iv) investigations requiring specialized knowledge; and (v) investigations involving complex issues of law or procedure. The National Consumer Agency (NCA) is the competent authority established by the Irish

	Government to enforce consumer law and promote consumer rights in Ireland pursuant to the Consumer Protection Act 2007 but its role has been refined in practice and the Central Bank has continued to assume responsibility. The Central Bank Reform Act 2010 transferred to the NCA the consumer information on financial products and services and education function, previously under the responsibility of the Central Bank. By virtue of Section 5(A)(4) of the Central bank Act 1942, the functions of the NCA specified in Section 5A(5) as they relate to financial services provided by regulated financial services providers are also functions of the Central Bank. The NCA is the primary source of consumer information on financial products and services. In a February 2011 cooperation agreement with the Central Bank, the NCA agreed to forebear its functions in relation to financial services legislation, except the function regarding consumer information on financial products and services. However, the NCA reserves the right to enforce in the event the Central Bank is of the view it will not take any action. The NCA funds its work on financial services by collecting an annual levy from regulated entities. The Director of Public Prosecution (DPP) – established as an independent office pursuant to the Prosecution of Offences Act 1974, the DPP enforces the criminal law in the courts on behalf of the people of Ireland; directs and supervises public prosecutions on indictment in the courts; and gives general direction and advice to the Garda Síochána in relation to summary cases and specific direction in such cases where requested. The Central Bank has MoUs with the IAASA, the FSO and Pensions Ombudsman, the ODCE, and the ISE. Legislative gateways govern referrals and exchanges with the Garda and the DPP. Section 33AK(3) of the Central Bank Act, 1942 compels the Central Bank to report any suspicion of a criminal offence or contravention, including, of companies/competition law by a supervised entity to , among others , • An Garda Síochána, • the Revenue Commissioners, • the ODCE, • the Competition Authority, or • the NCA. There are regular meetings and discussions between senior representatives of all domestic authorities to address operational supervisory matters. There is additionally a six-monthly Regulatory Forum of these national bodies. *Capacity to interpret laws and regulations* The Central Bank does, in the course of its functions, interpret the laws and regulations to which it is subject but such exercise of functions are (as appropriate) subject to appeal to the Irish Financial Services Appeals Tribunal (IFSAT) or the High Court.
Assessment	Fully implemented
Comments	
Principle 2.	The regulator should be operationally independent and accountable in the exercise of its functions and powers.
Description	*Independence*

	The Central Bank generally operates without interference from the government or commercial interests. Section 5(4) of the Central Bank Act 1942 empowers the Commission (discussed below) with managing and controlling the affairs and activities of the Central Bank. The exception concerns the Treaty of Rome and the ESCB Statute, which, among other matters, give the Governor sole responsibility for holding and managing the foreign reserves and promoting the operation of payment and settlement systems. The Central Bank is financially independent. A levy is imposed on regulated persons which funds approximately 50 per cent of the cost of the annual budget for financial regulation. The remaining 50 per cent is self-funded by the Central Bank. The Central Bank has never sought financial support from the government. If levies are insufficient, the Central Bank may apply such amounts as the Commission considers necessary. However, the approval of the Minister for Finance (the Minister) is required before such amounts can be applied. The Minister, in considering this matter, is required to consult with the Governor. *The Commission* The Commission comprises - • Governor; • Head of Central Banking; • Head of Financial Regulation; • Secretary General of the Department of Finance; and • at least six, but no more than eight, other members appointed by the Minister The Governor is appointed by the President on the advice of the Government for a period of seven years but not exceeding fourteen. The Head of Financial Regulation (also known, along with the Head of Central Banking, as a Deputy Governor) is appointed by the Commission with the consent of the Minister for five years but no more than ten. The Governor, the two Deputy Governors and the Secretary General of the Department of Finance are ex officio members of the Commission. Historically, the remuneration of the Governor and Deputy Governors has been greater than €200,000. The effect of the government's recent policy setting a pay-cap on senior public servant appointments has reduced that figure. The Central Bank Act 1942 clearly stipulates the circumstances in which the Governor and Deputy Governors can be removed. In relation to appointed members of the Commission, s. 25 (3) of the Central Bank Act 1942 gives the Minister the power to remove an appointed member of the Commission for proven misconduct or incompetence. It also allows the Minister to remove an appointed Commissioner "if in the Minister's opinion it is necessary or desirable to do so to enable the Commission to function effectively." This discretion was invested in the Minister as a result of a potential difficulty at the time. It may be significant that it has never been used but its continued presence on the statute and the Department of Finance's reluctance to amend, indicates a prevailing threat to the Central Bank's independence. *Accountability* The Central Bank produces an Annual Report, a Strategic Report and an Annual Performance Statement, and is subject to an Annual Audit by the Comptroller and Auditor General. The Central Bank also has an independent external auditor approved by the EU

	Council under Article 27 of the ESCB Statute. The Central Bank is required to give reasons for its decisions. Affected persons are entitled to make representations to the Central Bank. In any case, administrative law requires that in certain circumstances, affected persons are given the opportunity to make representations prior to a decision being made that may materially affect their interests. Where the Central Bank seeks to conduct an Administrative Sanction inquiry using its powers under Part IIIC of the Central Bank Act 1942, it must provide notice to a regulated entity giving it an opportunity to make representations. A person affected by any statutory decision may seek judicial review of that decision in the High Court. Separately, where a decision is an appealable decision (for example, a refusal to approve the appointment of a person to a pre-approved controlled function), it may be appealed to the Irish Financial Services Appeals Tribunal. Additionally, the Parliament may call Central Bank staff to appear and answer questions, although in such circumstances the Central Bank (and its staff and officers) will continue to be subject to its obligations of confidentiality. *Legal protection* Section 33AJ of the Central Bank Act 1942 provides that the Central Bank, its officers and employees are "not liable for damages for anything done or omitted in the performance or purported performance or exercise of any of its functions or powers, unless it is proved that the act or omission was in bad faith." Additionally, provisions, such as regulation 122 of the EC (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, provide that an authorization by the Central Bank does not constitute a warranty as to solvency or performance and that neither the Central Bank nor the State is liable for losses incurred due to the insolvency, default or performance of the regulated entity. *Confidential Information* There is a specific gateway, in s. 33AK(5)(z)(i) of the Central Bank Act 1942, to share information with the Minister under the provisions of the Supervisory Directives in relation to the Minister's responsibility for policy on the supervision of supervised entities. The Minister is subject to s. 33AK(6), which provides that any person or entity to whom confidential information is provided by the Central Bank under subsection 5 shall comply with the provisions on professional secrecy in the Supervisory Directives in holding and dealing with that information.
Assessment	Partly implemented
Comments	The Central Bank operates free of influence from the government and the industry on a day-to-day basis and the assessors were given no reason to doubt the independence of the Central Bank and its staff in practice. Day to day operational issues are within the control of the Commission and delegated appropriately to senior management. However, there are some legal and structural issues of concern with respect to independence. There are gaps in the provisions of the law that support independence of action by the Commission members and staff that need to be addressed. The Minister may remove an appointed member of the Commission from office if, in the Minister's opinion, it is necessary or desirable to do so to enable the Commission to function effectively. The Central Bank has requested that this legislative provision be

	repealed and the assessors would endorse this change. The law should be amended to set out that a Commission member may only be removed for specified, objective causes (such as bankruptcy, persistent failure to attend meetings, acting in conflict of interest, etc.) The Secretary General of the Department of Finance is an ex-offico member of the Commission. Ministry staff should not be on the Commission. It is recommended that the Central Bank Act 1942 be amended to remove the inclusion of a Ministry official on the Central Bank Board. While Central Bank officers and employees are covered by legal immunity provisions, there is no provision for the Central Bank to pay those persons' legal costs if sued. As a matter of practice, the Central Bank reimburses staff for legal expenses. However, legal immunity does not completely eliminate the possibility of being sued, and the costs incurred by an officer and employee, even when vindicated in the end, can be ruinous. While not strictly required by the Assessment Methodology, consideration should be given to including provisions permitting the Central Bank to indemnify these persons for their legal costs in the event they are sued and make those moneys available to pay costs during the course of the suit.
Principle 3.	The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.
Description	As a result of the financial crisis, there has been a significant change in the powers afforded to the Central Bank. This is reflected in the Central Bank Reform Act 2010 and the Central Bank (Supervision and Enforcement) Act 2013. Among the new provisions introduced by the Central Bank Reform Act 2010, is a requirement that the Central Bank be subject to an international peer review, in relation to the performance of its regulatory functions. Another key provision in the 2010 Act was the introduction of a harmonized fitness and probity regime. *Resources* Since 2007, approximately 50 per cent of the total costs of financial regulation activities have been met by the imposition of levies and fees on the financial services industry. The balance of the total annual costs is applied by the Central Bank in accordance with Section 32I of the Central Bank Act 1942. The following table shows the funding levies raised for the last 3 years:

Year	2012	2011	2010
Industry Funding Levy	€74,558k	€79,454k	€41,584k
Central Bank Funding	€44,096k	€42,204k	€32,709k

Source: Annual Reports of the Central Bank.

The Central Bank's remuneration model has been constrained by the Financial Emergency Measures in the Public Interest Act 2009. The Bank still met its recruitment target for 2012 with the addition of 158 new hires to achieve the Central Bank's desired headcount. However, the Financial Emergency Measures in the Public Interest Act 2013 made no

distinction between Central Bank employees and the Irish Civil Service and had the effect of further reducing pay levels and pension levels from 1 July 2013.

2012–13 Markets Directorate Staff Complement		
Category	**2012**	**2013**
Front line supervisors	53	53
Projects	5	4
Funds Authorization	32	31
Market Surveillance	16	14
Corporate Finance	18	19
Client Assets	7	8
Divisional Operations (admin, reporting, policy, management), other	32	33
Total	163	162
Source: Central Bank.		

Staff Training

The Central Bank ensures staff receives adequate and on-going training. As part of its Strategic Plan, the Central Bank established a Training Advisory Board in 2012, chaired by a Deputy Governor, with a five part mandate. A Learning and Development Strategy - Talent Management Policy was produced in 2012. During that year, the following technical training was provided: Investigative Interviewing Skills, Business Strategy and Business Model Analysis, Evaluating the Compliance function, Risk Governance Panel training, and Econometrics. Staff also have access to the Academic and Professional Training Scheme.

Investor Protection

The Consumer Protection Directorate of the Central Bank is responsible for the protection of consumers of financial products and services. The Central Bank Reform Act 2010 assigned responsibility for the provision of information and educating consumers on financial products and services to the NCA which is empowered to:

- promote public awareness and conduct public information campaigns for the purpose of educating and advising consumers in relation to consumer protection and welfare
- promote the interests of consumers of financial services by providing information on financial services, including information on the costs risks and benefits of those services.

In practice, the NCA performs little enforcement in protecting investors and in the rare cases it does issue a notice, it only does so after conferring with the Investor Protection Unit of the Central Bank. Most of the NCA's role is as a provider of information and

	referral. *Conflicts of Interest* All staff of the Central Bank are subject to the Staff Code of Ethics and Behavior and the Employee Trading Rules. See Principle 5. *Exercise of Powers* The Central Bank determines its own internal governance structure with a framework adopted by the Commission in February 2011 vesting essentially all the financial regulatory powers in the Deputy Governor (Financial Regulation). In March 2012, the Commission approved the Governor's Plan of Assignment of Responsibility which assigned responsibility for the performance of the Central Bank's regulatory functions. A Policy Committee has been established to coordinate and review Central Bank policy positions relating to supervision generally and specifically: prudential banking, prudential insurance, securities and markets, collective investment schemes credit unions, corporate governance, accounting and auditing, consumer protection and enforcement; as well as EU and international policy coordination across all sectors. A Supervisory Risk Committee has also been established to consider risk reports escalated to it by heads of the Supervisory Divisions and gives input and advice on major supervisory issues to the Deputy Governor (Financial Regulation) and informs colleagues on significant supervisory issues. The role of each Committee is given clarity by respective Terms of Reference. Risk Governance Panels are established to bring together a wide variety of experience and expertise to help supervisors reach high quality judgments regarding supervisory actions against regulated entities. The Risk Division comprises 19 staff members and constitutes three main areas, being the supervision support team, the cross-sectoral team and the PRISM team. The Internal Audit Division has an independent and objective appraisal function that is required to provide audit assurance and reports directly to the Governor. There is also the Regulatory Decisions Unit, which provides administrative and legal support to decision-makers in instances such as Administrative Sanctions Procedure (ASP) inquiries, decisions under the Fitness and Probity regime, Securities Markets Assessments and refusals/revocations of authorizations.
Assessment	Partly implemented
Comments	The effect of the government's recent legislation (the Financial Emergency Measures in the Public Interest Act 2013, effective from 1 July 2013) imposing a pay-cut on Central Bank staff (as with all other civil servants) and their pensions has a constraining effect on the Central Bank's ability to seek and retain experienced regulators. As the economy recovers there is more pressure on senior professional staff to accept more lucrative opportunities in the industry, thus losing key participants in the Central Bank's critical role in restoring the confidence of investors in Ireland's financial system. The role of the Central Bank is integral to the country's recovery. Further, given the need for a high level of technical skills to carry out many supervisory functions effectively, the Central Bank needs to be able to structure its compensation programs to reflect requirements of particular jobs and difficulty of filling those positions. The government should give the Central Bank the flexibility from the civil service compensation rules, as is the case with most supervisors in developed countries.

	Resources required for the breadth and number of institutions and the resource demands of the PRISM process may result in under-resourcing allocated to the medium-low and low impact institutions, (despite some periodic full-risk assessments of some medium-low firms and sampling of some low impact firms through thematic or targeted reviews). See also the recommendation in Principle 32 regarding granting the power to the Central Bank to appoint an administrator to run a firm that is in crisis.
Principle 4.	The regulator should adopt clear and consistent regulatory processes.
Description	The Central Bank has in place processes and procedures to ensure that regulatory actions undertaken by the Bank are fair and reasonable, transparent and comprehensible to the affected persons and the marketplace, and that there is consistent application of relevant principles. *Consultation* The Central Bank follows the European Supervisory Authorities' approach to consultation. Open public consultation generally lasts for 12 weeks. Given the pace of legislative reform in Europe and the intensity of regulatory activity in Ireland, more advanced notice to the regulated entities of initiatives might be prudent. Where policy or legislation is formulated through ESMA, it is subject to an impact assessment and a cost benefit analysis prior to implementation. *Publicly Available Rules* Many rules, regulations, codes of conduct and guidance materials are publicly available on the Central Bank's website but the laws and some other instruments have not been consolidated, despite their complexity and the fact that a series of significant additions and amendments have been effected. For example, there was a Central Bank Act passed in each of 1942, 1961, 1964, 1971, 1989, 1997, 1998, plus a Central Bank and Financial Services Authority of Ireland Act 2003 and a second one in 2004. There were also the Central Bank Reform Act 2010, Central Bank and Credit Institutions (Resolution) Act 2011 and Central Bank (Supervision and Enforcement) Act 2013. Consolidated versions of most legislation, including statutes pertaining to the Central Bank, are only available through commercially produced sources. The Law Reform Commission has informally consolidated the Central Bank Act 1942 and the Central Bank Reform Act 2010 for public use free of charge. However, other relevant laws and regulations, such as the Investment Intermediaries Act, 1995 (IIA) and the Companies Acts, have been amended multiple times, or separate acts passed, without consolidated versions being made available to the public free of charge. *Procedural Fairness* The Central Bank is subject to Irish administrative law, which enshrines procedural fairness. Legislation specifies that a number of Central Bank decisions can be appealed to the Irish Financial Services Appeals Tribunal (IFSAT). Central Bank actions are also subject to judicial review. *Licensing Criteria* The criteria for the authorization and revocation are set out in the relevant legislation, and

	supplemented by application forms and guidance material on the Central Bank's website. Regulations 13, 21, and 22 of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007) (MiFID Regulations) prescribe, respectively, the criteria for authorization, grounds for withdrawal and the bases for revocation. Where the Central Bank intends to refuse or revoke authorization, it will provide notice of its intention, giving the relevant entity an opportunity to make submissions. The Central Bank's decision under the MiFID Regulations can be appealed to the IFSAT. *Consistency* Centralized policy and enforcement units have been established to ensure consistent application of legislation and policy across the Supervisory Directorates. The centralization of enforcement cases within a single directorate is intended to ensure a consistent approach to Administrative Sanctions. The Central Bank has also established a number of supervisory committees in order to ensure consistent decision-making; among them the Supervisory Risk Committee, which is aimed at ensuring a consistent approach to all high risk issues reported to it. Likewise, a Policy Committee is intended to ensure consistent interpretation and application of EU and domestic policy. The Risk Division is singularly charged with oversight of and responsibility for PRISM to provide risk-based supervision consistently across all of the Supervisory Divisions. The Central Bank's Human Resources Directorate, in liaison with the Supervisory and Risk Divisions and the Enforcement Directorate, provides training programs to keep staff briefed on changes to policy or legislation and to support a unified, consistent interpretative ethos *Transparency and Confidentiality* Outcomes of any enforcement action by the Central Bank are consistently published. Settlement agreements are published on the Central Bank's website. While there is provision for Private Cautions these are rarely, if ever, given; however, Supervisory Warnings relating to minor matters are regularly administered to regulated entities. These are not made public but they are recorded for ongoing review. A prohibition notice may, at the end of an investigation, be issued prohibiting a person from performing controlled functions under Part 3, Chapter 4 of the Central Bank Reform Act 2010. A prohibition notice may, with the consent of the Governor, be published. In terms of its enforcement regime, the Central Bank's website provides a range of guidelines: • Guidelines to the Administrative Sanctions Procedure; • Outline of the Administrative Sanctions Procedure ; and • Voluntary Reporting Guidance Note. When publishing any information on regulated entities or any individuals, the Central Bank is bound to consider confidentiality in terms of s. 33AK of the Central Bank Act 1942 and takes into account other relevant legal considerations.
Assessment	Broadly implemented

Comments	The overall legal regime that governs securities regulation and the powers of the Central Bank has been amended multiple times over many years. The public has free access via a government website to the individual legislative instruments, but not to ones that consolidate all the relevant changes into one user-friendly document. As a result, it is extremely difficult for the public or industry members to access clear authority on the operative regime. For example, there have been multiple substantive amendments to the Central Bank Act since its original passage in 1942. In order to meet fully the expectations of Key Question 2c, the legislation and regulations need to be available in a usable and accessible format. We understand that the process of consolidation of the laws is at an early stage and this needs to be accelerated. In many jurisdictions, the regulator, a ministry or some other part of government posts 'unofficial' consolidated versions of financial services acts and regulations to facilitate access and transparency.
Principle 5.	The staff of the regulator should observe the highest professional standards, including appropriate standards of confidentiality.
Description	*Ethics* All staff of the Central Bank are subject to the Staff Code of Ethics and Behavior and the Employee Trading Rules. The Code of Ethics forms part of an employee's terms and conditions of employment with the Central Bank. Under section 2.5 of the Code of Ethics, employees are directed "not to put themselves in situations which might give rise to an actual or apparent conflict between the discharge of their official duties and their personal, financial or other interests." Under the Central Bank's Employee Trading Rules, employees are required to disclose any financial holdings in entities regulated by the Bank or in regulated entities publicly traded on the Main Securities Market (MSM) of the Irish Stock Exchange or on any Multilateral Trading Facility operated by the ISE. Under Rule 6(d), an employee must obtain written authorization from the Central Bank's Compliance Officer to undertake personal account trading. Employees are obliged pursuant to the Code of Ethics to keep all information that they obtain through their employment with the Central Bank confidential. Section 33AK (1)(a)(ii) of the Central Bank Act 1942 is applicable to all current officers and employees and all former officers and employees of the Central Bank and precludes them from disclosing confidential information concerning "any matter arising in connection with the performance of the functions of the Central Bank or the exercise of its powers …." *Disciplinary Investigation and Sanctions* The Central Bank has established a disciplinary procedure under which investigations take place. This procedure sets down formal steps to deal with any allegations of wrong doing. All matters, including breaches of the Employee Trading Rules & the Code of Ethics would be subject to a disciplinary investigation, under the Central Bank's Disciplinary procedures. Breaches may result in dismissal. In addition, depending on the circumstances, criminal offences may arise – for example, Section 21 of the Investment Funds, Companies and Miscellaneous Provisions Act, 2005 provides that a person convicted of an offence contrary to Irish market abuse law may be subject to a maximum penalties of "a fine not exceeding €10,000,000 or imprisonment for a term not exceeding 10 years or both." Section 2.4 of the Code of Ethics states that staff should treat all information obtained

	through their employment as confidential, unless there is un-ambiguous evidence to the contrary. The processing of personal data by the Central Bank is subject to the Data Protection Act. In the Code of Ethics, staff, especially members of each Supervisory Division, are directed to a Guide to Data Protection. A disclosure of confidential information in breach of s. 33AK is a criminal offense which could lead to a fine not exceeding €30,000 or to imprisonment for a term not exceeding 5 years or both. On summary conviction, indictment could lead to fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months - or both.
Assessment	Fully implemented
Comments	The Employee Code of Ethics is comprehensive and clear but, in the interests of transparency, it should be published so that members of the public are reassured that Central Bank staff are aware of their ethical responsibilities.
Principle 6.	The Regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.
Description	The Central Bank's mandate regarding the monitoring and mitigation of systemic risk is captured by s. 6A (1-2) of the Central Bank Act 1942 (as amended), which sets out the "stability of the financial system overall" as an objective of the Central Bank. The Central Bank is represented by the Deputy Governor (Financial Regulation) at the European Supervisory Authority meetings covering the financial stability agendas of the European Insurance and Occupational Pensions Authority (EIOPA), European Banking Authority (EBA) and European Securities and Markets Authority (ESMA). As a member of the European Systemic Risk Board (ESRB), on which the Governor sits, the Central Bank is responsible for "the macro-prudential oversight of the financial system within the [European] Union in order to contribute to the prevention or mitigation of systemic risks to financial stability in the [European] Union that arise from developments within the financial system." ***Expertise*** Two fora, the Financial Stability Committee and the Risk Governance Panels are designed to apply expertise regarding risk measurements and analysis relevant to systemic risk developed within the Central Bank and to share such expertise with supervisors and other Central Bank personnel. Risk Governance Panels are advisory; decision-making authority remains with the Heads of the Supervisory Divisions and the Director. Panel meetings are designed to facilitate constructive challenge and engagement between the supervision team and the panel, to give an opportunity for different ideas and approaches to be tested and approved through informed discussions. A Cross Sector team within the Risk Division identifies emerging threats to financial sectors and common risks across sectors, providing supervisors with an update on macroeconomic risk and an analysis of the risks facing each individual sector. The Cross Sector team also produces research papers on potential emerging risks or trends identified by teams which may have implications for other sectors. Of the recently issued papers were an Overview of the Exchange Traded Funds industry and the European Commission Legislative Package.

	Regular fora have been established with supervision teams to facilitate discussion on any developing risk or trend in various sectors. These fora include semi-annual meetings with each supervisory division to discuss the environmental risk landscape and monthly information exchange meetings with certain supervisory divisions. ***Regulatory Process*** An important source of expertise in the effort to preserve financial stability is found in the Supervisory Divisions. They are first lines of defense in the Central Bank's process to monitor, mitigate, and appropriately manage systemic risk. Since the Supervisory Divisions monitor the individual market participants, they are responsible for identifying risk to the financial system, as well as risks to the supervised firm. At an operational level, the Central Bank's PRISM framework was developed following a study of the risk-based systems in Canada, Australia and the U.K. PRISM assigns each firm to one of four possible impact categories (i.e., High Impact, Medium-High Impact, Medium-Low Impact and Low Impact) based on a quantitative assessment of the impact of the firm's failure systemically. The metrics reflect the firm's relative importance based on a combination of size, turnover, client base, financial interconnectedness and assets under management, dependent on the type of firm. PRISM facilitates regular reviews of the evolving financial risks at a micro-prudential level and also provides senior management with additional information to assess macro-prudential risks within and across sectors. The Central Bank also has Management Information, a detailed quantitative data reporting function available on PRISM, which facilitates discussion and analysis at monthly Supervisory Risk Committee and senior management meetings, which helps in identifying emerging trends and risks. *Addressing Concerns* In its strategic planning, the Central Bank seeks to address issues in its framework and requirements. One of the Central Bank's published strategies for 2012 -2013 was to "ensure that supervisory resources are allocated to areas of greatest risk." To that end, a number of initiatives have been completed or are ongoing: • Undertake preliminary financial institution Risk Identification and Mitigation Plans (RMPs) in accordance with PRISM requirements. This is ongoing. • Complete implementation of PRISM for release to all supervision divisions. This was in place by November 2012. • Complete development of an engagement model for financial institutions based on their risk profile and the Central Bank's policy of more intensive supervision, involving close engagement with firms and increased number of onsite inspections. • Apply the appropriate intensity of supervision appropriate to the risk profile of the financial service provider and apply the appropriate intensity of supervision applicable to the risk profile of the financial service provider. • Ensure that supervisory resources are allocated to areas of greatest risk, realigning the organizational resource targets based on impact and risk analysis. • Develop risk model management information set by forming a Supervision Support Team .Two supervisory reviews were undertaken in the 3rd Quarter of

	2012 and best practice seminars were conducted in a number of supervisory areas. *Securities Markets and Risk* In addition to the input from PRISM, the Central Bank relies on work done by ESMA, which published its first report on trends, risks and vulnerabilities in European Union securities markets in the fourth quarter of 2012. The report looks at the performance of securities markets in 2012, assessing both trends and risks in order to develop a comprehensive picture of systemic and macro-prudential risks. The Annual Performance Statement Financial Regulation 2012 -2013 recognizes, in dealing with risk, one of the vulnerabilities arising from PRISM. Among the priorities for 2012-2013 was quality assurance reviews during 2013 of the supervisory practices for High, Medium High and Low Impact firms, and, more particularly, implementation of Low Impact supervision (in addition to Insurance and Consumer Protection) in Markets supervision. Additionally, among the priorities for 2013- 2015 is a commitment to implement a strategy for Low Impact investment firms, funds and fund service providers by taking action on all trigger events in accordance with triage approach; completing thematic reviews as scheduled; and referring appropriate matters to Enforcement. ***Communication between domestic authorities*** The Central Bank, as the predominant competent national authority for the supervision of the financial markets, believes it has limited need for regular communication with other domestic regulators in relation to systemic risk. In any case, it has MOUs with key agencies, the ISE, IAASA, the FSO and the ODCE.
Assessment	Fully implemented
Comments	
Principle 7.	The Regulator should have or contribute to a process to review the perimeter of regulation regularly.
Description	The Central Bank contributes to the development of regulation and supervisory practices through local and European participation. Locally, the Central Bank, as the regulator for almost the entire financial sector, is aware of systemic risks posed by products, markets, and market participants, through its supervisory activities. Its supervisory teams are the first line of defense; followed by the Cross-Sector team and the Risk Governance Panels (See discussion in Principle 6), which is, in turn, followed by an escalation process. The escalation process can involve a number of standing committees made up of senior management within the Central Bank; these committees provide a forum for senior management to discuss the risks posed to investor protection, markets and systemic risk. Of these Committees: • The Supervisory Risk Committee (SRC) meets weekly, primarily to consider risk reports escalated to it by the Heads of Division of the Central Bank. • The Financial Stability Committee (FSC) meets fortnightly to advise the Governor and to inform key internal management on financial stability issues. It regularly • monitors and assesses risk-relevant developments in economic and financial

markets; it develops and assesses micro-prudential and systemic risk indicators; and analyses and discusses arrangements for domestic crisis management and resolution.

- The Policy Committee meets monthly with the mandate: to discuss and agree policy initiatives and responses of significance; to monitor EU and international developments (and, if necessary, develop related policy positions of the Central Bank); and to co-ordinate and consider the Bank's position on policy initiatives at a domestic or international level and to agree position papers for transmission to external stakeholders.

Review of Changing Circumstances

A recent concrete example of a process to address concerns was a Client Asset Requirements Review commissioned in August 2011 to safeguard client assets. This review arose out of the establishment of PRISM, the Central Bank's supervisory risk model; cases involving client asset issues; pending changes to European Directives; and feedback from industry. In March 2012, a report was published, the key recommendations contained in the report included:

- The establishment of a Client Asset Specialist Team (CAST);
- A Pre-approval Control Function (PCF) at director/senior management level;
- A revised approach to external audit reports which would be replaced by an annual Client Asset Examination (CAE) using the firm's Client Assets Management Plan (CAMP) combined with spot checks; and
- The power to apply to the High Court for the appointment of an administrator or a person with equivalent powers where there are serious problems of a financial nature and/or the interests of clients are at risk. (The Department of Finance rejected the proposal.)

Regular Review

The Central Bank's Unauthorized Providers Unit (UPU) regularly identifies and investigates suspected instances of unauthorized activity carried out by unauthorized, unregulated individuals and entities. The UPU relies on intelligence from:

- consumers directly;
- internal reports from other Central Bank areas; and
- reports and requests for assistance from foreign regulators.

Additionally, the Central Bank deals informally with its European peer regulators (for example, with Italy and France on an own account trading issue). It also seeks and receives intelligence through ESMA via its MOU and its membership and participation in expert groups.

Seeking legislative change

The Central Bank has shown it can pursue a unilateral approach (apart from Europe) on particular issues where it identifies regulatory weaknesses. For example, the recently enacted Central Bank (Supervision and Enforcement) Act 2013:

- gives the Central Bank the power to make regulations in line with the principles established in that Act;; and
- The creation of a regulatory regime for debt management firms.

The Central Bank also reviews, updates and publishes guidance notes and handbooks for

	regulated entities to eliminate interpretation or procedural gaps. See also the description contained in Principle 6.
Assessment	Fully implemented
Comments	
Principle 8.	The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.
Description	The Central Bank has processes at the supervisory level designed to identify and evaluate potential and actual conflicts of interest regarding regulated entities and to identify and evaluate potential and actual misalignments of incentives regarding certain unregulated participants (e.g., issuers, offerors or persons seeking admission to trading on a regulated market [collectively, issuers]) and regulated entities. Each process depends heavily on statutory obligations for relevant entities to self-assess, monitor, avoid and/or disclose conflicts. The supervisory divisions of the Central Bank assess compliance with the relevant legislation through multiple methods, such as review of policies, routine and thematic inspections and responses to complaints or information from whistleblowers. The Central Bank monitors and evaluates whether regulated firms are complying with the relevant requirements on an individual entity basis, using regular supervisory engagement tasks and thematic inspections. Regulated entities normally have the responsibility to identify, monitor, avoid/minimise and/or disclose conflicts under the statute under which the entity was authorised and applicable codes of conduct. The type of mitigation required (i.e., identify, monitor, avoid or disclose) is dependent on the nature of the conflict or misalignment and the particular circumstances, as set out under the applicable legislation. Issuers, who are typically unregulated entities, are required to identify, monitor, avoid and/or disclose conflicts of interest pursuant to the Company Acts. If the issuer chooses to offer securities to the public, the issuer will be subject to the additional requirements found in the Prospectus Regulations. If it seeks admission of those securities to trading on a regulated market (RM), the requirements of the Market Abuse Directive (Directive 2003/6/EC) Regulations 2005 (MAD Regulations), Takeover Rules or the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. 277 of 2007) (Transparency Regulations) would also apply. *Companies legislation.* The Companies Acts impose a responsibility to identify, monitor, avoid and/or disclose conflicts of interest on companies incorporated in Ireland and their directors. These are general provisions that apply to all companies, including those participating in the securities markets. The intent is to prohibit, manage or have disclosed transactions between the firm and persons (directors in particular) that may have conflicting interests or a misalignment of incentives with regard to decisions otherwise beneficial to the firm. The Companies Act, 1990, Part III focuses specifically on transactions involving conflicts of interest and related party transactions involving directors (and others). The Companies Act, 1990, Part IV addresses dealing and holding of company shares by directors, substantial shareholders and others.

	Authorized firms. MiFID Regulations require an investment firm to maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of its clients (Reg. 33). They are required to identify conflicts of interest and to clearly disclose such conflicts to the clients where organisational or administrative arrangements made to manage conflicts are not sufficient to ensure, with reasonable confidence, that risks of damage to client interests will be prevented (Reg. 74). Further, the market operator of an RM must identify and manage the potential adverse consequences of conflicts of interest between the RM and the sound functioning of the RM (Reg. 63). For IIA firms, Chapter 3 of the Consumer Protection Code 2012 details the conflicts of interest policies a regulated entity must have in place including the requirement that "a regulated entity must have in place and operate in accordance with a written conflicts of interest policy appropriate to the nature, scale and complexity of the regulated activities carried out by the regulated entity" (paragraph 3.28). If there are direct or indirect conflicting interests, a regulated entity may only proceed to do business with or on behalf of the consumer after that consumer has acknowledged in writing that the consumer is aware of the conflict of interest and still wants to proceed (paragraph 3.29). The European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. 352 of 2011) (UCITS Regulations) provide that fund management companies are obliged to define in writing an effective policy as regards conflicts of interest of "relevant persons"[6] (Reg. 24). It also sets out situations that may lead to conflicts of interest and requires management companies establish, implement and maintain in writing an effective conflicts of interest policy that is appropriate to the size and organisation of the management company and the nature, scale and complexity of its business (Schedule 5, para. 65 & 66). There also is a prohibition against the same company acting as both the management company and trustee or as both the investment company and trustee to reduce further the likelihood of conflicts of interests arising (Reg. 37 & 53). Where management of activities gives rise to detrimental conflicts of interest, the management company must make any decisions in the best interests of the UCITS and the unitholders and report these decisions to the investors (Reg. 73). See also the discussions under Principles 23, 24 and 31. *Public Issuers*. The Prospectus Regulations govern relevant persons (i.e., issuers, offerors, or persons seeking admission to trading) of equity, debt and closed ended investment funds when such securities are offered to the public or admission to trading on an RM is sought. It does not apply to open ended collective investment schemes.

[6] "Relevant persons" means a director, partner or equivalent, or manager of the management company, an employee of the management company, as well as any other natural person whose services are placed at the disposal and under the control of the management company and who is involved in the provision by the management company of collective portfolio management, or a natural person who is directly involved in the provision of services to the management company under delegation arrangements to third parties for the purpose of the provision by the management company of collective portfolio management.

	The Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. 324 of 2005) (Prospectus Regulations) and Commission Regulation (EC) No 809/2004 of 29 April 2004 (EU Regulation 809/2004) require a prospectus or securities note for equity, debt and closed end investment funds to include disclosure of any actual or potential conflicts of interest between any duties to the issuer, owed by its administrative, management, and supervisory bodies' and senior management, and their private interests and or other duties. If there are no such conflicts, a statement to that effect must be made (EU Regulation 809/2004, Annex I and III). The Transparency Regulations require periodic and on-going disclosure of material information to the public for issuers with securities trading on an RM. Persons responsible for the information in periodic reports are civilly liable for material mistakes, misstatements or omissions. The periodic reporting requirements include the publication and filing of financials that must disclose transactions which have been entered into with related parties, such as directors and substantial shareholders (Reg. 5-9). Under the MAD Regulations, managers of issuers (and associated persons) are required to notify the Central Bank regarding transactions conducted on their own account relating to shares of the issuer or to derivatives or other financial instruments linked to them (Reg. 12). The rules for fair presentation of investment recommendations require a relevant person[7] to disclose all relationships and circumstances that may reasonably be expected to impair the objectivity of a recommendation, including conflicts of interest with respect to an issuer (Reg. 21). In addition, if the relevant person is an independent analyst, an investment firm, a credit institution, any related company, or any other relevant person whose main business is to produce recommendations, they must disclose information on their interests and conflicts of interest clearly and prominently (Reg. 22) Under the Prospectus Regulations and the Transparency Regulations, the disclosure is required to be accessible to investors through a Regulatory Information Service (RIS) or freely available in hardcopy. The MAD Regulations obliges the Central Bank to ensure prompt public access to the information provided to it on managers' transactions (Reg. 12(7)). In practice, managers' transactions are notified to the Central Bank and announced via an RIS without delay. *Oversight and Enforcement* The Central Bank, the ODCE and IAASA have a role in supervising and enforcing these requirements. • IAASA examines whether the annual and half-yearly financial reports of issuers within the remit of the Transparency Directive and whose home member State is Ireland have been drawn up in accordance with the relevant reporting framework, including public interest entities (issuers with securities admitted to trading on an RM, banks and insurance companies - PIEs) • It is the responsibility of the Office of the Director of Corporate Enforcement (ODCE) to enforce compliance with company law. • The Central Bank, as discussed above. (See also the discussion under

[7] MAD Regulation 16 provides that a "relevant person means a person producing or disseminating recommendations in the exercise of the person's profession or the conduct of the person's business."

	Principles 10 and 12) *Regulated Entities*. The Central Bank has a number of supervisory powers available to it with regard to a regulated entity breaching its requirements including issuing conditions/directions or imposing administrative sanctions on the non-compliant firm. Depending on the nature of the non-compliance, as per the PRISM model of supervision, a Risk Mitigation Program (RMP) may be put in place to resolve unacceptable risks (e.g., if the non-compliance results in a supervisor upgrading Conduct Risk from low or medium-low to medium-high or high). The RMP would usually require that the firm stop the problematic activity and put in place a process that will result in compliance with the relevant regulations. For example, the firm might be required to remedy the breach by revising the deficient documents or undertaking to ensuring complete disclosure of any conflicts in subsequent reports or public documents. Alternatively, the Central Bank has been granted the power to administer sanctions in respect of prescribed contraventions by regulated financial service providers and persons concerned in the management of regulated financial service providers, under Part IIIC of the Central Bank Act 1942 (as amended). (See the discussion under Principle 12.) *Issuers*. Pursuant to the Prospectus Regulations and Transparency Regulations, the Central Bank has an array of remedies for breaches ranging from issuing a direction, suspending trading and imposing administrative sanctions. (See the discussion under Principle 16.) In addition, IAASA has the power, where it is not satisfied that a reporting entity's financial statements are in compliance with the relevant reporting framework, to issue a statutory notice and/or direction as set out in Regulations 44 and 45 of the Transparency Regulations to revise the financial statements.
Assessment	Fully implemented
Comments	
Principles for Self-Regulation	
Principle 9.	Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.
Description	*Performance of Functions of SRO* Part VII of the 'IIA provides for "approved professional bodies" (APB). These are responsible for the regulation and supervision of their members as "certified persons" providing investment business services where those services are provided in a manner that is incidental to other professional services provided. A "certified person" means either (a) an individual who is a member of or is regulated by an APB, or (b) a firm or entity managed and controlled by one or more such individuals and who / which, in either case, has been granted and holds a valid certificate under the rules of that professional body deeming that person to be a fit and proper person to carry on investment business services or provide investment advice or both. Currently, there are three APBs, the Institute of Chartered Accountants in Ireland (ICAI),

	the Institute of Certified Public Accountants in Ireland (CPA) and the Association of Chartered Certified Accountants (ACCA).[8] • The ICAI established the Chartered Accountants Regulatory Board (CARB) to regulate its members in accordance with the provisions of the Institute's By-laws, independently, openly and in the public interest. The Institute's Investment Business Regulations are supported by comprehensive Disciplinary By-laws. There is provision for appeal to an (internal) Appeal Tribunal, the majority of whose members are public interest members. • The CPA has passed By-Law 14 concerning Investment Business Regulations. Decision-making powers under the By-Laws are conferred on the Registration Committee with a right of appeal to the Registration Appeal Committee. • The ACCA has made the Irish Investment Business Regulations 2013, administered in the first instance by the Admissions and Licensing Committee, and, on appeal, by the Appeal Committee. Each set of Investment Business Regulations (or similarly titled document) is subject to prior approval by the Central Bank. There are 902 certified persons, 637 regulated by ICAI, 154 regulated by CPA and 111 regulated by ACCA. The majority of certified persons (658) provide services equivalent to a restricted intermediary under the IIA. In general, these firms can provide investment advice, receive and transmit orders to a product provider from which they hold an appointment, and act as a deposit broker. In practice, many of these firms only provide referrals to authorized intermediaries such as investment advisers. About a quarter of the certified persons (238) hold a higher level of authorisation, mainly to allow them to provide additional services in relation to tax efficient investment schemes, e.g., business expansion schemes and film financing schemes under Section 481 of the Taxes Consolidation Act. A further six certified person firms are authorised to hold client assets in addition to the services outlined above. No certified persons are authorised to provide discretionary portfolio management or discretionary trust management. Each APB can: • Grant, refuse to grant, revoke, or suspend a certificate to carry on investment business services or provide investment advice; • Impose fines; or • Otherwise sanction or discipline a member concerning investment activity. *Authorization or Delegation Subject to Oversight* Under s. 56 of the IIA, it is a pre-requisite of authorisation that the applicant professional body satisfy the Central Bank: • That the constitutional documents and the rules of the applicant body together with any powers granted to the body or available to it under any enactment contain sufficient provisions to enable it to operate in accordance

[8] Section 2(7) of the IIA provides that solicitors who hold a practicing certificate and only carry out certain limited investment activities in a manner that is incidental to their legal services are not subject to licensing under the IIA. The Minister may make regulations removing this exemption and those regulations may prescribe that the Law Society of Ireland would be an APB. However, no such regulations have been made.

	with the IIA and any conditions and requirements as the Bank may impose; • As to the probity and competence of its managers who are primarily concerned with the regulation and supervision of certified persons; • That its rules or charters or other constitutional documents contain sufficient provision for the publication of information regarding inquiries or proceedings regarding any disciplinary matter investigated by the professional body concerned where the proceedings are concerned with the provision of investment business services, or that such matters are regulated by any other enactment; • That it has sufficient powers under its rules or otherwise for the regulation of the carrying on of investment business services or investment advice by persons certified by it for the purposes of this Act; and • That it has adequate arrangements and resources for the effective monitoring of the activities of certified persons and for the enforcement of rules and conditions regulating the persons regulated by it and there is sufficient provision in its rules or under any enactment to provide for the withdrawal or suspension of certificates issued. In the Central Bank's view, fair and consistent regulation and supervision on the part of an SRO requires: • Clear rules concerning the criteria and process for approval of applicants for authorisation; • Clear conduct of business rules and conduct standards; • A transparent decision-making framework; and • An effective right of appeal for members of the SRO. Each set of Investment Business Regulations contains detailed provisions concerning the criteria for carrying on investment business. The applicable standards are set out, along with a decision-making structure and a right of appeal for affected persons. A certified person or an applicant likely would also have an appeal right to the courts under administrative law. The Central Bank reviews and approves the Investment Business Regulations (or equivalent document) for each APB both at the point of approval and in advance of any proposed amendment or addition to those rules. Any Central Bank review of draft Investment Business Regulations would be done keeping in mind the provisions of the Consumer Protection Code 2012 issued by the Central Bank. Given the breadth and scope of the statutory powers of the Central Bank which are directly applicable to certified persons, the Central Bank's ability to effectively inquire, investigate and enforce is not dependent on cooperation from the APB. However, the Central Bank would expect cooperation from an APB. There is a statutory process under section 56 of the IIA for the approval of APBs. The designation of a body as an APB triggers the provisions in the IIA which relate to APBs. Each APB does not receive a direct statutory delegation expressed in the enactment itself: rather each is approved to perform its functions under a statutory approval process. The Central Bank has exercised its statutory power under s. 56 and 58 of the IIA to impose terms and conditions on the approval of each APB. These terms require each APB to: • Provide the Central Bank with a copy of its regulatory plan including a report

	on the outcome for the previous period • Participate in such meetings as the Central Bank considers necessary to review its operations • Satisfy the Central Bank on a continuing basis, that it has sufficient financial, management and human resources to carry out effectively the functions of an APB • Maintain a register of certified persons authorised by it • Notify the Central Bank when: o a certified person is authorised by it to carry on investment business or provide investment advice and provide specified details o a certified person surrenders its certificate or when the same is suspended or withdrawn o of any change in the composition or the terms of reference of any committee involved in the conduct of its regulatory functions under the IIA o if it becomes aware that a member of the APB or a member firm has been carrying on investment business whilst unauthorised to do so or has committed an offence in the course of carrying on investment business o immediately where events or circumstances make it impracticable for the APB to discharge any of its functions as such • Submit a six-monthly report • Submit on request, copies of all monitoring visit reports relating to investment business activities of certified persons together with copies of all correspondence between it and the certified person in respect of monitoring visits. • Advise of any activities that might impact on the probity of such certified persons • Permit the Central Bank to attend as an observer at all committee meetings of the APB relating to its functions under the IIA. Each APB notifies the Central Bank about enforcement action taken against member firms and individuals by means of a six-monthly report outlining: • When the APB has exercised its intervention powers in relation to a certified person; • Any disciplinary action has been taken against a certified person or employee of a certified person which is relevant and material to the carrying on of investment business; and • Any unresolved complaints regarding a certified person which are relevant and material to the carrying on of investment business and which were received from clients of certified persons authorised by the APB. The regulations and constitutional documents of each APB make provision for the selection of its board of directors and the composition of committees that are relevant to the conduct of investment business. Generally each body has a governing council which is directly elected by its members according to its by-laws. The Council then appoints a regulatory board which deals with matters including the regulation of investment business. Their Committees generally include a number of independent members who are

	not accountants and disciplinary hearings are held in public. For example, the Council of the ICAI is the main governance organ of the organization, determining its strategy and policy, and deciding on the allocation of resources to its various programmes. The Council consists of 19 elected members with provision for co-opting a further five members, including two non-Chartered Accountant members. The By-Laws require a geographical spread of Council members between the Republic of Ireland, Northern Ireland and Great Britain and for a balance between members in practice and members in business. However, in relation to regulation, ICAI's structure differs from the other bodies in that the main governance organ for regulation is the Board of CARB. The functions of CARB are set out in the ICAI By-Laws which have been approved by members and government. While the Council of the Institute has, on behalf of members, set CARB Regulations, it and its members are not involved in the Regulation of members or firms. The Board of CARB is self appointing. The CARB Regulations set out detailed provisions for the establishment, role and composition of the Board. The Board consists of 12 members: 7 of whom are required to be persons who are not members of an Accountancy Body. Members of the Board are required to meet the following criteria: to be knowledgeable about matters that are relevant to the regulation of the accountancy profession; and to be capable of acting and to act in an independent and detached manner including acting in a manner which is independent of any organisation that may employ them or of which they may be members. Chapter 2 of the ICAI Investment Business Regulations deals with Authorisation, enforcement and disciplinary arrangements. There is provision for the appointment by the Board of a Committee which has absolute discretion (within the limits of the IIA) as to the nature of the matters taken into account and the importance of the factors taken into account in exercising its powers, meeting its obligations and carrying out its duties under the CARB Regulations. The Committee is to consist of at least eight people, of which at least one-quarter are not accountants; and have a quorum of three people. Whenever the matters to be considered by the Committee include refusing, withdrawing, suspending or imposing conditions or restrictions on authorisation, or publishing certain orders or decisions one member of the Committee at the meeting must be an accountant and one member must not be an accountant. All of the APBs have programs in place to supervise the investment business activities of their members. These programs combine on-site and off-site reviews. The programs are risk-based. For example, CARB requires its members to file detailed annual returns containing information such as number of clients, financial information, number of complaints, etc. The initial review of these reports has been automated and the computer screening process flags information that might be of concern. The exception reports produced are then investigated further by an analyst. The professional indemnity insurance of the firm is checked, as is the continuing professional development compliance of its principals. For firms authorized to hold client assets, the reports of their independent accountant (required under the Client Money Regulations 2007) will be reviewed. On-site reviews are done based on an assessment of the risks of the activities for which the person has been authorized. Firms that hold client assets receive the most on-site

	attention, with reviews carried out at least every three years and all five were reviewed by CARB this year. *Oversight*. The oversight program conducted by the Central Bank consists of regular reporting, desk-based reviews, periodic inspection visits and auditing of relevant committee meetings. It is aimed at ensuring the ongoing satisfaction of the prerequisites to approval and the applicable conditions and requirements. The Central Bank has formed collaborative relationships with each of the APBs. A high level of formal and informal contact and formal half-yearly reporting allows the Central Bank to evaluate on an ongoing basis the effectiveness of the delegated authorisation and supervision model, while retaining full statutory authority to intervene directly with certified persons using either the specific powers in the IIA or the 'core' powers of the Central Bank set out in the Central Bank Acts. The Central Bank conducts inspections of APBs periodically. The ACCA was inspected in 1999, 2004 and 2010. The ICAI was inspected in 2004 and 2010. The CPA was inspected in 2002, 2004 and 2010. The inspections focus on APBs' monitoring of the investment business activity of their certified person members and on the APB's compliance with the Conditions & Requirements imposed by the Central Bank. The 2010 inspections of the APBs had two objectives: • To examine and review the procedures used by each APB in carrying out its functions in regulating the investment business activities of its Irish members; and • To assess each APB's compliance with the provisions of the IIA and the conditions imposed by the Central Bank when approving it as an APB. Central Bank staff conducted a two-day inspection of each APB during November and December 2010. No significant issues were identified during the inspections. There were a small number of items that required follow-up and these were duly addressed. The Central Bank may also attend as observer at committee meetings of the APBs and has exercised this right on three occasions. As noted above, each APB is required to report semi-annually on its activities and the Central Bank reviews all new or amendments to the Investment Business Regulations. This review seeks to ensure that intermediaries that are directly regulated by the Central Bank and certified persons regulated by APBs are subject to generally equivalent requirements. Where the proposed rules are not consistent with the requirements imposed by the Central Bank, the Central Bank would require the APB in question to respond to the Central Bank's concerns, and ultimately require the APB to take further action, as required. Section 56(7) requires the prior approval of the Central Bank for any proposed amendment or addition to a body's memorandum of association, articles of association, other constitutional document or rules (including Investment Business Regulations) that relates directly or indirectly to the regulation of investment business services or investment advice. Where the Central Bank has been asked to approve a proposed amendment or addition and refuses its consent, it must serve written notice on the APB stating that it refuses to consent and setting out the reasons for its refusal. There is provision for an APB to appeal a refusal to the Minister for Finance (s. 60) but this option has never been exercised.

	The Central Bank has retained full statutory authority to inquire into matters affecting investors or the market. The Central Bank's authority to inquire into these matters is not affected by the model of authorisation and supervision under which the firm is authorized. A person authorised by an APB to provide investment business services or investment advice (in a manner that is incidental and ancillary to the provision of accounting professional services) is a certified person and is deemed to be an authorised investment business firm under the IIA. Under the IIA, the Central Bank has various powers to take action. In addition, the Central Bank has powers under certain 'core' provisions in the Central Bank Acts which apply to all regulated financial service providers, including certified persons. Under the Central Bank Act 1942, it may conduct examinations, hold inquiries, issue a suspension, etc. (These powers are described in more detail in Principles 10-12.) The Central Bank's statutory powers to inquire into or address misconduct or other supervisory or regulatory concerns apply to APBs and their certified persons. There is no requirement for the powers of the APB to be inadequate in order for the Central Bank to take those steps. Equally, the Central Bank can intervene and apply its own statutory powers to a certified person in the absence of a conflict of interest on the part of the APB. The Central Bank can intervene or commence an inquiry on its own judgment having regard to the proper and orderly regulation and supervision of investment business firms, and of the securities market / industry. Taking action does not require any shortcoming on the part of the APB. *Professional Standards Similar to those Expected of a Regulator* The Disciplinary Rules of each APB make express provision for extensive confidentiality requirements. Also, each APB is subject to data protection legislation which requires the APB to use information only for the purposes for which it is provided and to disclose it only for valid purposes. *Procedural Fairness* The Central Bank's review of the rules and Investment Business Regulations of each APB is intended to identify (among other things) whether the rules and Regulations create a fair framework for the regulation and supervision of certified persons. The framework is set out in the IIA. In addition, the review seeks to ensure that the rules applicable to certified persons are equivalent to those that apply to directly regulated firms. Staff stated that the statutory pre-requisites to approval would not be considered to be met if the rules and processes of the APB presented a risk of procedural unfairness. *Conflicts of Interest* Each APB has issued rules which concern conflicts of interest as between certified person and client. CARB's Investment Business Regulations include 10 core principles including: 6. Conflicts of Interest - A firm should either avoid any conflict of interest arising or, where conflicts arise, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A firm should not unfairly place its interest above those of its customers and, where a properly informed customer would reasonably expect that the firm would place his interest above its own, the firm should live up to that expectation.

	As a regulatory body comprised, mainly, of experienced professional persons who are themselves subject to professional standards on conflicts of interest (both generally and specifically in relation to investment business), the Central Bank expects each APB to be cognisant of the risk of conflicts of interest and to take appropriate steps to disclose, manage or avoid the same. This is not an aspect of the work of the APBs that relates only to investment business; the same principles would apply to every aspect of the APB's work. *Treatment of the Irish Stock Exchange* In the view of the Central Bank, the ISE is not an SRO as set out in this Principle. • ISE is the competent authority in the State for listing under the European Communities (Admission to Listing and Miscellaneous Provisions) Regulations 2007 (S.I. 286 of 2007). That status is inconsistent with being an SRO in relation to that particular area or aspect of the securities market or industry. • The ISE is authorised by the Central Bank to operate a regulated market and two multilateral trading facilities. The ISE operates in this way as a regulated entity authorised by the competent authority in the State (the Central Bank) rather than the direct delegate of a statutory responsibility, or an SRO. The ISE is considered to be a regulator in relation to listing and a regulated entity in relation to the operation of regulated markets and MTFs, rather than an SRO in either case.
Assessment	Fully implemented
Comments	The APBs are all professional accounting organizations that are also subject to oversight by IAASA and may be subject to reviews by other governmental bodies such as those charged with ensuring the anti-money laundering legislation is obeyed. Separate oversight by each of these bodies may be effective and necessary given the statutory remit of each of these bodies, but it is not particularly efficient for either the overseer or the overseen entities. While there are clear gateways for providing information to the Central Bank, other statutory authorities (such as IAASA) and the police, the extensive confidentiality requirements that bind many of the parties limit the ability of all of the regulatory participants to work cooperatively in delivering on their respective responsibilities. This may limit the most efficient use of scarce investigatory and other resources when a particular matter crosses lines of responsibility. It may also mean issues of concern get missed because the information is fragmented across several agencies. Consideration should be given to exploring adjustments that might be made to the confidentiality requirements to facilitate more open discussions and greater sharing of information among all of the relevant authorities, including the APBs. The assessors are not entirely convinced that the Central Bank's view that the ISE is not an SRO is the correct one. However, given the overlap between the requirements under this Principle and those set out in Principles 33 and 34, little turns on the resolution of the matter. It was simplest just to add to Principle 33 or 34 the relevant observations with respect to the key questions that appear under this Principle that are not clearly included in those later Principles. In any event, the conditions imposed on the ISE and the oversight arrangements that are in place at the Central Bank generally meet the requirements under

	this Principle.
Principles for the Enforcement of Securities Regulation	
Principle 10.	The regulator should have comprehensive inspection, investigation and surveillance powers.
Description	*Supervision powers over regulated entities* A combination of European Directives and national law has given the Central Bank comprehensive powers to regulate its regulated community. Part 3, Chapter 3 of the Central Bank (Supervision and Enforcement) Act 2013, Regulation 29 of the MAD Regulations, Regulation 86 of the Prospectus Regulations, and Regulation 54 of the Transparency Regulations give the Central Bank the power to inspect a regulated entity's business operations, including its books and records, without prior notice and on-site *Market Surveillance Powers* Many of the powers to conduct or supervise surveillance of trading activity on its authorized exchanges and regulated trading platforms are captured under the MiFID Regulations and the MAD Regulations. *MiFID Regulations*: MiFID Regulation 46 provides that "the [Central] Bank shall – (a) keep under regular review the compliance with this Part of market operators and of regulated markets operated by them, and (b) monitor regulated markets to ensure compliance with the conditions and requirements for initial authorization." MiFID Regulation 146 empowers the Central Bank to impose conditions or requirements on an investment firm or the market operator of a regulated market concerning the …(b) provision of information to the [Central] Bank or such other person as may be specified by the [Central] Bank." MiFID Regulations 67 and 113 provides that the market operator of a regulated market or the investment firm/ market operator of an MTF shall establish and maintain effective procedures for monitoring transactions undertaken by the trading venue's members in order to identify, disorderly trading conditions or conduct that may involve market abuse. The operator of the regulated market/MTF has the obligation to report such transactions to the Central Bank and provide any assistance in investigating and prosecuting market abuse. Under Regulation 46, the Central Bank has the obligation to keep under regular review the compliance with Regulations 67 and 113 of market operators and of regulated markets operated by them. MiFID Regulation 112 also provides the obligation for investment firms to report to the Central Bank transactions in relation to financial instruments admitted to trading on a regulated market. This transaction information is key to the Transaction Reporting and Monitoring Unit of the Central Bank, in its market monitoring assessment. MiFID Regulation 145(1) (c)(i) provides that the Central Bank can impose conditions post authorization to add amend or revoke the rules of a regulated market and MiFID Regulation 145(2)(f) provides that the Central Bank can impose a condition or requirement on any matter as the Central Bank considers appropriate "in the interests of proper and orderly regulation and supervision of investment firms, market operators of regulated markets, regulated markets and the protection of investors." MiFID Regulations 147 and 148 give the Central Bank the power to issue directions where it considers it necessary for the proper and orderly regulation and supervision of investment firms or market operators of regulated markets or for the protection of

	investors. These requirements, with the use of authorized officer powers in Part 5 of the Central Bank Reform Act 2010, can be used by the Central Bank to compel information from investment firms and market operators. *MAD Regulations:* MAD Regulation 3 provides that the Central Bank "is the single-administrative competent authority for the purposes of the Directive." MAD Regulation 7(1) provides that the Central Bank "shall require that market operators-(a) so structure their operations such that market manipulation practices are prevented and detected, and (b) report to it on a regular basis in accordance with arrangements drawn up by the Central Bank." MAD Regulation 7(2) provides the Bank with the power to "impose requirements … concerning transparency of transactions concluded, total disclosure of price regularization agreements, a fair system of order pairing, introduction of an effective atypical order detection scheme, sufficiently robust financial instrument reference price-fixing schemes and clarity of rules on the suspension of transactions." MAD Regulation 31(1) allows the Central Bank to issue directions to any person to ensure the integrity of financial markets in member states, enhance investor confidence in those markets, or prevent any person from contravening or continuing to contravene any provisions of Irish market abuse law. Regulation 31(3) sets out the directions that can be imposed. MAD Regulation 29 sets out the powers of authorized officers to compel information and investigate instances of suspected market abuse. Section 34 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 provides that the Central Bank may make rules imposing requirements on persons on whom obligations are imposed by Irish market abuse law including requirements to do or not do specific things so as to secure the effective supervision by the Central Bank of activities of the kind to which Irish market abuse law relates. The Central Bank has issued the Market Abuse Rules pursuant to this power. Rule 4.1 of the Market Abuse Rules, Rule 4.1 of the Transparency Rules and Rule 3.1 of the Prospectus Rules, persons to whom those rules apply are obliged to provide to the Central Bank any information or explanation that the Central Bank may reasonably require in order to ascertain whether the respective rules have been adhered to or complied with. *Record keeping obligations* The record-keeping and record retention requirements of regulated entities are provided in: • MiFID Regulations – Regulations 40, 100 and 112; • IIA - Section 19; • UCITS Regulations – Regulation 125; • Commission Delegated Regulation (EU) No 231/2013 supplementing AIFMD – Article 66; and • Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (Criminal Justice Act 2010) – Section 55. In general, records must be retained for a period of at least five years. *Identity of clients* Section 27 of the Central Bank (Supervision and Enforcement) Act 2013 empowers the

	Central Bank to gather records in respect to its powers under the financial services legislation relating to the proper and effective regulation of financial service providers. Section 77 of the Criminal Justice Act 2010 grants similar powers. *Outsourcing* Third parties can be appointed as authorized officers by section 24 of the Central Bank (Supervision and Enforcement) Act 2013 s. 57(1), MAD Regulation 28(1), Transparency Regulation 53(1) and Prospectus Regulation 85(1)) and are closely monitored. The Central Bank advised it outsourced the performance of a number of client asset inspections to a predominant audit firm in 2010. During these inspections, the Central Bank supervised the work and output of the audit firm and the audit firm was subject to stringent confidentiality requirements.
Assessment	Fully implemented
Comments	
Principle 11.	The regulator should have comprehensive enforcement powers.
Description	Section 21 of the Central Bank (Supervision and Enforcement) Act 2013 broadened the scope of persons to whom the Central Bank's powers to gather information apply. They include, in addition to regulated entities: • any person who has applied for authorization and the application is pending; • a person whom the Central Bank reasonably believes was or put themselves out to be a regulated financial service provider; • a person who was providing a financial service without an authorization; • a related undertaking of any of the persons referred to above; • Any other person whom the Central Bank reasonably believes may possess information about a person referred to above. The investigative powers under the Securities Markets Regulations are set out in the: • MAD Regulations: Part 4; • Prospectus Regulations: Part 14; and • Transparency Regulations: Part 9. These powers also extend beyond regulated entities and individuals to unregulated third parties. Under s. 27 of the Central Bank (Supervision and Enforcement) Act 2013 authorized officers have the power to search and inspect the premises of a regulated financial services provider or other premises where there are reasonable grounds for believing that there are records relating to that business without giving prior notice, but in the case of dwellings, in absence of the consent of the occupier, a warrant is required. Section 27 of the Central Bank (Supervision and Enforcement) Act 2013 gives authorized officers the power to "require any person to whom this Part applies who apparently has control of, or access to, records, to produce the records." Section 31 of the Central Bank (Supervision and Enforcement) Act 2013 gives the Central Bank the power to refer a person, who fails or refuses to comply with a requirement, to the High Court. Part 4 of the MAD Regulations, Part 14 of the Prospectus Regulations, and Part 9 of the Transparency Regulations give the Central Bank the necessary investigative powers. Under the Securities Markets Regulations it is an offence to fail to comply, without reasonable

	excuse, with a request or requirement made by an authorized officer MiFID Regulation 21 provides that the Central Bank may withdraw an authorization in certain circumstances while MiFID Regulations 22 and 54 allows the Central Bank to apply, summarily, to the Court for revocation of the authorization of an investment firm or a regulated market. MiFID Regulation 149 allows the Central Bank to apply to the High Court to secure compliance with one of its Directions; MiFID Regulation 150 permits the Central Bank, in relation to an investment firm or market operator, to apply for the appointment of a liquidator.. MiFID Regulation 166 allows the Central Bank to apply to the Court for the appointment of a Court appointed investigator. Section 16 of the IIA provides that the Central Bank may revoke the authorization of an investment firm in specified circumstances. Section 22 of the IIA allows the Central Bank to apply for the winding up of an investment business or former investment business firm. Section 35 of the IIA allows the Central Bank to apply for a Court Order to remove an officer or to dismiss an employee. Section 66 of the IIA allows the Central Bank to apply to the court for the appointment of an inspector. Section 74 of the IIA allows the Central Bank to seek, summarily, from the Court a determination that there has been a breach of a condition or requirement. Section 79 of the IIA also empowers the Central Bank to apply to the Court, summarily, where the Central Bank believes there has been a contravention, a failure to comply with a condition or requirement of or a direction to an investment business firm and the Court may prohibit the continuance of the contravention or failure. Under UCITS Regulation 127 the Central Bank may apply summarily to the Court where there is a failure to comply by a UCITS to comply with a requirement or condition. UCITS Regulation 131 applies similarly where a management company or trustee of a UCITS fails to comply with a direction or scheme. ***Markets Abuse Directive; Prospectus Directive*** MAD Regulation 31(3) allows the Central Bank to impose an extensive range of directions on a regulated firm. Prospectus Regulation 88 also gives the Central Bank a comprehensive range of directions that it may issue. Sections 33 and 41 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 make persons responsible, respectively, for breaches of the MAD Regulations and Prospectus Regulations civilly liable. More generally a breach of statutory duty would give any individual his own right of action. ***Central Bank (Supervision and Enforcement) Act 2013*** The Central Bank (Supervision and Enforcement) Act 2013 was introduced to address shortcomings in the Central Bank's investigative and enforcement regime. Among them, are sections 52 -58 of the 2013 Act, which has given the Central Bank the following enhancements: • Enforcement orders – the Central Bank will have the authority to apply to Court for an enforcement order restraining a person from engaging in conduct which would involve the contravention of financial services law; • Restitution orders and the recoupment of investigation costs from those found guilty of a contravention; and • Doubling of the maximum administrative sanction to €1m for an individual and

	€10m for a firm *Enforcement Action* The Central Bank has the power to initiate criminal proceedings for offences under MAD Regulation 49; Section 32 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005; Transparency Regulation 76; section 21 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006, Prospectus Regulation 107; section 47 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005. The power to initiate criminal proceedings is rarely invoked. Section 33AK(3) of the Central Bank Act 1942 compels the Central Bank to report any suspicion of the commission of an offence and to supply any information to anybody charged with the detection or investigation of a criminal offence or contravention, including, • An Garda Síochána, • the Revenue Commissioners, • the ODCE • the Competition Authority, or • the NCA ***Suspension*** Temporary suspension of trading of investment instruments is provided for under a number of regulations, including Transparency Regulation 40(5) (for up to 10 days); Prospectus Regulation 83 (for up to 1 year); MiFID Regulations 41(1)(g), 65 and 147/148; and MAD Regulation 31(3)(a). In 2011 and 2012 the securities of two issuers were suspended under the Prospectus Regulations. ***Sanctions*** The Central Bank has the power to impose sanctions under the MAD Regulations, the Prospectus Regulations and the Transparency Regulations. See the discussion of sanctions in Principle 12.
Assessment	Fully implemented
Comments	
Principle 12.	The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.
Description	The Central Bank's Supervisory Divisions carry out inspections on a routine periodic basis. The Central Bank also has the power to initiate investigations with respect to suspected breaches of securities laws pursuant to its powers under the Central Bank Reform Act 2010; the MAD Regulations; the Prospectus Regulations; and the Transparency Regulations. **PRISM** Implemented in the Markets Directorate in Q2 2012, PRISM requires supervisors to form judgments about the risks each regulated entity presents relative to the Central Bank's risk tolerance and then to develop appropriate risk mitigation programs to reduce

unacceptable risks to an acceptable level.

The PRISM methodology supports a structured and proportionate approach to supervision that links impact and supervisory intensity. The framework allows for a structured approach to resource allocation and planning of supervisory activities. Built into PRISM is an on-going monitoring capability that will pick up changes in risk profile through the use of financial ratios that, if triggered, will prompt supervisory attention/intervention. The risk rating in PRISM is updated after a supervisory activity is completed and in this way it is an on-going measure of risk.

In recognition of the possibility of non-compliance in Low Impact firms, the Central Bank announced as its Strategy 2013-2015 in its Annual Performance Statement Financial Regulation 2012-2013 that "[a]t least 25% of administrative sanctions cases will relate to Low or Medium Low firms." This initiative requires a complementary approach at the level of surveillance and inspections to be efficacious. A strategy for low impact firms was to be finalised in 2013.

Thematic Reviews

Informed by PRISM, a series of thematic reviews of intermediaries have been undertaken, including the following:

- Corporate Governance Inspections – Cross-Divisional (Q1 2012);
- Reviewing Financial Reporting Structures & process for submission of Financial Returns to the Central Bank – Investment Firms (Q2 2012);
- CRD Remuneration Policy Review – Investment Firms Cross Impact Category and Outsourcing Arrangements - Cross-Sectoral (both Q4 2012); and
- Operational Risk Reviews – Stockbroking firms (throughout 2013).

An additional unit, the Client Asset Specialist Team (CAST) carries out routine and reactive inspections of entities authorized to hold client assets. CAST carries out general inspections of firms holding significant levels of client assets. These include the large stockbrokers, although certain of the stockbroking entities do not hold client assets (due to outsourcing arrangement) or are relatively small, lower impact entities. While these smaller stockbroking entities are still subject to inspection, the inspections are not as deep as for larger, higher impact entities holding significant levels of client assets. CAST is committed to general inspections of all (six) brokers and stock exchange intermediaries by the end of May 2014. To date, CAST has completed:

- Arrangements for physically holding client financial instruments (Q2 2012); and
- Payments & Receipts in firms holding Client Assets (Q4 2012).

Some 39 firms are authorized to hold client assets. CAST has commenced a program of inspections since July 2012. The Central Bank has stated that that it has planned to inspect every firm holding client assets every two years, including firms classified by PRISM as Low Impact.

The Consumer Protection Directorate also conducts planned and reactive inspections. This department's themed reviews focus on specific topics, usually related to business conduct, and are carried out on a number of regulated firms or on firms that represent a significant proportion of market share, which is in line with the Central Bank's risk-based approach. Themes and firms for inspection are selected based on market intelligence from a range of sources, including issues noted during on-going

supervision, complaints received and referrals from the FSO. Over the past three years themed reviews have addressed conduct such as: Best execution; Suitability of Financial Instruments sold to older clients; Client Categorization: and Complaints Handling.

The Transaction Reporting and Monitoring Unit (TRMU) and Markets Integrity Unit (MIU) have also conducted inspections relating to: Insider Lists /Management of inside information (2011); and Suspicious Transaction Reports (throughout 2012/2013).

2008-2012 Inspections by the Markets Directorate						
Category	**2008**	**2009**	**2010**	**2011**	**2012**	**1st Q 2013**
General	9	7	8	10		2
Themed	5	4	13	10	17	
Focused		5	12	10	8	
CAR	5	6		10	11	2
Triage					1	
Trigger					2	2
FRA Review					9	3
Total	19	22	33	40	48	9
Source: Central Bank.						

Fund Managers

The Central Bank's fitness and probity process and its PRISM ratings are employed to assess compliance with fund managers. UCITS Regulation 123 gives Central Bank the necessary powers – themed inspections, analysis of annual and interim accounts, which are reviewed on a sample basis; AIFM Regulations 48-51 is also comprehensive but still to be tested. Some 8 firms have been deemed Medium-High and are assessed between every two and four years. 37 firms are classified Medium-Low while 202 are Low. The Central Bank has devoted a team to Low Impact Funds, addressing concerns (expressed in other areas) of the Central Bank's concentration on Higher Impact firms.

Hedge Funds

The Central Bank has comprehensive powers to access and inspect hedge fund managers and advisors under Part 5 of the Central Bank Reform Act 2010. These powers have been enhanced by Part 3 of the Central Bank (Supervision and Enforcement) Act 2013; specifically, the ability of the Central Bank to require a skilled person's review – at the firm's cost.

Investigations

The Markets and the Enforcement Directorates have investigated a range of suspected misconduct under the MAD Regulations:

- Issuers' maintenance of insider lists
- Firm's non-submission of Suspicious Transaction Reports

- Publicly-listed companies failing to lodge the required notification of transactions by persons discharging managerial responsibility
- Suspected insider dealing by company officers and market participants
- Suspected market manipulation by a company.

Insider Trading

One insider trading case (not yet public) concerning trading by a company officer of a publicly listed company is currently being prosecuted under the assessment within Part 5 of the MAD Regulations, which provides for compensation for any losses suffered and any profits made as a result of market abuse.

Other Alleged Breaches

A major trial, of alleged contraventions of the Companies Laws in 2008, on referral from the Central Bank, the Garda and the Director of Corporate Enforcement to the Director of Public Prosecutions, is scheduled for trial in the Circuit Court in January 2014.

Referrals to Police

The Central Bank is obliged (by section 33AK of the Central Bank Act 1942) to report any suspicion of a criminal offence to the relevant authority (the Garda or the ODCE). The Central Bank states that since 2010 it has reported 155, 111, and 105 matters to the criminal authorities. Despite this, not a single conviction on indictment has been recorded in the Circuit Court during this time against any individuals referred by the Central Bank.

Sanctions

The preference for the Central Bank's Enforcement Directorate has been to deal with contraventions by way of Administrative Sanction. The Administrative Sanctions Procedure (ASP) became law in 2004 as Part IIIC of the Central Bank Act 1942. Sanctions available in respect of a person or entity concerned in the management of a regulated financial service provider are:

- A caution or reprimand;
- A monetary penalty up to EUR 1 million for individuals and EUR 10 million for firms;
- Disqualification, suspension or revocation;
- A direction to cease a contravention; and
- The Central Bank's costs of the investigation.

From mid-2010 to September 2013, 44 cases with regulated financial services providers and persons concerned in their management have settled, and fines totaling €20,995,815 have been imposed.

The ASP does not apply to suspected contraventions under the Markets Regulations where, under a similar process, independent Assessors appointed by the Central Bank determine the outcome. Following an Adverse Assessment they can make similar orders to those under the ASP.

The MAD Regulations (Part 5); the Prospectus Regulations (Part 15); and the Transparency Regulations (Part 10) provide mechanisms for the appointment of an assessor (commonly a retired judge) to make findings as to whether contraventions of those enactments occurred.

In the case of an adverse assessment the Central Bank may impose a range of sanctions,

including:

- a private caution or reprimand;
- public caution or reprimand;
- a monetary penalty (but not exceeding €2,500,000 in any case);
- a direction disqualifying the assessee from being concerned in the management of, or having a qualifying holding in, any regulated financial service provider;
- if the assessee is continuing to commit a prescribed contravention, a direction ordering the assessee to cease; and
- a direction to pay to the Central Bank all or a specified part of the costs incurred by the Central Bank in investigating the matter to which the assessment relates and in holding the assessment (including any costs incurred by authorized officers).

These decisions made by an assessor may be appealed to the High Court.

2011–13 Cases Referred to Enforcement			
	2011	**2012**	**To 31 August 2013**
All Pre-Referrals	72	98	35
Securities Markets Pre-Referrals	41	35	14
Securities Markets Cases Accepted	20	25	3
Securities Markets Supervisory Warnings	5	7	2
Securities Markets Settlements	5	3	1
Securities Markets Revocation of Authorization	1	-	-
Securities Markets No Action	4	3	-
Securities Markets On-going	2	3	9
Source: Central Bank.			

Among these matters, the Central Bank cites the following results for action taken against contraventions, all of which were effected under the ASP regime::

- Transaction reporting – both late reporting and non-reporting in contravention of MiFID Regulation 112; Failing to establish adequate policies and procedures to ensure compliance with the firm's obligations in contravention of MiFID Regulation 33(1)(a) (9 actions taken against 5 firms between 2010 and 2013 – Total of €353,000 penalties imposed and all firms publically reprimanded)
- Publicly listed companies failing to lodge notifications re share purchases by two persons discharging managerial responsibility as in contravention of Market Abuse Rule 7.2 (1 action taken in 2012 - €10,000 monetary penalty imposed and company was publically reprimanded)

	• Stockbroking firm failing to lodge a suspect transaction report in contravention of MAD Regulation 13 (1 action taken in 2012 - €20,000 monetary penalty imposed and firm was publically reprimanded) • Publicly listed companies failing to properly maintain insider lists in contravention of MAD Regulation 11 and Rule 6.1 (2 action taken, 2010 and in 2013 – Total of €130,000 in monetary penalties imposed and both companies were publically reprimanded). *Supervisory Warnings* Since 2011, Enforcement 1 Division of the Enforcement Directorate has issued 38 supervisory warnings (14 to securities markets firms). Such warnings are issued where the breach is relatively minor with low regulatory impact, the firm or individual has cooperated and the breach remedied. While these warnings are private, they do form part of the firm's compliance record. *Balanced Score Card* The Central Bank publishes its Enforcement Priorities, which for 2013, include: Retail Intermediaries; Client Asset Requirements; Prudential Requirements; Systems and Controls; Timeliness and Accuracy of Information submitted to the Central Bank. The Enforcement Directorate lists one of its key performance indicators for meeting its Balanced Score Card as advancing a specified number of administrative sanction cases to settlement, administrative hearing or court. The minimum figure of 15 was exceeded in 2012, and the figure for 2013 is also expected to be exceeded.
Assessment	Partly implemented
Comments	*PRISM* Since 2011 the Central Bank has been particularly active. Much of the Central Bank's supervisory and enforcement activity has been shaped by PRISM, the Central Bank's risk-based supervisory-engagement model. The PRISM methodology supports a structured and proportionate approach to supervision that links impact and supervisory intensity. The framework allows for a structured approach to resource allocation and planning of supervisory activities. Built into PRISM is an on-going monitoring capability that will pick up changes in risk profile through the use of financial ratios that, if triggered, will prompt supervisory attention/intervention. The risk rating in PRISM is updated after a supervisory activity is completed and in this way it is an on-going measure of risk. A primary concern is whether the calibration of PRISM is appropriate. Activities such as onsite reviews and intrusive supervision techniques are mainly allocated to High Impact firms. The overwhelming majority of firms (well more than 90%) have been designated Low Impact. Scheduled engagements include routine (either periodic or thematic) and reactive reviews (i.e., desk-top and follow up meetings at the Central Bank) and inspections (i.e., onsite visits). The supervisory approach for firms that fall into the Low Impact category relies heavily on reactive processes. Offsite supervision processes are largely automated where there is a reliance on triggers of financial ratios and other data rather than analysis of regulatory returns. In addition, the quality, frequency and depth of qualitative data to assess risk are

limited, as is onsite activity. While in the case of Medium Low Impact firms prescribed engagement with the CEO, CFO, CRO, Chairman, INED and the External Auditor takes place every 18 months, in the case of Low Impact firms, no minimum frequency of onsite reviews and engagement with firms are prescribed by PRISM. A reactive approach to supervision for this cohort of firms and a reliance on exception reporting does not allow for sufficient opportunity to accurately identify, assess and mitigate risk. A build-up of risks across a number of Lower Impact firms in aggregate could create vulnerabilities. A more proactive approach would mitigate this risk. It should be noted that the Enforcement Directorate's current strategy that "[a]t least 25% of administrative sanctions cases will relate to Low or Medium Low firms" by the fourth quarter of 2013 is a recognition of this vulnerability. However, more of these firms would require attention at the supervisory stage.

One firm, deemed to be of Medium High Impact by PRISM, reported seven reviews by the Central Bank in a period of 18 months. This intensity reflects a conscientious and engaged group of regulators but also suggests that such concentration may be excessive and that greater coordination might be required. Regulated firms who were interviewed agreed, without exception, that Central Bank inspectors and reviewers were professional, experienced and knew the business of the firms they were examining.

Recent Legislation

The key to Principle 12 is whether the regulatory system ensures an effective and credible use of its powers. Key pieces of legislation and some important supervisory and investigative initiatives have only recently been initiated and there is little practical experience to say whether these are effective in practice.

- PRISM itself was only rolled-out in the second Quarter of 2012 for securities markets firms.
- The Fitness and Probity Regime, which became law with the Central Bank Reform Act 2010 but on 1 December 2011 and as recently as 1 March 2012 new requirements were applied to pre-approval controlled functions (board members) and controlled functions. The Criminal Justice Act 2011 became law in August 2011 but, given the demands of due process and the complexity of criminal investigations, this has taken some time to take effect.
- The Central Bank (Supervision and Enforcement) Act 2013, which became law on 1 August 2013 has given the Central Bank a number of powers that will enhance its enforcement capacity but it is too early to determine how effective they are.
- The AIFMD regime, which became law on 1 July 2013.

Criminal Enforcement

Enforcement's strategy of preferring to deal with market misconduct by way of the ASP has met with considerable success with 44 cases settled since mid-2010 and almost €21 million imposed in fines. The process is efficient and, as all outcomes have been published, exemplary. However, to achieve a truly balanced score card, prosecutions and criminal convictions are essential. The Central Bank contends that, since 2010, no case has been presented to the Central Bank's Enforcement team where the likely outcome on summary prosecution would optimally be imprisonment.

Although summary prosecutions in the District Court incur very low fines (from a sum not exceeding €500 to a sum not exceeding €5,000) and may meet resistance from defendants

	and take longer, a conviction against an individual (even in the absence of a term of imprisonment) is a powerful deterrent. The Department of Finance should also consider amending the law to raise the maximum fines that the District Court can impose on defendants in summary criminal matters to provide a more significant deterrent.
Principles for Cooperation in Regulation	
Principle 13.	The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.
Description	The Central Bank has comprehensive authority to share public information with anyone. The Central Bank's website contains a good deal of public information, including its functions, data and statistics relating to market intermediaries, issuers and collective investment schemes (CIS). Its Laws and regulations for which the Central Bank's are less accessible to the public. The Central Bank publishes the outcomes of its results in an annual Performance Statement. The Central Bank's Annual Report also provides a wide-ranging summary of its activities and outcomes. This information can therefore be shared with foreign and other domestic regulators and authorities. For non-public information, the Central Bank is required to protect the confidentiality of any information obtained in the course of its duties. However, the Central Bank permits the disclosure of information, in accordance with s. 33 AK of the Central Bank Act 1942. No external approval is required to share that information, other than where the information is confidential and has been obtained from another authority. ***Sharing with domestic authorities*** Section 33AK(3)(a) also provides for disclosure to domestic bodies and authorities, including: An Garda Síochána, the Revenue Commissioners, the ODCE, the Competition Authority, the NCA, and any other body charged with the detection or investigation of a criminal offence. Where an obligation to report such matters exists, the Central Bank considers (with reason) the formula 'information relevant to that body' in Section 33AK(3)(a) is broad and permissive, and would appropriately cover each of the following items and allow it to share with other domestic regulators and authorities listed: • Matters of investigation and enforcement • Determinations in connection with authorization, licensing or approvals • Surveillance • Market conditions and events • Client identification including persons who beneficially own or control non-natural persons organized in the regulator's jurisdiction • Regulated entities • Listed companies and companies that seek a listing of their securities There is sufficient evidence that non-public information of these types has been shared with other regulators. The Central Bank has also shared documents and information that have been obtained in the course of its investigations with the Garda Síochána, ODCE, NCA and FSO. Regular meetings are held between the Central Bank and those domestic authorities that share responsibility for securities regulation; and other meetings are held when specific matters arise or functional issues require information to be shared.

	Sharing with Foreign Authorities Section 33AK(5) of the of the Central Bank Act 1942 also allows the Central Bank to disclose confidential information to an authority in another jurisdiction where it exercises similar functions and has similar obligations concerning confidentiality. The Central Bank's ability to provide assistance to a foreign supervisory authority while subject to the Supervisory Directives is not dependent upon the alleged conduct constituting a breach of Irish laws. The Central Bank has authority to share with *foreign* regulators and authorities information on: • Matters of investigation and enforcement • Determinations in connection with authorization, licensing or approvals • Surveillance • Market conditions and events • Client identification including persons who beneficially own or control non-natural persons organized in the regulator's jurisdiction • Regulated entities • Listed companies and companies that seek a listing of their securities Since 2008, the Central Bank has made 108 releases of information to foreign counterparts on market abuse (See the table in the discussion on Principle 15.) The Central Bank can provide information to domestic and foreign authorities on an unsolicited basis. As mentioned above, section 33AK(3)(a) requires the Central Bank to report to specified bodies (or other bodies charged with certain functions) *any information relevant to that body* that leads the Central Bank to suspect the commission of a criminal offence or the contravention of specified legislation. The information-sharing powers of the Central Bank, outlined above, are framed broadly: rather than in terms of defined categories of information, such as the items listed at (a) to (g) of Key Question 3 of this Principle. The Central Bank has only recently been a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMOU). It initially applied in November 2004, at which time the screening process identified an impediment in the Central Bank Act 1942. The impediment concerned a mandatory requirement for the Central Bank to release information (even confidential information received from a foreign regulator for a specific purpose) to a range of domestic Irish authorities. This was seen as a breach of the confidentiality requirements of the MMOU. On passing of the necessary amendment to s. 33AK in December 2012, the Central Bank was admitted as a signatory. The IOSCO MMOU provides for the sharing of information with foreign regulators on an unsolicited basis. The Central Bank has nine bilateral MOUs in place that also facilitate the sharing of information with regulatory counterparts on a voluntary basis. In addition, the Central Bank shares technical expertise with foreign regulators, most regularly though its membership of ESMA. **Banking Information**. The Central Bank is able to obtain banking information for foreign regulators where it relates to alleged breaches of securities laws or to ensure compliance

	with those laws from relevant banks. **Brokerage accounts.** Regulated entities are required to maintain, for up to six years, records that permit tracing of funds and securities in and out of brokerage and bank accounts related to securities transactions. The Central Bank is able to share information and records identifying beneficial owners of accounts with domestic and foreign authorities.. By way of example, the Central Bank has arrangements with the U.K. Financial Conduct Authority (FCA) for the sharing of surveillance information regarding trade order book queries in place. *Confidentiality* All information gathered and then shared with another competent authority, either domestically or internationally, is subject to rules and statutory provisions of confidentiality. Domestic authorities are also bound by secrecy provisions of their respective governing laws. In respect of foreign regulators, the confidentiality clause in the IOSCO MMOU and in the Central Bank's bilateral MOUs requires those regulators to keep confidential all information provided to them in confidence and not to disclose the assistance or the information to third parties without the Central Bank's prior consent. The Central Bank's letter transmitting the information to domestic or foreign regulator states that the information is provided on a strictly confidential basis and the information is not to be disclosed to any third parties without the Bank's prior written consent. For information received by the Central Bank from foreign regulators, all officers of the Central Bank are obliged by the Central Bank's Code of Ethics to protect the confidentiality of the information obtained in the course of their duties. Section 33AK makes it a criminal offence for an officer or employee of the Central Bank to disclose confidential information, other than by one of the legislative gateways.
Assessment	Fully implemented
Comments	
Principle 14.	Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.
Description	Section 33AK of the Central Bank Act 1942 provides the Central Bank with the powers necessary for the performance of its functions with respect to information sharing with other domestic and foreign authorities. It should be noted that no MOU needs to be in place as a precondition to the Central Bank sharing information with another domestic or foreign regulator. As a matter of practice, senior management of the Central Bank meet bilaterally with the NCA, FSO, ODCE, and the Garda Síochána meet regularly to discuss matters of mutual interest. A Regulators' Forum also meets periodically. The Central Bank is a signatory to the IOSCO MMOU. In addition to the IOSCO MMOU,

	the Bank has entered into written bilateral MOUs with some of its foreign regulatory counterparts to facilitate the discharge of licensing, surveillance and enforcement responsibilities. To date, the Central Bank has entered into 9 bilateral MOUs with foreign regulators in areas primarily related to enforcement, supervision and to ensure compliance by issuers and fitness and probity of licensed persons. The Central Bank's MOU with the Securities Commission, Malaysia was established to facilitate the cross-border offering of CIS and consequently, it provides for the exchange of information and cooperation on the regulation and supervision of entities and persons that are authorized or licensed by both the Central Bank and the relevant foreign regulator. The confidentiality clause in the MOUs requires foreign regulators to keep confidential all information provided to them and not to disclose the assistance/information to third parties without the Central Bank's prior consent. The letter transmitting the information to the foreign regulator will also state that the information is provided on a strictly confidential basis and the information is not to be disclosed to any third parties without the Central Bank's prior written consent. For information received by the Central Bank from foreign regulators, as noted all officers of the Central Bank are legally obliged to protect the confidentiality of the information obtained in the course of their duties. If there is any action to compel the Central Bank to release information related to a foreign request, it will notify the foreign regulator prior to making the disclosure and, where applicable, will apply any available legal exceptions and privileges to resist disclosure. Section 33AK of the Central Bank Act 1942 provides that it is a criminal offence for an officer or employee of the Central Bank to disclose such information, other than in accordance with the legislative gateways. This is reiterated in the Code of Ethics. The Central Bank has responded to numerous requests for information from both domestic and foreign authorities. In the first nine months of 2013, after the Central Bank became a signatory to the IOSCO MMOU, it has responded to two requests, one of which has involved obtaining information on behalf of the Hong Kong Securities and Futures Commission. The response times have varied from a few days to several months and depended on the nature of the information requested and the complexity of the process required to collect all the information.
Assessment	Fully implemented
Comments	
Principle 15.	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.
Description	The Central Bank is able to offer effective and timely assistance to foreign regulators and ESMA under Section 33AK of the Central Bank Act.

Requests Between the Central Bank and other Regulators				
Incoming Requests	**2010**	**2011**	**2012**	**2013 YTD**
Total	73	86	99	100
Routine	48	37	62	78
Non-Routine	24	35	11	11
Domestic	1	7	19	7
ESMA	0	7	7	4
Outgoing Requests	**2010**	**2011**	**2012**	**2013 YTD**
Total	101	88	169	338
Routine (Individually)	101	88	13	26
Routine (Automated)	N/A	N/A	155	312
Non-Routine	0	0	1	0
Source: Central Bank.				

The Central Bank can obtain contemporaneous records sufficient to reconstruct all securities and derivatives transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts. The Central Bank's ability to provide assistance to a foreign supervisory authority is not dependent upon the conduct in question constituting a breach of Irish securities laws.

Part 3 of the Central Bank (Supervision and Enforcement) Act 2013 gives wide powers to the Central Bank's authorized officers. In particular, Section 27 of the Central Bank (Supervision and Enforcement) Act 2013 provides that an authorized officer may require all regulated financial service providers and any person whom the Central Bank reasonably believes may possess relevant information to answer questions and to make a declaration of the truth of the answers to those questions. Pursuant to section 54 of the Central Bank Reform Act 2010 , the Central Bank may, at the request of an overseas regulator, require information on a matter or authorize one or more authorized officers to exercise any of his powers for the purpose of investigating the matter.

See the discussion above under Principles 10 and 11 on the Central Bank's authority and process for obtaining banking records.

Under the Supervisory Directives, the Central Bank may only share information with a competent authority outside of the State where that authority had equivalent obligations with respect to professional secrecy

In the area of market abuse and markets offences, the Central Bank has consistently assisted fellow regulators by sharing information, in most cases in response to a request.

Requesting Regulator	Suspected Breach	Year of Request	Annual Total
France	Market Abuse	2008	26
U.K.	Market Abuse		
Hungary	Market Abuse		
Italy	Market Abuse		
Netherlands	Market Abuse		
Germany	Market Abuse		
USA (SEC)	Market Abuse		
Netherlands	Market Abuse	2009	15
U.K.	Market Abuse		
France	Market Abuse		
Germany	Market Abuse		
U.K.	Market Abuse	2010	13
France	Market Abuse		
Spain	Market Abuse		
Netherlands	Market Abuse		
Belgium	Market Abuse		
Italy	Market Abuse		
France	Market Abuse	2011	22
U.K.	Market abuse		
Switzerland	Market abuse		
Turkey	Market abuse		
Netherlands	Market abuse		
Italy	Market abuse		
USA (SEC)	Voluntary Request		
FSB	Market abuse		
Poland	Due Diligence		
U.K.	Market abuse	2012	18
France	Short Position		
France	Insider Trading		
Spain	Insider Trading		
Austria /	Authorization to trade –		

Liechtenstein	MIFID		
Germany	Insider Trading		
FIN-FSA	Insider Trading		
U.K.	Market Manipulation	2013	14
Portugal	Insider Trading		
France	Insider Trading		
Hong Kong	Market Manipulation		
Switzerland	Insider Trading		
Germany	Insider Trading		
U.K.	Insider Trading		
Austria / Liechtenstein	Market Manipulation		
Brazil	Insider Trading		
Source: Central Bank.			

The authorized officer powers in Part 3 of the Central Bank (Supervision and Enforcement) Act 2013 and the cooperation provision in Part 4 of the Central Bank Reform Act 2010 enable the Central Bank to assist overseas regulators. These provisions allow the Central Bank to assist foreign regulators in obtaining court orders / urgent injunctions but generally only where the Central Bank has its own interest in the application. In any case, obtaining court orders is not a mandatory requirement under this Principle.

The Central Bank may assist foreign regulators regarding information about financial conglomerates subject to its supervision and assistance in relation to:

- The structure of financial conglomerates;
- The capital requirements in conglomerate groups;
- Investments in companies within the same group;
- Intra-group exposure and group-wide exposures;
- Relationships with shareholders;
- Management responsibility and the control of regulated entities.

The Central Bank may only share information with a competent authority outside of the State provided such sharing is allowed under the Supervisory Directives. The Supervisory Directives, by and large, require that in order to be disclosed, the proposed recipient must be subject to equivalent obligations with respect to professional secrecy as those outlined in the relevant Supervisory Directive (including those on information usage)

There is evidence of considerable, and increasing, cooperation between the Central Bank, its domestic and foreign counterparts, particularly within Europe. In 2011, the Central Bank received 85 requests from foreign authorities; 8 from other domestic agencies; and it made 54 requests to foreign authorities. In 2012, the Central Bank received 82 requests from foreign authorities; 20 from other domestic agencies; and it made 15 requests to foreign authorities. And for 2013 (to date), the Central Bank has received 95 requests from

	foreign authorities; 8 from other domestic agencies; and it made 27 requests to foreign authorities.
Assessment	Fully implemented
Comments	Only a few requests have been made to the Central Bank under the IOSCO MMOU since Ireland signed it in December 2012, and the Central Bank's ability to comply with the stringent requirements of this process should be monitored.
Principles for Issuers	
Principle 16.	There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investors' decisions.
Description	*Full Disclosure* The requirements that apply to offerings of securities to the public, listed securities and to securities seeking admission to trading on an RM are found in a number of sources including the Companies Acts, the Prospectus Regulations and related legislation, and the ISE's Listing Rules and Admission to Trading Rules. The requirements regarding the disclosure of information in a prospectus in relation to the offer of securities to the public or securities seeking admission to trading on an RM are set out in the Investment Funds, Companies and Miscellaneous Provisions Act 2005 and the Prospectus Regulations that transposes Directive 2003/71/EC (the Prospectus Directive) into Irish law. The required content of a prospectus is set out in Commission Regulation (EC) No 809/2004 (EU Regulation 809/2004), as amended. The Central Bank has also published rules and guidance to issuers in the Prospectus Handbook using the authority granted the Central Bank in s. 51 of the Investment Funds, Companies and Miscellaneous Provisions Act, 2005. Under the Prospectus Regulations and related legislation, any offer of securities to the public in Ireland must be made with a prospectus. "Securities" include debt, equities, closed-end investment funds and other financial instruments such as derivatives. There are certain exceptions built into the law. Under the Prospectus Regulations, the obligation to publish a prospectus does not apply to an offer of securities: • That is expressly limited in the amount of total consideration for the offer to less than €5,000,000 (Reg. 1(h)); • That is addressed solely to qualified investors; • That is addressed to fewer than 150 natural or legal persons, other than qualified investors; • That is addressed to investors who acquire securities for a total consideration of at least €100,000 per investor, for each separate offer; • Whose denomination per unit amounts to at least €100,000; • With a total consideration in the European Union of less than €100,000 calculated over a period of 12 months (Reg. 9). Offers that fall within the above exemptions do not constitute "offers to the public" and therefore fall outside the scope of this Principle. The Central Bank is the competent authority for approving prospectuses under the Prospectus Regulations (Reg. 78(1)). A copy of the prospectus must be filed with the

	Central Bank and the Companies Registration Office (CRO) (Reg. 38 (1)). Broadly, a prospectus must contain all necessary information to enable investors to make an informed assessment of the assets, liabilities, financial position, profits and losses, risks faced and prospects of the issuer and any guarantor. Recent financial information and other timely information about the issuer's key investments, future commitments, business activities and revenue trends are required to be included. It must be presented in a form that is comprehensible and easy to analyze. Where the offer is intended for retail investors, it must also include a summary, in non-technical language, that conveys the essential characteristics of, and risks associated with, the issuer, any guarantor and the issue. Further disclosure requirements for listing and for securities seeking admission to trading on an RM are found in the Listing Rules published by the ISE as the competent authority for listing in Ireland. For example, the Listing Rules for the Main Securities Market (MSM) of the ISE require delivery of the prospectus, plus a detailed listing application, copies of any relevant shareholder circular, and information on how listing requirements are met as part of the listing process (Listing Rules, 4.4.1). Publicly offered securities are not required to be listed or admitted to trading on a RM. The required content for a prospectus/offering documents is set out in the Annexes to EU Regulation 809/2004, which contain detailed lists of information by type of securities being offered. Separate annexes apply to shares, debt and derivatives, asset backed securities, depository receipts, closed end CIS, etc. The requirements are tailored to the security type and, in the case of debt, to the denomination of issue.[9] Further guidance and extensive checklists by type of security are provided in the Prospectus Handbook. The prospectus must be approved by the Central Bank and published electronically. The Prospectus Regulations requires prospectuses to be published as soon as practical and in advance of a public offer or admission to trading on an RM (Reg. 44). If the offering is made to the retail public, the Prospectus Regulations dictate that the offering documents must contain a summary describes the offer in concise, non-technical language to provide information about essential elements of the securities in order to aid investors when considering whether to invest in such securities (Reg. 21). The summary must be drawn up in a common format to facilitate comparability of the summaries of similar securities, consisting of a table of contents, a summary covering specified elements and a discussion of risk factors. Under the Prospectus Regulations, a supplement must be issued if a significant new factor arises or a material mistake or inaccuracy is discovered relating to the information in a prospectus between the time when the prospectus is approved and the later of the final closing of the offer to the public or the time when trading on an RM begins (Reg. 51). If the supplemental information alters the assessment of the investor regarding an offer of the securities to the public, the investor has the right, exercisable within two working days after the publication of the supplement, to withdraw from a commitment to purchase the securities (Reg. 52).

[9] The minimum denomination of the instrument is used as a proxy to distinguish "retail" from "wholesale" offers. Debt instruments issued for more than EUR 100,000 per unit are considered wholesale instruments.

	Annual Reporting. The Prospectus Regulations and EU Regulation 809/2004 require audited financial statements in a prospectus. For example, Annex I, item 20.1 of EU Regulation 809/2004 requires "audited historical financial information covering the latest 3 financial years" for equity issuances and Annex IV, item 13.1 requires "audited historical financial information covering the latest 2 financial years" for retail debt issuances. Further, the ISE Listing Rules set out conditions for listing that include requirements relating to audited financial statements for debt securities (Rule 13.2.4), derivative securities (Rule 15.3.8) and equity securities (Rule 3.3.3 (1)). Debt and derivatives require two years' information, while equity listings require three years information. The Transparency Regulations contain specific requirements for the publication of annual reports by issuers of equity, closed-end investment funds or retail debt securities admitted to trading on an RM.[10] The annual report must be made available within four months of the issuer's year-end. The annual report must include the audited financial statements, a management report and responsibility statements. The responsibility statements set out that to the best of the signee's knowledge, the financial statements give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer. The management report includes a fair review of the development and performance of the business with a description of the principal risks. The issuer is responsible for all information published. (Transparency Reg. 4 and 5). The Transparency Regulations do not require issuers of wholesale debt securities admitted to trading on an RM to publish annual reports or interim financial statements. For securities traded or quoted on an MTF, the market operator's requirements apply. In the case of Enterprise Securities Market (ESM), the ISE requires that annual audited accounts must be sent to shareholders without delay and in any event not later than six months after the end of the financial year to which they relate. In the case of GEM, annual audited accounts must be published as soon as possible after they have been approved, and in any event no later than the timeframe permitted under national legislation. Securities quoted on ITGL POSIT are subject to the requirements of the primary markets on which such securities are trading. For all other corporate issuers (whether public or private companies), s. 148 and 150 the Companies Act 1963 requires them to disclose details of their accounts at the Annual General Meeting, which must be held within 15 months of their previous annual meeting, and to attach a copy of those accounts to the annual return filed with the Companies Registration Office (CRO) within nine months of the year end. The financial statements must be audited and the auditor's report attached, with some exceptions for small firms. Full annual financial statements are required under the Prospectus Regulations, Transparency Regulations and Companies legislation, when read with the applicable accounting standards (see Principle 18). *Interim repor*ts. Only certain issuers with securities admitted to trading on RMs or

[10] "Admitted to trading" means admitted to trading on a regulated market situated or operating within an EU or EEA member state and whose home state is Ireland (Transparency Regulation 4(1)).

	traded/quoted on the ESM of the ISE are subject to interim disclosure requirements. The Transparency Directive, as transposed by the Transparency Regulations, contain specific requirements regarding the publication of half yearly financial statements within 60 days (Reg. 6) of the period end by issuers with equity, closed-end investment funds or retail debt securities admitted to trading on an RM. Equity issuers must also publish interim management reports that include a general description of the financial position and performance of the issuer during the relevant period, a description of important events that have occurred during the first 6 months of the financial year (including the impact of such events on the firm's financial statements) and a description of the principal risks and uncertainties for the remaining 6 months of the financial year (Reg. 8 and 9). The ISE's rules for ESM companies require interim financial statements to be sent semi-annually to shareholders within three months of the period end (ESM Rules for Companies, Rule 18). No interim reporting requirements are imposed on other public issuers. *Shareholder meeting material*. The Companies Act 1963 requires a company whose shares are admitted to trading on an RM to include full information on matters relating to shareholder voting on its website, both before and after its annual general shareholders meeting (s. 133A). The information required to be provided to shareholders of other companies is very limited. *Advertising*. The Prospectus Regulations requires that advertising relating to offers to the public is clearly recognizable as such and is not inaccurate or misleading. When a prospectus is required, the advertising must declare where it can be obtained and the advertising messages must be consistent with the prospectus. It is not permitted to provide selective material to certain investors (Reg. 74). Market intermediaries and other regulated entities must comply with advertising monitoring requirements set out under the relevant legislation, including the Consumer Protection Code 2012; MiFID Regulations; the European Communities Consumer Credit Agreement Regulations 2010; and Consumer Credit Act, 1995. A dedicated team within the Central Bank's Consumer Protection Directorate (CPD) monitors financial services advertisements proactively (monitoring media advertisements daily) and reactively (referrals- staff in their capacity as consumers, consumers, stakeholders, regulated entities and other supervisory teams). As consumers may make key decisions in real time based on advertising, the CPD acts quickly in either requiring amendments to advertising that it believes is not in compliance with advertising rules or, in some cases, requiring withdrawal of the advertisement. A prospectus must contain all information which, according to the particular nature of the issuer and of the securities offered to the public or admitted to trading, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor (Prospectus Regulations, Reg. 19). In addition the rights attaching to the securities – voting, dividends, interest, etc. – must be made clear (EU Regulation 809/2004). *Material changes*. The MAD Regulations stipulate that information about an issuer with securities admitted to trading on an RM must be made public without delay if such information, were it to be made public, would be likely to have a significant effect on the prices of financial instruments or related derivative financial instruments (Reg. 33). No specific guidance has been issued regarding the meaning of 'without delay' but in practice

	it is understood to mean 'immediately'. The information must be disclosed in a manner that enables fast access and complete, correct and timely assessment of the information by the public. The MAD Regulations only apply to financial instruments admitted to trading on an RM in a member state of the EU. They do not apply to issuers with financial instruments traded only through an MTF or off an organized market. The ISE rules for ESM issuers and companies with debt listed on the GEM require disclosure of material changes without delay. Companies law does not contain any equivalent 'prompt disclosure' obligations on companies generally. Notice of a change in auditors is required, but the reporting period is not timely. The Companies Act 1963, deals with the appointment, resignation and removal (with replacement by another) of auditors. If a company wishes to remove an auditor it must pass a resolution at annual general meeting. In accordance with Section 161A and 161B of the Companies Act 1963, as amended by Regulation 62 of the Statutory Audit Regulation, both the auditor and the company are required to notify IAASA within 1 month if there is a change in auditor, whether by resignation or removal from office. The CRO must be given notice by the auditor and/or the company within 14 days (Companies Act 1990, s. 183). Neither the listing rules at the ISE or other requirements (such as the Transparency Regulations) expressly mandate faster disclosure unless the information is deemed to be price sensitive in which case such information would be required to be released to the public without delay. *Timeliness of information*. Under the Prospectus Regulations, the prospectus must be delivered to the potential investors in a timely fashion. For offers of securities to the public or admission to trading on an RM, an approved prospectus must be made available to the public "as soon as practicable and in any case, at a reasonable time in advance of, and at the latest at the beginning of, the offer to the public or the admission to trading of the securities involved," or in the case of an initial public offer of a class of shares not already admitted to trading that is to be admitted to trading for the first time, at least 6 working days before the end of the offer (Reg. 44). EU Regulation 809/2004 requires provision of more recent unaudited financial information when the audited financial statements included in a prospectus for public offerings are not current. For example, for equity issuers or retail debt issuers, if the prospectus is dated more than nine months after the end of the last audited financial year, the prospectus must include interim financial information covering at least the first six months of the current financial year. This interim information is not required to be audited. *General Disclosure* The Prospectus Regulations requires a prospectus to contain all information necessary to allow an investor to make an informed assessment of the assets and liabilities, financial position and profits and losses of the issuer (Reg. 19). Material omissions of information are allowed only in limited instances pursuant to Regulations 24-26, however, not when the omission of such information is misleading. See the discussion below under Derogations. *Review of continuing disclosure*. IAASA examines whether the annual and half-yearly reports of issuers, within the remit of the Transparency Directive and whose home member State is Ireland, have been drawn up in accordance with the relevant reporting framework; this includes the management report included in annual reports and interim

	managements reports included in half-yearly reports. The Central Bank reviews the content of the Interim Management Statements prepared by equity issuers to ensure that the disclosures required by the Transparency Regulations have been met. The ISE also actively monitors disclosures made by issuers on all three of its markets for compliance with the continuing obligations requirements in the relevant rule books of the ISE. *Sufficiency, Accuracy, Timeliness and Accountability* Under the Prospectus Regulations, no offer of securities to the public may be made and no securities shall be admitted to trading in the jurisdiction without publication of a prospectus that has been approved by the Central Bank (Reg. 12 and 13). The Central Bank will not approve a prospectus unless it is satisfied that the disclosure complies with the applicable requirements of Irish prospectus law (Reg. 37). The Prospectus Handbook includes detailed checklists of information that must be included in a prospectus. The draft prospectus submitted to the Central Bank must be accompanied by completed forms indicating where the required information is set out. The Central Bank uses the four-eyes principle in reviewing prospectuses submitted to it for approval. All prospectuses are reviewed and approval is granted only after the Central Bank is satisfied regarding the sufficiency, timeliness and clarity of the disclosure. Accuracy is checked on a best efforts basis. The prospectus is also reviewed to ensure consistency and completeness of disclosure between the issuer's annual reports and the prospectus and that any transactions or activities proposed to be funded by the issue are capable of being completed with the proceeds. To date the Central Bank has imposed sanctions under the Prospectus Regulations on two issuers of debt securities. Trading in the issuers' listed securities was suspended pursuant to Reg. 83(b) and 88. The directions to suspend were issued by the Central Bank to the ISE, as the relevant RM, as the Central Bank was of the opinion that the issuers' situations were such that continued trading would be detrimental to investors' interests. One of these directions was issued in September 2008 regarding trading in Lehman Brothers debt instruments. The Prospectus Regulations requires the issuer, offeror, any person seeking admission to trading, promoter, and any persons who have authorized the contents of the prospectus (and any other persons named in the prospectus as being responsible) to take responsibility for the contents of debt prospectuses. For equity prospectuses, the issuers' directors are also required to take responsibility for the information (Reg. 31). Under the Investment Funds, Companies and Miscellaneous Provisions Act, 2005, the issuer, offeror, any person seeking admission to trading, promoter, and any persons who have authorized the contents of the prospectus (and any other persons named in the prospectus as being responsible) are liable for damages to all persons who acquire any securities on the faith of a prospectus for the loss or damage they may have sustained by reason of any untrue statement or any omission of information required by EU prospectus law to be contained in the prospectus (s. 48). Issuers with securities admitted to trading on a RM are subject to the Transparency

	Regulations that impose liability to pay compensation to any person who acquired the issuer's securities and suffered a loss as a result of any untrue or misleading statement in a publication or the omission from such publication (Reg. 12). Further sanctions may be imposed by the Central Bank, including the suspension of securities from trading on the RM where the disclosure requirements, in content or timeliness, are not met. Failure to make timely material change disclosure may also attract civil or criminal penalties under the MAD Regulations. *Derogations* The Prospectus Regulations provide that a prospectus may omit information that would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the investment. Information may also be omitted if such information is contrary to the public interest, of minor importance or if such information pertains to a Member State as guarantor of the securities (Reg. 25 & 26). Specific permission must be granted by the Central Bank and the bank must be satisfied that one of these grounds is fulfilled. The Prospectus Regulations allow for the suspension of trading or an offer to the public if the provisions of the Prospectus Directive have not been complied with (Reg. 82). There are requirements and sanctions under the companies law and the MAD Regulations to prevent persons with undisclosed information about an issuer or its securities trading on that information. See the discussion under Principle 36. *Cross-Border Matters.* Public offerings by foreign issuers are not common in Ireland, however, admission to trading on the RM of the ISE by foreign issuers is significant. Foreign issuers conducting public offers in Ireland or having their securities admitted to trading in Ireland are required to comply with the disclosure requirements contained within the Prospectus Regulations. Following the admission to trading of their securities on the RM of the ISE, a foreign issuer will also be obliged to comply with the requirements of the Transparency Regulations. However a number of exemptions (specifically in relation to the filing of periodic financial information) will apply to issuers of wholesale debt securities.
Assessment	Partly implemented
Comments	The initial disclosure requirements for an offer of securities to the public are satisfactory. The continuous disclosure requirements thereafter are limited. • The reporting deadline for annual audited financial statements under the Transparency Regulations as prescribed by EU law (120 days) for issuers admitted to trading on an RM is slow when measured against reporting practices in major markets outside the EU. The six to nine month timeframe under companies law for issuing audited financial statements that applies to other public companies is extremely long. • Beyond the requirements for annual financial statements, there are limited continuing disclosure requirements that apply to public issuers other than those listed on an RM or as set out in the ESM and GEM rules for issuers on those markets; there are no requirements for interim financial statements and no

	material change reporting for these other issuers. • A change of auditor only must be notified within a month of the change; it is not specifically identified as a material change requiring immediate disclosure. If the information is deemed to be price sensitive, it would be required to be released to the market without delay. • No one is responsible for review of any of the continuing disclosure of issuers who offered securities to the public but whose securities are not admitted to trading on an RM or traded/quoted on the ESM or GEM. All companies that have issued shares to the public should be subject to continuing disclosure requirements, regardless of their status as a listed company. Larger companies should be expected to issue their audited financial statements in a maximum of 90 days; smaller issuers may be given somewhat longer. The reporting period for interim statements of ESM companies should be shortened from three to two months at the longest. A change in auditor should always be considered to be a material change giving rise to an immediate obligation for all public companies to inform the relevant authorities – IAASA, ODCE, ISE and the Central Bank. Some ISE issuers routinely disclose preliminary financial statements – summary financial statements based on the to-be-published full financial statements but without the auditor's report – earlier than the applicable four or six month deadline, which the assessors believe could raise issues of inaccurate disclosure and confusion for investors. To date, the ISE reports that the publication of preliminary statements of annual results is in accordance with the requirements in the Listing Rules.
Principle 17.	Holders of securities in a company should be treated in a fair and equitable manner.
Description	As discussed under Principle 16, there are sharp distinctions between the provisions that apply to companies whose securities have been admitted to trading on an RM and those that may have issued shares to the public, but are not so listed. The rules relating to shareholder rights and information for the latter group are generally governed on an on-going basis only by companies laws that impose significantly lower requirements. In some cases, these companies laws requirements are supplemented for issuers listed on the ESM or GEM. The Transparency Regulations and MAD Regulations generally only apply to companies with securities admitted to trading on an RM.[11] The Takeover Rules apply to public companies incorporated in Ireland any of whose securities are admitted to trading (or were admitted to trading at anytime within the last five years) on a market regulated by a recognized stock exchange e.g., the Irish Stock Exchange, London Stock Exchange, New York Stock Exchange, or NASDAQ. *Rights & Equitable Treatment of Shareholders* *Rights to vote for election of directors*. Under the Companies Acts 1963-2012 and common law, the procedures for appointment of directors are typically set out in the constitutional documents (articles) of the company. Standard-form articles provide for the retirement of directors by rotation at each Annual General Meeting, and for the election of directors to

[11] See the prior footnote regarding amendments proposed amendments to the market abuse regime.

	fill such vacated office(s). All holders of the same class of shares must be given the same voting rights. *Changes in share terms.* The memorandum and/or articles of a company commonly contain a procedure for modifying rights attaching to shares or a class of shares. In the absence of such a provision, a modification may only be carried out after the approval of a resolution passed by at least 75% of the shareholders entitled to vote at a meeting of shareholders of that class (i.e., via a special resolution). *Other fundamental changes.* A special resolution is required to alter a company's articles or memorandum of association that set out the fundamental constitutional aspects of the company. There are no general provision in companies law that require shareholder consent place where the company proposes sell a material part of the business. However, under Chapter 7 of the ISE Listing Rules, a detailed circular must be prepared, cleared with the ISE and sent to shareholders for a large transaction and the transaction must be approved by the shareholders at a meeting called for that purpose. Smaller transactions must just be notified to the shareholders.[12] *Notice of meetings*. Sections 133 and 133A of the Companies Act 1963 provide for a 21 calendar day meeting notification period. A 14-day notification period may be approved by company members for shareholder meetings other than annual general meetings or ones at which a special resolution is being considered. Under the Transparency Regulations, issuers of shares and debt securities are required to inform holders of the time and place of the meeting, agenda and rights of the holders (Reg. 27 and 28). These timing requirements are supplemented for issuers admitted to trading on an RM with general requirements on what the notice must contain and that mandate posting of full materials on the company website during the 21 day notice period (s. 133A). The Listing Rules for the MSM and the ESM Rules contain requirements relating to information that must be contained in circulars that are sent by issuers to security holders prior to meetings. Depending on the nature of the matter that security holders are being asked to vote on, the ISE may review and approve the relevant circular prior to its publication and distribution to security holders. No equivalent provision exists for other public issuers. *Appointment of proxy*. Under the Companies Act 1963, any member of a company entitled to attend and vote at a meeting of the company must be entitled to appoint another person (whether a member or not) as the member's proxy to attend and vote and the appointed proxy has the same right as the member to speak at the meeting and to vote on a show of hands and on a poll (s. 136). Shareholders must be registered on the company's register of shareholders to be entitled to vote. For a company traded on an RM, a proxy can be appointed by written notification to the company and the company may provide for participation in a general meeting by electronic means. The Transparency Rules provide that an issuer of shares traded on an RM must ensure that a proxy form: • is sent with the notice convening a meeting of holders of shares to each person entitled to vote at the meeting; • allows the shareholder to vote for or against all resolutions intended to be

[12] The ESM rules apply similar disclosure requirements on issuers traded on that market.

	proposed, other than procedural resolutions; • states that a shareholder is entitled to appoint a proxy of his own choice and that it provides a space for insertion of the name of the proxy; and • states that if it is returned without an indication as to how the proxy is to vote on any particular matter, the proxy may exercise discretion as to whether, and if so how, to vote. The Transparency Rules do not provide any detailed guidance on what must be included in the notice. *Ownership registration*. While shares in a limited company whose securities are traded on the ISE must be freely transferable, the rights of shareholders in private companies to transfer shares may be more restricted as there are limits on the number of shareholders a private company may have. Under the Companies Act 1963, a company must keep a register of its members that contains prescribed information (s. 116) and an index must be maintained and updated regularly that contains sufficient information to enable the account of each member in the register to be readily found (s. 117). The register and index must be available to members without charge. *Dividend payments.* Once a final dividend is declared on a share, that shareholder is entitled to receive that amount on each fully paid share held. If the dividend is not paid, the shareholder can sue the company for arrears in the same way as any ordinary creditor may sue for a debt. *Accountability for breaches of the law*. When an offence is committed under the MAD Regulations by a body corporate and is proved to have been committed with the consent or approval of or is attributable to willful neglect on the part of any director, manager, or officer of the body corporate, that person as well as the body corporate is guilty of an offence and is liable to sanction. Under corporate law, a director is under a fiduciary duty to act in the best interests of the company and not to act outside the powers of the company or in an illegal manner. If directors act in breach of company law or the memorandum and articles of association, they may be personally liable for such acts. *Bankruptcy or insolvency*. A common shareholder has a common law right to any residual value after all debts have been paid. Once the creditors and expenses of the liquidator have been paid, any remaining funds are returned to the shareholders in proportion to their shareholdings, unless the articles of association provide otherwise. *Obligations to Provide All Material Information Necessary for Investment or Voting Decisions*. *Shareholder meetings*. The notice timing requirements noted above are supplemented for issuers traded on an RM with general requirements on what the notice must contain and that mandate posting of full materials on the company website during the 21 day notice period (s. 133A). No statutory requirement mandates provision of equivalent information by other public companies to their members. There are also obligations imposed under Company Law and the Transparency Regulations that focus on disclosure of holders' rights, particularly changes in holders' rights, but this disclosure largely mandates notices and filings after the rights have changed, not prior notice.

	Takeover Bids and Other Change of Control Transactions. Takeover Rules have been published by the Irish Takeover Panel (the Panel) under the powers granted to it by the Irish Takeover Panel Act 1997 and by the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 (S.I. No. 255 of 2006) (Takeover Regulations). The Takeover Rules have the force of law and are administered by the Panel. The Panel has the power to issue rulings and directions which themselves have the force of law. Its members are representatives of those professionally involved in the securities markets and in the field of takeovers. The Panel is designated under the Takeover Regulations as the competent authority for the purpose of the regime. The Takeover Rules apply to "relevant companies" - public companies incorporated in Ireland whose shares are, or have in the previous five years been, traded on the Irish Stock Exchange, including the ESM, The London Stock Exchange (including AIM), The New York Stock Exchange or NASDAQ. The Minister for Enterprise, Trade and Employment can designate other exchanges if he feels it necessary to do so. Under section 1 of the Irish Takeover Panel Act 1997, "takeover" means: • any agreement or transaction (including a merger) whereby or in consequence of which control of a relevant company is or may be acquired; or • any invitation, offer or proposal made, or intended or required to be made, with a view to concluding or bringing about such an agreement or transaction; The term "control" in relation to a relevant company is defined as "the holding, whether directly or indirectly, of securities of the company that confer, in aggregate, not less than 30 per cent. (or such other percentage as may be prescribed by the Takeover Panel) of the voting rights in that company." The takeover regime applies both to voluntary takeover offers and mandatory takeover offers. Under Takeover Rule 9, where a person acquires voting securities which, if taken together with securities held by concert parties, amount to 30% or more of the voting rights of a relevant company, a general offer must be made to all shareholders. The obligation to make an offer is also imposed where a person, or persons acting in concert, who holds 30% or more of the voting rights in a relevant company, increases that holding by 0.05% or more in any 12 month period. A mandatory bid offer is also required under Rule 37 where control is acquired or increased following the redemption or purchase by a company of its own securities. The Takeover Rules provide a framework within which takeovers are conducted and are aimed at ensuring that takeovers (including takeover bids as defined in the Takeover Regulations) and other relevant transactions comply with the principles (General Principles) set out in the Schedule to the Takeover Panel Act 1997. These Principles are: 1. All holders of the securities of an offered of the same class must be afforded equivalent treatment; moreover, if a person acquires control of a company, the other holders of securities must be protected. 2. The holders of the securities of an offeree must have sufficient time and information to enable them to reach a properly informed decision on the offer; where it advises the holders of securities, the board of the offeree must give its views on the effects of implementation of the offer on employment, conditions of employment and the locations of the offeree's places of business. 3. The board of an offeree must act in the interests of the company as a whole and

must not deny the holders of securities the opportunity to decide on the merits of the offer.

4. False markets must not be created in the securities of the offeree, of the offeror or of any other company concerned by the offer in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted.
5. An offeror must announce an offer only after ensuring that he or she can fulfill in full any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration.
6. An offeree must not be hindered in the conduct of its affairs for longer than is reasonable by an offer for its securities.
7. A substantial acquisition of securities (whether such acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.

The obligation to make an announcement of an offer arises:

- immediately after a firm intention to make an offer has been notified to the target Board of Directors, regardless of the attitude of that Board of Directors;
- immediately after an obligation to make a mandatory offer arises;
- where, following an approach, the target is the subject of rumor and speculation or there is untoward movement in its share price;
- when, before an approach is made to the target, it is the subject of rumor and speculation or there is untoward movement in its share price and there are reasonable grounds for believing that the bidder's actions or intentions are behind such movement;
- when negotiations or discussions are about to be extended beyond a restricted number of people (Rule 2.2).

A bidder may only announce a firm intention to make an offer when it and its financial adviser are satisfied that the bidder is able, and will continue at all relevant times to be able, to implement the offer; that is, has secured financing for the bid (Rule 2.5(a)).

The announcement of a firm intention to make an offer is made under Rule 2.5 of the Takeover Rules. The Rules require the bidder to include certain fundamental details of its proposed offer in the firm bid announcement. In particular, the firm bid announcement must include:

- the basic terms of the offer (e.g. amount and form of consideration);
- the identity of the bidder;
- details of any target shares in which the bidder (or anyone acting in concert) has an interest;
- details of any irrevocable undertakings obtained by the bidder;
- the conditions to the offer;
- details of any break fee agreed to by the target;
- where cash comprises some or all of the offer consideration, confirmation by the bidder's financial adviser that resources are available to the bidder sufficient to satisfy full acceptance of the offer (Rule 2.5(b)).

Offer conditions (and pre-conditions) must be objective and cannot be drafted to permit the bidder to exercise subjective judgments.

A detailed offer document must be issued to shareholders of the target within 28 days of

	the announcement. This document is generally in the form of a lengthy circular which includes letters from the buyer and the target, the full terms of the offer and financial information relating to the target and, in the case of a securities exchange offer only, the buyer. The offer document will be accompanied by an acceptance form that target shareholders must complete and return if they wish to accept the offer (Rule 30.2). Under the Takeover Rules, any bid must be conditional on the bidder acquiring shares carrying more than 50% of the voting rights of the target (Rule 9.2(b)(i)). The bidder has up to 60 days from the posting of its offer document to satisfy this condition, unless the timetable is extended by the Panel, for example, in the event of delays in obtaining any necessary regulatory consents. It is usual in Ireland for the acceptance condition to be set at 80% for an ESM/AIM quoted company and 90% for a company listed on the MSM, as the bidder will need to obtain these levels of acceptances in order to trigger the compulsory acquisition procedures. *Mandatory Offer*. A bidder is obliged to make a cash offer for additional securities to reach legal control of the company (i.e. 50%+1 voting shares) in a target if any of the following apply: • it (or any persons deemed to be acting in concert with it) acquires a holding of 30% or more of the voting rights of the target; • its holding (or its holding combined with any persons deemed to be acting in concert with it) of less than 30% of the voting rights increases to 30% or more; or • its holding (or its holding combined with any persons deemed to be acting in concert with it) of 30% or more, but less than 50%, of the voting rights increases by more than 0.05% of the aggregate percentage voting rights in that company in any 12-month period (Rule 9.1). *Price*. Any mandatory bid must be for cash, or include a full cash alternative. An offer price for general bids cannot be less than the price paid by the bidder (or persons acting in concert with the bidder) for shares in the target in either the: • three-month period before the commencement of the offer period; or • 12-month period before the commencement of the offer period, if the Panel believes that this period is more appropriate in the circumstances and directs accordingly. Similarly, if during an offer period a bidder, or any person acting in concert with it, acquires shares or other securities in the target at a price greater than the offer price, the bidder will have to increase its offer (Rule 9.4) Also, a cash offer or cash alternative must be made where the bidder, or any person acting in concert with it, has purchased offer-type securities in the target for cash, during the 12 months before the commencement of the offer period, which confer in the aggregate either: • 10% or more in nominal value of the issued securities of that particular class; or • less than 10% in nominal value of the class being purchased in circumstances where the Panel feels such a course of action is just and proper (Rule 9.1). The cash offer or alternative must be made at a price that is not less than the highest price paid in the relevant period.

	Takeover Rule 16, which deals with special arrangements with favorable terms, provides that, except with the consent of the Panel, neither a bidder nor any person acting in concert with it may, either during an offer period or when an offer is reasonably in contemplation, make any arrangement with any shareholder or intending shareholder of the target which involves a dealing in, or acceptance of an offer for, or otherwise relates to, shares in the target, if there would be attached to such arrangement a term favorable to such shareholder or intending shareholder or any other person which is not being extended under the offer to all shareholders of the target. If any requirement of Takeover Rule 16 is not observed, the Panel may direct the bidder or any person acting in concert with it to provide similar value to other acceptors of the offer. Further, there is a general requirement in both of the Listing Rules and the Transparency Regulations that all shareholders must be treated equally. *Timing* The Takeover Rules set out a timetable for the conduct of takeover offers bids. The principle behind this is that the interests of all of the target, its shareholders and the bidder should be balanced. The target company should not be subject to an excessive period of siege; the bidder should be given sufficient time to make its offer and persuade target company shareholders of its merits; and shareholders should be given time and information to make reasoned decisions. The timetable is triggered by the Rule 2.5 announcement that contains the material terms of the offer. The bidder then has 28 days within which to post its formal offer document. The rest of the timetable then follows from that posting date. The earliest first closing date permitted is 21 days after the posting of the formal offer document (or 7 weeks after the first announcement.) An offer will lapse if the buyer has not obtained the minimum level of acceptances that it requires as a condition of the offer by 5 pm on day 60. *Target Directors' Duties*. A member of the Board of Directors must ensure that he/she observes his/her fiduciary duty to the company and that he/she acts honestly and bona fide in the best interests of the company. The Takeover Rules and its general principles provide that Board of Directors of a target in advising shareholders must act only in their capacity as members of the Board of Directors and not have regard to their personal interests (Rule 3.1). The Takeover Rules also prohibit the Board of Directors from engaging in frustrating actions, such as issuing new securities or disposing of material assets (Rule 21.1). The board of the target company is required to obtain independent advice on the offer and is required to send a circular to shareholders setting out the substance of that advice and the board's view on the offer (Rule 3.1). The respective Boards of Directors of the bidder and target are responsible for any documents issued to shareholders in connection with an offer, which must state that the bidder or target Board of Directors (as the case may be) accept responsibility for the information (which includes opinions) contained in the document and that, to the best of their knowledge and belief (having taken all reasonable care to ensure this is the case), the information is accurate and does not omit anything important. It is typical to include this so-called "responsibility statement" in offer announcements, as well as offer documents (Rule 19.2). *Squeeze-outs.* The applicable rules for compulsory purchase of minority shareholders'

	shares depend on whether or not the target is a company to which the EU Takeover Directive applies. *EU Takeover Directive companies.* The bidder can compulsorily acquire minority shareholdings under Regulation 23 of the Takeover Regulations. To do this, it must have acquired at least 90% (in value and voting rights) of those shares subject to the takeover bid. The bidder has three months from the last closing date of the offer in which to give notice to the remaining shareholders that it intends to exercise its rights under Regulation 23. Once a notice has been served, each shareholder has 21 days to apply to court. If a court application is made, the compulsory acquisition will be delayed until the outcome of that application, including any appeal. There is no time limit within which the court application must be dealt with. *Other companies.* The bidder can compulsorily acquire minority shareholdings under section 204 of the Companies Act 1963. To do this, it must have acquired 80% of the shares subject to the bid within four months of the publication of the offer. If it already holds 20% or more of the shares in the target, it must acquire 80% in value of the remaining target shares and also receive acceptances from at least 75% in number of the holders of the target shares subject of the offer. The bidder then has a further two months in which to give notice to the remaining shareholders that it intends to exercise its rights under section 204. Once a notice has been served, a dissenting shareholder has one calendar month to apply to court. If a court application is made, the compulsory acquisition will be delayed until the outcome of that application, including any appeal. There is no time limit within which the court application must be dealt with. *Other relevant rules that may apply.* In addition to the Takeover Panel Act, the Regulations and the Takeover Rules, other provisions may have an impact on a public takeover in Ireland. These include: ISE Listing Rules. If the target is listed on the ISE, the Irish Listing Rules will be relevant. The Irish Listing Rules contain requirements concerning the content of information to be given to shareholders and, depending on the size of the takeover, the need for shareholder approval. They will also apply if any new shares issued by the bidder are to be admitted to listing on the ISE (Listing Rules, 7.5.1, 10.4.3 and Appendix 1). Also, if new shares are to be issued by the bidder, the Prospectus Regulations will apply. Substantial acquisition rules. Further, the Panel has published the Substantial Acquisition Rules, 2007 (the SARs) which set limits on how quickly persons may increase their interests in voting securities of a relevant company. If a person acquires more than 10% of the voting shares (or rights over voting shares) of a relevant company in seven days or less and that acquisition results in the person owning between 15% and 30% of the voting rights of a relevant company, then the person is subject the SARs regime (Rule 3). Further acquisitions are prohibited during that seven day period unless they fall into one of the specified exceptions, such as a purchase from a single seller, a formal tender offer or as part of a formal take-over bid (Rules 4 and 5). The SARs also require disclosure of acquisitions of voting securities, or rights over voting securities, relating to such holdings by noon the day after reaching 15% and any transaction thereafter that results in an increase in the person's holdings (Rule 6(a)). A tender offer is a formal offer to purchase up to a maximum number of voting securities. The maximum number offered for must not take the person across the 30% ownership

	threshold (Rule 7.1). A person who publishes a tender offer (whether it is made on the ISE or elsewhere) must do so by paid advertisement in two Irish national daily newspapers. The advertisement is subject to the prior approval of the ISE or the Panel. The offeror must give the Panel, the ISE and the relevant company securities of which are the subject of the tender offer a notice containing the information specified at least 7 days before the day on which the tender offer closes. This information includes: • the name of the buyer; and its broker/agent • the name of the company concerned; • the maximum number of securities and the corresponding proportion of voting capital offered for; • the fixed or maximum price; • the buyer's present holding of securities of the company concerned (including securities not conferring voting rights), specifying the number and type of securities; • the closing day and time for the tender offer; and • the arrangements for tendering securities and for delivery and settlement (on a basis approved in advance by the ISE or the Panel as appropriate (Rule 7.3). The buyer must treat all holders of securities who tender on equal terms and the Rules contain fair provisions for allocating purchases among tenderers if the offer is oversubscribed (Rule 7.2). Any acquisition that results in the person (and anyone acting in concert with that person) holding voting securities or rights over voting securities in aggregate carrying 30% or more of the voting rights of the company triggers the provisions of the Takeover Rules and likely will trigger the a mandatory offer requirement under Rule 9 of those rules. The SARs are administered by the Panel together with the Takeover Rules. The Panel Executive is available for consultation on the application of the SARs, and rulings and directions relative to the SARs will be given by the Panel on application by interested parties or on its own initiative. *Disclosure of Shareholdings* There is an array of provisions in Irish law that requires substantial shareholders and others to disclose their shareholdings in issuers. Different groups are caught, at differing ownership thresholds and the reporting is subject to different timing requirements. The policy rationale for such differences is not clear, but on discussion with the authorities and market participants, there is no particular pressure to simplify these regimes. *Substantial Shareholdings*. EU Regulation 809/2004 requires prospectus disclosure of major shareholders and entities that control the issuer. For example, see Annex I item 18.1 for shares, which requires disclosure of "the name of any person other than a member of the administrative, management or supervisory bodies who, directly or indirectly, has an interest in the issuer's capital or voting rights which is notifiable under the issuer's national law, together with the amount of each such person's interest or, if there are no such persons, an appropriate negative statement." Under the Transparency Rules, a person is obliged to notify an Irish incorporated entity that is listed on the MSM (not the ESM) each time that person's percentage of voting

	rights in the company (held directly or indirectly) reaches, exceeds or falls below any of 3%, 4%, 5%, and every 1% threshold thereafter. When any of these thresholds are reached, the target and the Central Bank must be notified within 2 trading days and the company itself must notify the markets by the end of the next trading day following receipt of the notification. If the issuer is incorporated other than in Ireland, the equivalent reporting thresholds are 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75% (Transparency Rule 7.1). Under the Companies Acts, a person is required to notify a company of an acquisition of 5% or more of an interest in the company's share capital within 5 business days of the acquisition. The company will also need to be notified within 5 business days of the acquisition by an existing substantial (i.e., 5% plus) shareholder, of every movement to 6% and every whole percentage point thereafter. Interest is broadly defined and means an interest of almost any kind in voting shares. Where an obligation to give notice of an acquisition exists under both the Transparency Rules and the Companies Acts, a person only needs to comply with the obligations under the Transparency Rules (i.e. two separate notifications are not required). There are various anti-avoidance provisions contained in the legislation that impose notification obligations where members of a group or persons under common control acquire the shares, where persons have entered into arrangements regarding the acquisition of the shares, and where an interest of any nature in the shares is being acquired. In addition, under the companies legislation a company may at any time require a person to reveal the extent of its interest in company. Under the SARs when the 15% threshold is reached and in the case of all subsequent increases to or beyond any whole percentage thereafter, notice must be made by noon on the following business day to the Takeover Panel, the ISE, and the target. During an offer period, the Takeover Rules impose greater disclosure of dealings to increase market transparency. The bidder and the target and their respective associates have to disclose all dealings in relevant securities, irrespective of size, by 12 noon on the following business day. Other persons interested in 1% or more of any class of relevant securities must also disclose any dealings by 12 noon on the following business day. *Directors and senior management*. Under Companies Act 1990, a director or secretary[13] of a company must notify the company of certain events that resulting in a change of the person's holding of interests in the company (s. 53). These events include: • any event that results in the person becoming or ceasing to be interested in shares or debentures of the company or any of its subsidiaries, parent company or affiliates; • entering a contract to sell any such shares or debentures; • assigning a right granted to him by the company to subscribe for shares or debentures of the company; and • the grant to him by a subsidiary, parent company or affiliate of the company of a right to subscribe for shares or debentures of that other body corporate, the

[13] The Listing Rules also require notices of interests held by a "connected person" of a director, which is broader than the extended notification obligation under section 53. A "connected person" is a spouse, parent, brother, sister or minor child of a director, person acting as trustee of a trust in which the principal beneficiary is the director, spouse, his children or any body corporate which he controls or a partner of that director.

	exercise and/or assignment of such right. The notice must state the number or amount and class of shares or debentures involved (s. 53(2)). Disclosure of this information must be made in 5 days (s. 56). A company is required to keep a register of directors' interests with the register of members and the register must be available for inspection by members of the public and available for inspection at the AGM. Under s. 63, information on these positions must also be included in the annual directors' report required under s. 158 of the Companies Act 1963. Under EU Regulation 809/2004, a wider group of persons must disclose their interests in the prospectus. The prospectus must disclose shareholdings and stock options held by: • members of the administrative, management or supervisory bodies; • partners with unlimited liability, in the case of a limited partnership with a share capital; • founders, if the issuer has been established for fewer than five years; and • any senior manager who is relevant to establishing that the issuer has the appropriate expertise and experience for the management of the issuer's business (Annex I item 17.2). In addition, "persons discharging managerial responsibilities" (PDMRs) with respect to an issuer (and their close associates) must notify the Central Bank when they carry out transactions in that issuer's financial instruments (Market Abuse Rules 7.2 and 7.3). These notice requirements only apply to issuers admitted to trade on an RM. *Enforcement Infrastructure*. The Prospectus Regulations, Transparency Regulations and MAD Regulations, which are all based on a full disclosure regime, provide the Central Bank with the power to impose sanctions for prescribed contraventions of legislation or regulatory rules. For example, under Part 10 of the Transparency Regulations, sanctions may be imposed if the Central Bank establishes that a breach of the obligation to disclose holdings that cross one of the thresholds set out in the Transparency Regulations and Rules has taken place. These sanctions include: (a) a private or public caution or reprimand, (b) a monetary penalty not exceeding €2.5 million, (c) disqualification from being involved in management of a regulated entity, (d) a direction to desist from committing breach, and/or (e) a direction to pay costs. Further, the ODCE has been established to encourage and enforce compliance with Companies Acts requirements. The powers granted to the ODCE include the power to initiate criminal prosecutions on indictment. For example, a director who fails to give the company notice within the stated time frames of events which result in the director holding interests in the company may be prosecuted on indictment (Companies Act, 1990, s. 53). The Takeover Panel may advise, admonish or censure such person in relation to their conduct and may publish the fact that it has done so. The Panel may also bring proceedings and prosecute for offences under Section 11(5) of the Takeover Panel Act (failure to appear before a hearing when summoned, failure to take an oath or affirmation or to answer questions before the Panel, failure to produce documents when required, giving false evidence, hindering the Panel in the conduct of a hearing) and section 17(3) of the Takeover Panel Act (breach of the statutory obligation of professional secrecy). Where the Panel rules that serious breaches of the Rules have occurred, it may also bring the conduct of the parties to the notice of relevant professional or regulatory bodies or other

	appropriate authorities. Sanctions may be administered by the Panel pursuant to its powers under section 10 of the Takeover Panel Act following an enquiry into the conduct of any person. In the last 14 months, the Panel issued one public censure, one private admonishment and one private censure. The public censure related to a breach by a company of Rule 40 as a result of its failure to notify the Panel as required of two acquisitions constituting a reverse takeover transaction under the Rules. The private admonishment related to a failure by a company to include in an announcement and a circular a supporting opinion by a named independent valuer in connection with a valuation. This constituted a breach of Rule 29.1. The private censure related to a failure by bidder to consult the Panel as required by Rule 2.2(e) in advance of broadening its discussions on a potential offer to include more than a very restricted number of people. *Cross-Border Issues* Issuers of retail securities domiciled outside the EU must include a statement in the prospectus setting out general information about the corporate governance requirements of its country of origin and such whether the issuer complies with these requirements. If the issuer does not comply, the issuer must include a statement explaining its non-compliance.[14] To be listed on the ISE, issuers whose home jurisdiction is outside the EEA must be bound by duties of periodic disclosure of public information as determined by the relevant EU legislation and/or the relevant rules of the ISE. Issuers from EEA Member States are considered to be subject to an equivalent regime, as they are subject to harmonized prospectus and disclosure requirements under the applicable EU directives.
Assessment	Broadly implemented
Comments	Most of the requirements under this Principle are met. However, as under Principle 16, the limitations in the laws regarding continuing disclosure create some gaps. For example, there are very limited information requirements related to shareholder meetings that apply to issuers other than those with securities admitted to trading on an RM. The ability of those shareholders to make informed decisions may thereby be hampered. There should be detailed guidance provided on the information that must be included in any materials sent to shareholders in connection with a shareholder meeting and those requirements should apply to all public issuers. The 21 day notice period for shareholder meeting may pose some practical challenges for foreign shareholders unless the issuer has implemented electronic voting facilities. Otherwise, it may be difficult to receive the materials, make an informed decision, execute the proxy and get that back to the issuer in advance of the meeting date. There are extensive disclosure requirements for substantial shareholders, officers, directors and other parties. However, the trigger thresholds vary, as do the persons caught, the timing applicable to the disclosure, the associates who must be included and the relevant

14 See Item 11.2 of Annex IV of EU Regulation 809/2004 (the Prospectus Regulation). This requirement applies to domestic and foreign issuers provided the securities issued have a denomination of less than €100,000 (i.e., retail securities). The requirement does not apply to wholesale issuers.

	securities (or transactions) that must be disclosed. Only some of the requirements apply to public issuers that are not admitted to trading on an RM. While none of the participants consulted seemed bothered by this array of requirements, it is inefficient; potentially confusing and the distinctions are unjustified from a policy perspective. Consideration should be given to rationalizing and simplifying the requirements. The regime should apply equally to all public issuers.
Principle 18.	Accounting standards used by issuers to prepare financial statements should be of a high and internationally acceptable quality.
Description	The Prospectus Regulations and EU Regulation 809/2004 require audited financial statements in a prospectus. For example, Annex I, item 20.1 of EU Regulation 809/2004 requires "audited historical financial information covering the latest 3 financial years" for equity issuances and Annex IV, item 13.1 requires "audited historical financial information covering the latest 2 financial years" for retail debt issuances. Further, the ISE Listing Rules set out the obligations to include audited financial statements when listing debt securities (Rule 13.2.4), derivative securities (Rule 15.3.8) and equity securities (Rule 3.3.3 (1)). Debt and derivatives require two years' information, while equity listings require three years information. The Transparency Regulations contain specific requirements for publication of annual reports by issuers with equity, closed-end investment funds or retail debt securities admitted to trading on an RM. The annual report must be made available within four months of the issuer's year-end. The annual report must include the audited financial statements, a management report and responsibility statements. The responsibility statements set out that to the best of the signee's knowledge, the financial statements give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer. The management report includes a fair review of the development and performance of the business with a description of the principal risks. The issuer is responsible for all information published. (Transparency Reg. 4 and 5). The Transparency Regulations do not require issuers of wholesale debt securities admitted to trading on an RM to publish annual reports or interim financial statements. For other issuers that are companies or groups, the Companies Act 1963 requires them to disclose details of their accounts at the Annual General Meeting and to attach a copy of those accounts to the annual return filed with the Companies Registration Office (CRO) within nine months of the year end. The financial statements must be audited and the auditor's report attached, with some exceptions for small firms. Entities regulated by the Central Bank cannot make use of the small firms audit exemption. Full annual financial statements are required under the Prospectus Regulations, Transparency Regulations and Companies legislation, when read with the applicable accounting standards (see below). *Interim reports*. Only certain issuers are subject to interim disclosure requirements. The Transparency Regulations contain specific requirements regarding the publication of half yearly financial statements within 60 days (Reg. 6) of the period end by issuers with equity, closed-end investment funds or retail debt securities admitted to trading on an RM. Equity issuers must also publish interim management reports that include a general description of the financial position and performance of the issuer during the relevant period, a

	description of important events that have occurred during the first 6 months of the financial year (including the impact of such events on the firm's financial statements) and a description of the principal risks and uncertainties for the remaining 6 months of the financial year (Reg. 8 and 9). The rules for ESM companies require interim financial statements to be sent semi-annually to shareholders within three months of the period end (ESM Rules for Companies, Rule 18). No interim reporting requirements are imposed on other public issuers. *Contents of Financial Statements*. In Ireland, European Communities (International Financial Reporting Standards and Miscellaneous Amendments) Regulations 2005 (SI No 116/2005) requires that the audited annual financial statements of issuers preparing consolidated accounts be prepared in accordance with IFRS as endorsed by the EU. IAS 1 *Presentation of Financial Statements*, paragraph 10 states that a complete set of financial statements comprises a statement of financial position, a statement of profit or loss and other comprehensive income, a statement of changes in equity and a statement of cash flows. For issuers not required to prepare consolidated accounts[15], the audited annual financial statements must include accounts prepared in accordance with national law of the Member State in which the issuer is incorporated (Transparency Regulations, Reg. 4(4)(b)). In Ireland's case, this means either: • IFRS Accounts using IFRS as endorsed by the European Union if the issuer so elects[16]; or • Companies Act Accounts prepared in accordance with the formats and accounting rules of Irish company law and U.K. and Irish Generally Accepted Accounting Principles (GAAP). U.K. and Irish GAAP are the accounting standards comprising the Financial Reporting Standards (FRS) issued by the Financial Reporting Council (FRC) in the U.K. FRS are promulgated in Ireland by the Institute of Chartered Accountants in Ireland (ICAI). FRS are largely converged with IFRS. Companies Act accounts are prepared in accordance with FRS as published by the FRC. The accounts prepared under IFRS and FRS use different terminology for the different elements of the accounts but both are very comprehensive and comprise: • Statement of Financial Position (IFRS)/ Balance Sheet (U.K. and Irish GAAP); • Statement of Comprehensive Income (which may be in one or two parts)(IFRS)/ Profit and Loss Account and Statement of Total Recognised Gains and Losses (STRGL) (U.K. and Irish GAAP);

[15] An Irish parent company is exempt from the requirement to prepare group accounts if it, together with its subsidiaries, meets the size and other criteria set out (European Communities (Companies: Group Accounts) Regulations 1992, Reg. 7). The exemption applies if the parent and subsidiaries together meet two of the following three conditions:

- The amount of turnover for that year does not exceed €15,236,858;
- The balance sheet total for that year does not exceed €7,618,428; and
- Average number of employees does not exceed 250.

The exemption does not apply to credit institutions or insurance companies.

[16] The issuer must also to include the information required by Section 149A of the Companies Act 1963.

	• Statement of Cash flows (IFRS)/ Cash flow Statement (U.K. and Irish GAAP); • Statement of Changes in Equity (IFRS)/ Reconciliation of Total Equity (U.K. and Irish GAAP); Notes to the accounts including accounting policies and directors' report are required under both frameworks. Some issuers may be permitted to use the GAAP of other countries. • Under the Companies (Miscellaneous Provisions) Act 2009, as amended by the Companies (Amendment) Act 2012, some parent companies are permitted to prepare Companies Act individual accounts and/or group accounts in accordance with US GAAP, as modified to ensure consistency with Irish company law. • UCITS investment companies may adopt the accounting standards of the United States of America, Canada or Japan in preparing Companies Act individual accounts. For interim statements, the accounting standards permitted to be used generally require either a complete set of financial statements (as described in IAS 1) or condensed versions of each of the financial statements along with selected note disclosures (see IAS 34) or the U.K. and Irish GAAP equivalent (the Statement entitled "Half-Yearly Financial Reports" issued by the FRC)). *Comparability*. Generally, the law limits the ability of companies to change between accounting standards used. The consolidated (group) accounts of a company whose securities are admitted to trading on a regulated market in the European Economic Area must be prepared under IFRS as endorsed by the EU. International Accounting Standards (IAS) requires an entity to select and apply its accounting policies consistently for similar transactions, other events and conditions. IAS 1, paragraph 45 requires an entity to retain the presentation and classification of items in the financial statements from one period to another. However, in some circumstances changes are permitted. For example, if directors of a company prepared IFRS individual accounts or directors of a parent prepare IFRS group accounts for the parent company they cannot change back to U.K. and Irish GAAP unless there was a relevant change in circumstance e.g. the company is acquired by a parent that does not use IFRS or the company no longer has securities admitted to trading on a regulated market (Companies Act, s. 148, 150). Accounting standards applicable in Ireland are those developed by the IASB as endorsed by the EU and those developed by the FRC. The Irish Auditing and Accounting Supervisory Authority (IAASA) has Observer status at the FRC and it uses that status to provide input into matters that may be relevant to Ireland. The IFRS Interpretations Committee is the interpretative body of the IASB while the interpretation of U.K. and Irish GAAP is the responsibility of the Accounting Council of the FRC. The IASB and the U.K. FRC are internationally recognised standard-setters. In addition, the IASB standards are subject to EU endorsement before they are applied in the EU. Both the IASB and the FRC observe 'due process' in their development of accounting standards e.g. publication of Exposure Drafts, public consultations, engagement with stakeholders etc. IASB reports in to the IFRS Foundation, an independent, not-for-profit private sector organisation working in the public interest. Other aspects of the IFRS Foundation's public accountability relate to:

- The Monitoring Board - the Trustees have established a formal public accountability link to a Monitoring Board of public capital market authorities.;
- The Constitution Review - the Constitution of the IFRS Foundation requires the Trustees to undertake a formal, public, five-yearly review of the Constitution;
- Due process - a formal due process for the IASB and the IFRS Interpretations Committee ensures extensive outreach, which includes mandatory public consultation. Comment letters received in response to formal proposals are made public on the website.
- Public meetings - all meetings (other than meetings on administrative matters) of the bodies of the IFRS Foundation, including the IASB, the Interpretations Committee and its formal advisory bodies, are held in public and are webcast. Meeting notes are available to the public as observer notes.

Oversight of Continuing Financial Disclosure

Under the Transparency Regulations, the IAASA is designated as the competent authority with responsibility for examining the annual and half yearly reports published in accordance the provision of Transparency Regulations; that is, reports prepared by issuers with securities admitted to trading on an RM. IAASA examines financial statements to establish whether they are prepared in accordance with the relevant reporting framework and takes action where they find breaches.

At year-end 2012, 142 issuers fell within IAASA's financial reporting examination remit. This was made up of 25 equity issuers, 30 fund issuers and 87 debt issuers. The equivalent figure for 2011 was 146 issuers.

Issuer category	**Number of issuers in category**	**Half-yearly financial reports issued per yr.**	***Annual financial reports issued per yr.***	**Total Number of periodic financial reports issued per annum**
Equity	25	25	25	50
Fund	30	30	30	60
Debt	87	67	87	154
Total	**142**	**122**	**142**	**264**
Total at 31 December 2011	146	130	146	276

Source: 2012 IAASA Annual Report.

IAASA determines which financial reports to select for review and the scope of that review based on risk factors. IAASA believes that smaller issuers face more risks in the current economic climate and have, potentially, more limited resources to manage the financial and reporting challenges facing them.

Depending upon the risk factors identified and other relevant considerations, examinations undertaken by IAASA can be broadly categorised as being:

- **Full Scope Examinations** These examinations comprise an examination of the selected financial report for compliance with the recognition,

measurement, classification, presentation and disclosure requirements of the relevant reporting framework;

- **Focused Examinations** These examinations involve the examination of a particular aspect (or aspects) of the selected financial report;
- **Follow-up Examinations** These are examinations which examine a previously examined issuer's financial report for the purpose of assessing the adequacy of the issuer's responses to matters previously raised (for example, with a view to determining whether an issuer's directors have honoured undertakings previously provided to IAASA);
- **Thematic Examinations** Where IAASA undertakes examinations of the financial reporting practices adopted by a range of issuers in respect of one or more financial reporting matters. Thematic examinations undertaken to the end of 2012 include:
  - the fair value and risk disclosures provided in selected debt and fund issuers' annual financial reports;
  - the use of alternative performance measures in equity issuers' periodic financial statements; and
  - half-yearly financial reports prepared under IAS 34 (revised).
- **Topical Surveys** These ESMA-mandated surveys comprise the examination of the financial reporting treatments applied by selected issuers based on parameters set by ESMA. These surveys are desk based and limited to examining publicly published information without issuer engagement. If, as a result of its findings from these surveys, IAASA subsequently engages with an issuer, that subsequent engagement is designated as a separate full scope or focused examination as appropriate.

2012 Examination Program					
Type of Exam	**2012 Equity**	**2012 Fund**	**2012 Debt**	**2012 Total**	**2011 Total**
Examination of annual financial reports	16	4	9	29	27
Examination of half-yearly financial reports		1	1	2	12
Thematic Examinations					
Half-yearly reports (IAS 34)	10			10	
Alternative Performance Measures	20			20	
Debt and fund issuers - fair value and risk disclosures					20
IAS 19 (Employee Benefits)	21			21	
IAS 36 (Asset Impairment)	10			10	
Source: 2012 IAASA Annual Report.					

Under Transparency Regulations (Reg. 44) where it appears to IAASA that there is, or may be, a failure by an issuer whose home Member State is Ireland to ensure that a published annual or half-yearly financial report complies with the relevant reporting framework, IAASA may give notice to the issuer and the directors of such issuer specifying:

- the matters in respect of which it appears to IAASA that the information fails to comply with the relevant reporting framework; and
- a period of not less than 30 days within which the issuer shall either:
  - provide IAASA with a written explanation of the information; or
  - prepare revised information.

If, at the end of the period specified in the notice, or such longer period as IAASA may permit:

- the issuer has not revised the information; and
- IAASA, having considered any explanations, information or documents provided, remains of the opinion that the information does not comply with the relevant reporting framework.

- IAASA may give a direction to the issuer requiring the issuer and/or its directors to do one or more of the following:

- revise the annual or half-yearly financial report, as applicable, in accordance with instructions of IAASA as specified in the direction;
- publish the revised information in the same manner as required by the Regulations and to make any consequential amendments to the annual or half-yearly financial reports published in accordance with instructions of IAASA as specified in the direction;
- publish notice of the direction given by IAASA in a format, and containing such information, as is specified by IAASA in the direction;

- pay costs specified in the direction, being costs incurred by IAASA in examining and reviewing the financial reports.

There is a review program for routine non-financial disclosure undertaken by the Central Bank and the ISE if the company is listed on the MSM or ESM. In addition, IAASA has a remit over certain aspects of an issuer's management report for annual financial reports and interim management report for half-yearly financial reports. However, there is no review program for the continuing disclosure of other public issuers.

Foreign Issuers. Financial statements prepared in accordance with IFRS can be used by non-EU issuers in prospectuses approved under the Prospectus Regulations. The consolidated accounts of EU issuers admitted to trading on a regulated market in the EU must be prepared in accordance with IFRS.

In addition, EU Regulation 809/2004 (Reg. 35) specifies certain accounting standards as equivalent to IFRS as adopted by the EU for the purposes of inclusion in prospectuses. Non-EU issuers who have their securities admitted to trading on an EU RM are required to produce financial reports either on the basis of IFRS or on the basis of a third country's national accounting standards equivalent to those standards or IFRS. The EU Commission has identified US GAAP, Japanese GAAP, Chinese GAAP, Canadian GAAP and Korean GAAP as equivalent to IFRS and has accepted financial statements using the GAAP of India

	within the EU for financial years starting before 1 January 2015.[17]
Assessment	Fully implemented
Comments	See the comments under Principle 16; the downgrade for weaknesses in the disclosure regime, including the timing of publication of financial reports is taken into account there. See also the comments on the practice of issuing preliminary financial reports before the audited annual statements are available.
Principles for Auditors, Credit Ratings Agencies, and Other Information Service Providers	
Principle 19.	Auditors should be subject to adequate levels of oversight.
Description	Requirements relating to auditing are set out in the 'Accounts and Audit' sections in Part V of the Companies Act 1963 (as amended), in Part X of the Companies Act 1990 and in the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. 220 of 2010) (Statutory Audit Regulations), which implemented the European Communities (Statutory Audits) Directive (2006/43/EC) in Ireland. The auditing, independence and ethical standards applicable in Ireland are based on international standards (see discussion under Principles 20 and 21). The framework of oversight of auditors is based on the Auditing and Accounting Act, which established the Irish Auditing and Accounting Supervisory Authority (IAASA), and the Statutory Audit Regulations. The Statutory Audit Regulations include provisions dealing with: • the approval of auditors; • professional ethics and other requirements applicable to auditors; • auditing standards and reporting; • quality assurance of auditors' work; • systems of investigations and penalties; • public oversight of auditors; and • audit committees. There are two levels of bodies responsible for oversight of the quality and implementation of audit, independence and ethical standards in Ireland. The first is the Prescribed Accountancy Bodies (PABs) that are the primary supervisors of their members (auditors, accountants and students) under the constitutional documents (e.g., by-laws, standards) of each PAB. IAASA is responsible for the exercise of effective, independent oversight of how the 'Prescribed Accountancy Bodies' (PABs) exercise supervision of all their members. The by-laws of each PAB must be approved by IAASA. A PAB is any accountancy body that comes within IAASA's supervisory remit and there are currently nine PABs. Six of the nine PABs are also Recognized Accountancy Bodies (RABs). A RAB is a body that has been recognized for the purposes of the Statutory Audit Directive Regulations and Section 187 of the Companies Act 1990. RABs are permitted to register or license their members/member firms to practice as auditors. RABs are

[17] See Commission Implementing Decision 2012/194/EU at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:103:0049:0050:EN:PDF

	responsible for the monitoring (i.e. quality assurance processes and monitoring of compliance with professional standards etc.) of their members and member firms, including Statutory Auditors. IAASA's role is to supervise the manner in which the RABs meet their monitoring responsibilities. Each RAB has arrangements in place to monitor its members and member firms. The Auditing and Accounting Act sets out IAASA's objectives, functions and powers which provide, inter alia, that IAASA's principal functions relating to the supervision of the PABs include: • granting approval to the PABs' constitutional documents (such as their charters, articles of association and by-laws) and other related rules, regulations, codes and standards applying to their members, and to all proposed amendments to these instruments; • supervising the operation of the PABs' investigation and disciplinary processes and, if considered necessary, conducting its own inquiries following the receipt of a complaint or on its own initiative; and • supervising the manner in which the RABs monitor their members and member firms (s. 8, 9 and 10). All accountants, including auditors, are required to comply with minimum qualification and on-going requirements, as members of PABs. Admission to PAB membership requires applicants to satisfy various criteria, which typically include: • successfully completing the relevant PAB's professional examinations; • obtaining a minimum period of relevant supervised work experience; and • undertaking to comply with the relevant PAB's bye-laws, rules, regulations, codes of ethics and conduct etc. There are additional criteria that have to be met by members in order to engage in public practice, such as • arranging Professional Indemnity Insurance cover; • putting in place practice continuity arrangements whereby, in the event of an interruption of a practice (for example, in the case of illness or death), clients will continue to be served; and • having a minimum level of post-membership experience. In order to provide audit services, a member or firm of a RAB must satisfy the company law and Statutory Audit Regulations requirements of minimum qualifications, competence and continuing professional education, and the relevant RAB's additional criteria. These RAB criteria usually include: • an audit qualification for any individual who proposes to sign an audit report; and • sufficient and appropriate audit experience. IAASA is an independent statutory body. The governance of IAASA is performed by the board of directors made up of 14 directors (appointed by the Minister for Jobs, Enterprise and Innovation) and the Chief Executive Officer. Three directors are nominated jointly by

	the PABs, two by the Minister (one of whom is the Chairman) and the rest by various designated bodies, including the Central Bank.[18] No more than four (excluding the Chief Executive Officer) out of the total of 15 can be members of a PAB (Auditing and Accounting Act, s. 11). IAASA is funded 40% by the State and 60% jointly by the PABs, by way of a mandatory annual levy on those bodies. The PABs' individual contributions to IAASA's funding are determined by reference to an apportionment model agreed by the bodies and approved by the Board of IAASA and the Minister for Jobs, Enterprise & Innovation. Under the Transparency Regulations, IAASA has been designated as the competent authority responsible for monitoring the periodic financial reporting of certain entitles whose securities are listed on an RM in the EU and for taking appropriate enforcement action in cases of infringement. This function is fully Exchequer funded via the Department of Jobs, Enterprise & Innovation. (See the discussion in Principles 16 and 18.) There are independence standards and processes for regular assessments by the RABs and IAASA to ensure the independence of auditors from the enterprises that they audit. The RABs include standards in relation to independence in their constitutional documents. The quality assurance processes of the RABs require an assessment of auditors' independence and compliance with the RABs constitutional documents and company law. (See the discussion under Principle 20.) Quality assurance is primarily the responsibility of the RABs under the supervision of IAASA. The Statutory Audit Regulations requires the RABs to put in place a system of quality assurance (Reg. 83) and the Regulations set out the requirements of the quality control system including the review process (Reg. 84). The RABs are required to organise their systems of quality assurance in a manner such that: • the system is independent of the reviewed auditors; • the funding for the system is secure and free from any possible undue influence by auditors; • the system has adequate resources; • the persons who carry out quality assurance reviews have appropriate professional education and relevant experience in statutory audits and financial reporting combined with specific training on quality assurance reviews; • the selection of reviewers for specific assignments is effected in accordance with an objective procedure designed to ensure that there are no conflicts of interest between reviewers and the auditor under review; • the scope of quality assurance reviews, supported by adequate testing of selected audit files, includes an assessment of: • auditors' compliance with applicable auditing standards and independence requirements;

[18] The other bodies include the Irish Business and Employers Confederation; the Irish Congress of Trade Unions; the Irish Association of Investment Managers; the ISE; the Pensions Board; the Revenue Commissioners; the ODCE; and the Law Society of Ireland.

	• the quantity and quality of resources spent; • the audit fees charged; and • the internal quality control system of the audit firm; • there is a written report for every quality assurance review that includes the main conclusions of the review; • a quality assurance review of each auditor takes place: • at least every three years for auditors that carry out audits of PIEs; • at least every six years for other auditors; • auditors take all reasonable steps to ensure that recommendations arising from their quality assurance reviews are implemented within a reasonable period; and • the RAB publishes, annually, the overall results of quality assurance reviews carried out by it during the year in question. The quality assurance process may include desk-top reviews of members' annual returns, desk-top reviews of members' individual client engagement files and/or periodic quality assurance visits to statutory auditors' offices by quality assurance reviewers (who are usually RAB employees that are independent of the audit teams). If an auditor fails to take all reasonable steps to ensure that recommendations arising from a quality assurance review are implemented within a reasonable period, the RAB is required to take appropriate action, including, where applicable, subjecting the auditor to its system of disciplinary actions or penalties. Both the RABs and IAASA have the authority to stipulate remedial measures for problems detected and to carry out disciplinary proceedings to impose sanctions on auditors and audit firms. These sanctions include reprimands, penalties (and the requirement to pay the RAB's costs) and exclusion from membership of the RAB. The RABs have these powers under their respective by-laws. The Auditing and Accounting Act gives IAASA the power to: • impose sanctions on PABs where IAASA is not satisfied that their approved investigation and disciplinary procedures have been complied with, including the power to annul all or part, of a PAB's decision relating to an enquiry performed by it; • direct a PAB to conduct an investigation or a fresh investigation into a matter; • impose a fine not exceeding €125,000 (or such other amount as may be prescribed by the Minister); and • impose sanctions on a member of a PAB where the member in question is found to have committed a breach of the PAB's standards(s. 23 and 24).
Assessment	Broadly implemented
Comments	The system that is in place in Ireland to oversee the accounting and auditing profession entails more overlap and duplication than in many other countries. The IAASA oversees the PABs and RABs that then oversee their members. The PABs may also be subject to oversight by other bodies, such as the Central Bank, the Department of Justice or the government's Insolvency Service, under other legislation for compliance with requirements on investment business, anti-money laundering, etc. This may not be the best use of scarce resources.

	The downgrade here reflects the fact that IAASA does not have the resources to fulfill its current scope of responsibilities. Further, IAASA is subject to the constraints on spending that apply government-wide and does not have the ability to step outside the civil service salary rules to hire specific expertise, either on a project or permanent basis, which makes meeting its resource needs even more difficult.. In addition, with new legislation proposed in terms of direct oversight of auditors of PIEs (rather than indirectly through the RABs) and new requirements from the EU, additional resources and greater freedom of action in staffing functions is needed.
Principle 20.	Auditors should be independent of the issuing entity that they audit.
Description	The standards applicable to independence of external auditors are contained in legislation - Regulation 41 and Part 7 (Regulations 70 – 78) of the Statutory Audit Regulation - and in FRC's Ethical Standards (ES) together with the ethical pronouncements developed by the auditor's relevant RAB. In order to be said to be complying with ethical requirements the auditors are required to put in place internal systems, controls and processes to protect their independence. Regulations 70 -78 of the Statutory Audit Regulations prescribe the independence rules when carrying out a statutory audit. These rules outline the: • Requirement for Independence — General; • Prohibited Relationships — Specific Provisions to Secure Independence; • Additional Requirements in Case of Public-Interest Entities; • Threats to Independence and Other Information to be Recorded; • Non-Intervention by Certain Persons in Execution of Audit; • Restrictions with Regard to Fees; • Additional Reporting and Other Requirements in Case of Public-Interest Entities; • Rotation of Key Audit Partner in Case of Public-Interest Entities; • Moratorium on Taking up Management Position in Audited Public-Interest Entity. Examples of auditor independence requirements are: • auditors must be independent of the entity they are auditing and shall not be involved in the decision-making of the entity (Regulation 70); • Prohibited relationships – an auditor shall not carry out an audit in circumstances where certain relationships exist between the auditor (or a Network firm to which they belong) and the audited entity (Regulation 71). The relationships in question are any direct or indirect financial, business, employment or other relationships (which may include the provision of additional non-audit services) from which an objective, reasonable and informed third party would conclude that the auditor's independence is compromised. In general there is no outright prohibition on auditors and reporting accountants providing other services to their clients. Instead they use a 'threats' and 'safeguards' approach in assessing whether any relationship or circumstances could be perceived as compromising their integrity, objectivity and independence. FRC's ES deal with threats to an auditor's independence and gives examples of

	'safeguards' which are actions or measures that may eliminate threats or reduce them to an acceptable level. The Statutory Audit Regulations set out this 'threats' and safeguards' approach, including the requirement that if the significance of the threats compared to the safeguards applied is such that the auditor's independence is compromised, then the auditor shall not carry out the audit in question (Reg. 71(3)). Before the audit firm accepts a proposed engagement to provide a non-audit service to an audit client, the audit engagement partner is required to consider whether it is probable that a reasonable and informed third party would regard the objectives of the proposed engagement as being inconsistent with the objectives of the audit of financial statements (ES 5, para. 17). The partner must identify and assess: • the significance of any related threats to the auditors' objectivity, including any perceived loss of independence; and • the effectiveness of the available safeguards to eliminate the threats or reduce them to an acceptable level. ES 5 provides guidance and discusses the threats and possible safeguards relating to a list of types of non-audit services. A broad range of relationships and circumstances may create threats. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a professional accountant's compliance with the fundamental principles of integrity, objectivity, professional competence and due care; confidentiality and professional behaviour. Threats fall into one or more of the following categories as set out in FRC's ES 1 (December 2011) - for Auditors and FRC's ES for Reporting Accountants (October 2006): • Self-interest threat exists when the auditor/reporting accountant has financial or other interests which might cause them to be reluctant to take actions that would be adverse to the interests of the audit firm or any individual in a position to influence the conduct or outcome of the audit/engagement; • Self-review threat exists when the results of a non-audit/other engagement service performed by the engagement team or by others within the firm are reflected in the amounts included or disclosed in the financial statements or other public document – there is a threat that an accountant will not appropriately evaluate the results of a previous judgment made or service performed by the accountant/firm or employing organisation, on which the accountant will rely when forming a judgment as part of providing a current engagement; • Management threat exists when an auditor/reporting accountant takes decisions that are properly the responsibility of the client's management. The accountant may become too closely aligned with the views and interests of management and his objectivity and independence may be impaired; • Advocacy threat arises when an auditor/reporting accountant or their firm undertakes work that involves acting as advocate in an adversarial context; the accountant might promote a client's or employer's position in the adversarial context to the point that his/her objectivity is compromised; • Familiarity threat that arises due to a long or close relationship with a client or employer, the accountant will be too sympathetic to their interests or too accepting of their work and will be predisposed to accept, or are insufficiently questioning of, the client's point of view; and • Intimidation threat where that accountant will be deterred from acting objectively

	because of actual or perceived pressures, including attempts to exercise undue influence over the professional accountant or where the auditor/reporting accountant's conduct is influenced by fear or threats. Each of the categories of threat may arise in relation to the accountant or his or her connected persons such as family members, partners or persons who are close to the accountants for some other reason, for instance by reason of a past or present association, obligation or indebtedness. In order to address such threats, audit firms are required to apply safeguards. Appropriate safeguards may include: • Removing (rotating) the partners and the other senior members of the engagement team after a pre-determined number of years; • involving an additional partner, who is not and has not recently been a member of the engagement team, to review the work done by the partners and the other senior members of the engagement team and to advise as necessary; • applying independent internal quality reviews to the engagement in question. Also, an Ethics Partner must be appointed with responsibility for the adequacy of the audit firm's policies and procedures relating to integrity, objectivity and independence, for compliance with the Ethical Standards and for effective communication to partners and staff, including to those involved in the provision of non-audit services. *Public Interest Entities* The Statutory Audit Regulations impose additional requirements on the audits of PIEs (i.e. listed companies, credit institutions and insurance undertakings but not securities intermediaries),[19] which include: • Rotation of Key Audit Partner(s): There must be rotation of the key audit partner(s) of a PIE after a period of seven years. However, this prohibition ceases to have effect two years after the seven year period (i.e. after a two year cooling off period) (Regulation 77); • Moratorium on taking up a management position in an audited PIE: there is a prohibition on an auditor of a PIE taking up a management position in the PIE concerned before a period of two years has elapsed from the day following his or her resignation as auditor or Key Audit Partner from the audit engagement (Regulation 78); • Reporting to the Audit Committee: an auditor of a PIE must report to the PIE's Audit Committee on key matters arising from the audit and, in particular, on material weaknesses in internal control in relation to the financial reporting process (Regulation 91(8)); and confirm annually, in writing, to the PIE's Audit Committee his, her or its independence from the PIE; and disclose annually any additional services provided to the PIE; and discuss with the Audit Committee the threats to the independence of the auditor and the safeguards applied to mitigate

[19] The definition in SARs of PIE encompasses:
(a) entities admitted to trading on a RM;
(b) Credit institutions as defined in Directive 2000/12/EC;
(c) Insurance undertakings within the meaning of Directive 91/674/EEC.

	those threats (Reg. 76). The FRC's ES are more stringent on partner rotation requirements. The audit engagement partner must rotate every five years and there is a five-year cooling off period before that partner may act for that PIE. Further, auditors of PIEs are required to publish Transparency Reports on their websites within 3 months of the audit firm's year-end. The Transparency Report must detail matters such as: • a description of the legal and governance structure and ownership, including any 'network' relationships; • a description of its internal quality control system and a statement by the administrative or managerial body on the effectiveness of its functioning; • an indication of when the last quality assurance review took place; • a list of public-interest entities for which the firm has carried out audits during the preceding financial year; • a statement concerning the firm's independence practices which also confirms that an internal review of independence compliance has been conducted; • a statement on the policy followed by the firm concerning the continuing education of auditors; • financial information showing the significance, from the perspective of the market, of the firm, such as the total turnover divided into fees from the audit of annual and group accounts, and fees charged for other assurance services, tax advisory services and other non-audit services; and • information concerning the basis for the remuneration of the principals or partners (Statutory Audit Regulations, Reg. 58, 60 and 61). The Statutory Audit Regulations require PIEs to establish audit committees of which at least two members must be independent. Its responsibilities include the monitoring of the audit of the annual and consolidated accounts and the review and monitoring of the independence of the auditor or audit firm and in particular the provision of additional services to the audited entity (Reg. 91). Additionally, the auditor of a PIE is required to make certain disclosures to the PIE's audit committee: • to confirm annually in writing his independence from the PIE; • to disclose annually any additional services provided to the PIE; and • to discuss with the audit committee the threats to his independence and the safeguards applied to mitigate those threats as documented by him (Reg. 76). Additionally the ISE promotes best practice corporate governance by the companies on its markets. Under the Listing Rules of the ISE, Irish incorporated companies listed on the MSM are required to apply on a 'comply or explain' basis (1) the U.K. Corporate Governance Code published by the Financial Reporting Council (Principle C3 and supporting provisions deal with Audit Committees and auditors); and (2) the Irish Corporate Governance Annex (primary listed companies only). Principle C.3.1 recommends

	that the board should establish an audit committee of at least three, or in the case of smaller companies two, independent[20] non-executive directors. Notice of a change in auditors is required, but the reporting period is not timely (other than for auditors of certain regulated financial service providers who have a duty to report in writing without delay to the Central Bank their intention to resign). The Companies Act 1963, deals with the appointment, resignation and removal (with replacement by another) of auditors. If a company wishes to remove an auditor it must pass a resolution at annual general meeting. In accordance with Section 161A and 161B of the Companies Act 1963, as amended by Regulation 62 of the Statutory Audit Regulation, both the auditor and the company are required to notify IAASA within 1 month and the CRO within 14 days if there is a change in auditor, whether by resignation or removal from office. Neither the listing rules at the ISE, nor other requirements (such as the Transparency Regulations or Rules) expressly mandate faster disclosure. The auditor of a regulated financial services provider also has a duty, under financial services legislation or 'prescribed enactments', to report certain matters to the Central Bank (including his intention to resign or not to seek re-election and/or his intention to issue a qualified audit report). *Enforcement* Compliance with auditor independence standards and other professional standards (including FRC's ES) are dealt with by RABs' quality assurance staff, who must be independent of the audit staff. The RABs' quality assurance processes include desk-top reviews of members' annual returns, desk-top reviews of members' individual client engagement files and periodic quality assurance visits to auditors' offices. RABs must establish formal complaints handling and investigation and disciplinary processes. Disciplinary hearings are required to be open to the public. Information on the regulatory activities of the PABs is published in their annual reports. A summary of their activities is provided by IAASA in its annual report prior to 2012 and in a new report entitled "Profile of the Profession" for 2012. The IAASA summaries set out (by RAB and PAB) the number and nature of complaints and sanctions imposed. The penalties that may be imposed by the IAASA for a breach of a PAB's standards include the possibility of withdrawal of approval under the Statutory Audit Regulations. It also has powers under Section 24(7) of the Auditing and Accounting Act to:

[20] The board should determine whether the director is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director's judgement. These factors include if the director:

- has been an employee of the company or group within the last five years;
- has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
- has received or receives additional remuneration from the company apart from a director's fee, participates in the company's share option or a performance-related pay scheme, or is a member of the company's pension scheme;
- has close family ties with any of the company's advisers, directors or senior employees;
- holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;
- represents a significant shareholder; or
- has served on the board for more than nine years from the date of their first election.

	• impose on the member any sanction to which the member is liable under the approved constitution and by-laws of the PAB (including a monetary sanction), and • impose a requirement to reimburse the costs incurred in investigating and determining the case The fact that a sanction has been imposed on the member by IAASA is to be disclosed to the public.
Assessment	Fully implemented
Comments	A change in auditor should be considered to be a material change giving rise to an immediate obligation for all public companies to inform the relevant authorities – IAASA, the CRO and the Central Bank.
Principle 21.	Audit standards should be of a high and internationally acceptable quality.
Description	Annual financial statements must be audited according to Companies legislation (the Statutory Audit Regulations and the Companies Acts 1963 to 2012) and must be audited in accordance with International Standards of Auditing (U.K. and Ireland) as issued by the FRC (ISA (U.K. and Ireland)). The ISAs (U.K. and Ireland) are based on International Standards of Auditing (ISAs). ISAs are professional standards for the performance of financial audits of financial information. These standards are issued by International Federation of Accountants (IFAC) through the International Auditing and Assurance Standards Board (IAASB). For the purpose of accounting and auditing standard-setting, the U.K. and Ireland are seen as one unit with the same standards applying to both. The FRC has augmented the international standards with additional requirements to address specific U.K. and Irish legal and regulatory requirements and guidance that are appropriate in the U.K. and Irish national legislative, cultural and business context. For example, ISA (U.K. and Ireland) 250 contains an additional Section B 'The auditor's right and duty to report to regulators in the financial sector' which is not addressed in ISA 250 issued by the IAASB. This additional material is clearly differentiated from the original text of the international standards by the use of grey shading. ISAs (U.K. and Ireland) are often referred to locally as 'ISAs Plus'. As indicated by the FRC in the pre-amble to ISA (U.K. and Ireland) 700, audit firms that comply with the requirements of the ISAs (U.K. and Ireland) are able to assert compliance with the ISAs issued by the IAASB. Failure to apply these standards may result in disciplinary action from the auditor's RAB and/or IAASA. One of the responsibilities of IAASA is to "co-operate with the prescribed accountancy bodies and other interested parties in developing auditing and accounting standards and practice notes" (Auditing and Accounting Act, s. 9). IAASA carries out this task through its role at the Audit and Assurance Council of the FRC, where it has permanent observer status. The Audit and Assurance Council reports to the U.K. FRC. The FRC is the independent body responsible for setting auditing and ethical standards for auditors in the U.K. and Ireland. Also, the Audit and Assurance team at FRC that supports the Audit and Assurance Council seeks to ensure that the FRC point of view is appropriately considered by the IAASB, through actively participating in the development of the IAASB's

	international standards and guidance that are relevant to the FRC's remit. The FRC is an independent body whose Codes, Standards and Guidance are subject to public consultation. Additionally, its budgets and work plans are subject to public consultation annually. Its Audit and Assurance Standards are based on those of the IAASB. The IAASB is an independent standard-setting body that serves the public interest by setting high-quality international standards for auditing, quality control, review, other assurance, and related services, and by facilitating the convergence of international and national standards. The IAASB sets its international standards under the oversight of the Public Interest Oversight Board, and with the advice of the IAASB's Consultative Advisory Group, which provides public interest input into the development of the standards. See the discussion of the enforcement activities of the RABs and IAASA set out under Principle 20.
Assessment	Fully implemented
Comments	
Principle 22.	Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and on-going supervision.
Description	ESMA is the direct supervisor of CRAs in Europe. The following is based on an assessment of ESMA conducted by the IMF in December 2012. All information is as of that date. Credit ratings are used in Ireland for the purposes of determining risk weights under the standardized approach for calculating the capital requirement for credit risk for financial intermediaries. The Central Bank recognized credit quality assessments issued by CRAs as external credit assessment institutions. Pursuant to the CRA Regulation, ESMA is responsible for the supervision of CRAs whose ratings are used for regulatory purposes in the EU. To this end CRAs are subject to registration by ESMA based on a series of requirements established in the CRA Regulation. ESMA also has ongoing supervisory powers, including the power to inspect CRAs. *Registration Requirements* The CRA Regulation provides ESMA with the authority to obtain all information it deems necessary from a CRA seeking registration in order to determine whether the requirements for registration have been fulfilled. As part of any application for registration, the applicant is expected to provide detailed information and evidence as to how it demonstrates compliance with the applicable requirements of the EU CRA Regulation. The content and format is provided for in the annexes of EU CRA Regulation. CESR (now ESMA) published Guidance in connection with the registration process, which sets out seven areas of requirements: (i) General Organization and Governance; (ii) Internal Controls; (iii) Business Activities and Resources; (iv) Conflicts of Interest; (v) Rating Process and Methodology; (vi) Disclosures and (vii) Endorsement. All documents related to these seven areas have to be provided in the form of policies and procedures. *Quality and integrity of ratings*

	The EU Regulation requires that CRAs put in place written procedures and methodologies providing for a fair and thorough analysis of all information relevant to credit analyses. In particular, CRAs are required to use rating methodologies that are "rigorous, systematic, continuous and subject to validation based on historical experience, including back-testing." CRAs are also required to put in place procedures for permanent monitoring as well as regular updates of credit ratings as new information becomes available. The EU Regulation also requires that a credit rating agency establish a review function responsible for periodically reviewing its methodologies, models and key rating assumptions, such as mathematical or correlation assumptions, and any significant changes or modifications thereto as well as the appropriateness of those methodologies, models and key rating assumptions where they are used or intended to be used for the assessment of new financial instruments. *Record keeping* The EU CRA Regulation includes several requirements concerning internal record keeping. There is a general requirement to maintain internal records of credit rating activities and to retain them for six years or the duration of the rated instrument. *Sufficiency of resources* The EU CRA Regulation sets out a requirement for CRAs to have sufficient resources in order to carry out high-quality credit assessment. Annex 2 of the Regulation describes the information to be provided in the application for registration. The list of covered areas includes "financial resources to perform credit rating activities," "staffing of credit rating agency and its expertise" and "documents and detailed information related to the expected outsourcing arrangements including information on entities assuming outsourcing functions." *Addressing Conflicts of Interest* EU Regulation requires CRAs to take all necessary steps to ensure that the issuing of a credit rating is not affected by any existing or potential conflict of interest or business relationship involving the credit rating agency issuing the credit rating, its managers, rating analysts, employees, any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control. To ensure compliance with the principle, a CRA must comply with the requirements set out in Sections A and B of Annex I. *Organizational requirements (Annex I Section A)* A CRA must have an administrative or supervisory board. Its senior management must ensure that conflicts of interest are properly identified, managed and disclosed. In addition to their overall responsibilities as members of the board, independent members of the administrative or supervisory board have the specific task of monitoring the effectiveness of measures and procedures instituted to ensure that any conflicts of interest are identified, eliminated or managed and disclosed. The compliance officer must ensure that any conflicts of interest relating to the persons placed at the disposal of the compliance function are properly identified and eliminated. The compliance officer must report regularly on the carrying out of his or her duties to senior management and the independent members of the administrative or supervisory board.

	Operational requirements (Annex I Section B) CRAs are subject to a general obligation to identify, eliminate or manage and disclose (clearly and prominently), any actual or potential conflicts of interest that may influence the analyses and judgments of their rating analysts, employees, or any other natural person whose services are placed at the disposal or under the control of the credit rating agency and who are directly involved in issuing a credit rating or approving a credit rating. *Prohibitions* The EU regulation prohibits CRAs (i) from issuing ratings when the CRA directly or indirectly owns financial instruments of the rated entity or related parties or has any direct or indirect ownership interest; or a control relationship or certain other specific types of relationships that may cause conflicts of interest, as well as (ii) from providing consultancy or advisory services to the rated entity or a related third party regarding the corporate or legal structure, assets, liabilities or activities of that rated entity or related third party. A credit rating agency may provide ancillary services. *Specific rules concerning analysts* Analysts are subject to some specific rules, including a prohibition on participating in fee negotiations, a prohibition on trading securities, requirements for analyst rotations, and a prohibition on "business contingent" remuneration. Article 7, annex 1 Section C introduces several rules for rating analysts and other persons directly involved in credit rating activities (including securities and derivatives trading by such analysts and persons and their compensation arrangements). These rules address issues that include: • Specific disclosures; • Disclosure of rated entities and related parties from which a CRA receives more than five percent of annual revenues; and • Disclosure of (i) the largest 20 clients of the credit rating agency by revenue generated from them; (ii) a list of those clients of the credit rating agency whose contribution to the growth rate in the generation of revenues in the previous financial year exceeded the growth rate in the total revenues of the credit rating agency in that year by a factor of more than 1.5 times. Any such client shall be included on the list only where, in that year, it accounted for more than 0.25 % of the worldwide total revenues of the credit rating agency at global level, and (iii) list of all ratings including the proportion of unsolicited ratings. *Transparency and timeliness* The CRA Regulation includes a general requirement to ensure timeliness on the release and distribution of credit ratings (where newly issued or for subsequent changes). A credit rating agency must disclose any credit rating, as well as any decision to discontinue a credit rating, on a non-selective basis and in a timely manner. In the event of a decision to discontinue a credit rating, the information disclosed must include full reasons for the decision. *Information on ratings* The CRA Regulation contains several requirements related to the publication of CRAs' procedures, methodologies, models and key rating assumptions. When methodologies, models or key rating assumptions used in credit rating activities are changed, the CRA must immediately disclose the likely scope of credit ratings to be affected. When

announcing a credit rating, a credit rating agency shall explain in its press releases or reports the key elements underlying the credit rating.

Historical defaults

The CRA Regulation introduces several requirements related to the publication of information about historical default rates of the CRAs' credit ratings. These requirements comprise a general obligation to disclose information on its historical performance to a central repository for CRAs managed by ESMA and an obligation of periodic disclosure (every six months) data about the historical default rates of its rating categories, distinguishing between the main geographical areas of the issuers and whether the default rates of these categories have changed over time.

Confidentiality

The CRA Regulation contains requirements designed to ensure CRAs protect non-public information. There is a general obligation not to use or share confidential information for any other purpose except the conduct of credit rating activities, and as a result the obligation to take measures to achieve such objective.

Enforcement Powers

The CRA Regulation provides ESMA with a set of enforcement powers in cases where a regulated CRA fails to meet registration requirements after its initial registration, including the power to withdraw a firm's license, if licensing requirements are no longer met. In addition, in the case of infringements of certain provisions of the Regulation, ESMA can:

- temporarily prohibit the CRA from issuing ratings with effect in the EU,
- suspend the use for regulatory purposes of ratings with effect in the EU;
- require a CRA to bring the infringement to an end;
- issue notices, and
- impose fines.

The European Commission (EC) established the amount of the fines that can be imposed. Infractions are grouped and the Regulation establishes a minimum and a maximum fine that can be imposed for each type of infringement. For the least significant breaches, the fine can range from EUR 10,000 to 50,000, while in the most significant cases, the fine ranges from EUR 300,000 to 750,000. Aggravating and mitigating factors trigger automatic increases or decreases of the fine.

Sanctions are made public after their imposition by the Board of Supervisors (BoS) of ESMA. Sanctions can be appealed to an Appeal Board. There is one Appeal Board for the three European Supervisory Authorities, composed of two experts from each sector (and their alternates). Finally, decisions of the Appeal Board can be appealed to the European Court of Justice.

Practice

Before July 2011, the registration of CRAs was under the supervision of colleges of European regulators. The bulk of CRAs including those active in Ireland were registered based on a thorough process conducted by such colleges.

Since July 2011 all registration and supervisory responsibilities concerning CRAs were transferred from the National Competent Authorities to ESMA. ESMA has a dedicated unit for the supervision of CRAs. As of December 2012, this unit had 16 staff (15 officers and

	the head of unit), with a mix of policy, market and supervisory experience. The unit is expected to grow to 26 people by the end of 2013. With the approval of the European Regulation on Credit Rating Agencies (Regulation (EU) No 462/2013 commonly referred to as "CRA3"), which becomes effective on 20 June 2013, ESMA will receive funding to hire 15 more staff. Not all of them would be assigned to this unit, as other divisions provide supporting services and therefore also require an increase in resources. There is a Technical Committee chaired by the Executive Director of ESMA, composed of National Competent Authorities and observers of the EC, the European Banking Authority and the European Insurance and Occupational Pensions Authority, which provides advice to the unit on its policy work and international cooperation. Since its establishment, the CRA Unit has conducted significant supervisory work. This work included: • Registration and certification. It provided advice and assistance to National Competent Authorities with the application process. Since July 2011 it has taken charge of the assessment of new applications, with one new CRA being registered upon application received directly by ESMA. As of December 2012, there were 18 registered CRAs and one certified CRA. There were five applications pending. • Perimeter. ESMA contacted around 30 companies the activities of which prima facie could be considered to fall under the CRA Regulation and requested explanations. It was preparing guidance on the scope of the CRA Regulation. • On-going supervision. ESMA is taking a multidimensional approach, which includes desk reviews — based on notifications of changes, complaints and other periodic data — and on-site inspections, both horizontal (thematic across several entities) and vertical (on individual entities). Last year, ESMA conducted on-site inspections of three global CRAs with a view to improving its understanding of their business models and operations and gaining expertise. As a result of such inspections, ESMA sent individual reports to each CRA with a request for changes and a plan for implementation, which ESMA is monitoring. In addition, it published a report summarizing main findings, which is available on ESMA's website. Based on the findings from these inspections it is currently conducting a review of banking rating methodologies. In addition, based on its risk analysis it decided to conduct a vertical individual on-site inspection on the internal controls of another CRA. As per the CRA Regulation, the CRA Unit must conduct inspections on all CRAs by 2014. Conducting these inspections is in the work plan of the Unit. • Development of a central repository. Pursuant to the obligations established in the CRA Regulation, ESMA developed a data repository that makes available information on past performance of ratings (six months lag) via the ESMA webpage. CRA3 will require such data to be available in real time. Another information technology tool, SOCRAT will facilitate the processing of ratings data in a standard and automatic manner to support ESMA's supervisory activities and would provide the Unit more input for its risk assessment framework. In addition, the Unit has made progress in the development of a CRA Risk Assessment Framework, as the basis to support its supervisory program, and the intensity of

	supervision of different CRAs. Overall the work program will be risk-based. The risk factors included in the framework are: environmental risk, operational risk, business model risk and governance risk. The Unit developed criteria/alerts for each type of risk, in order to foster a consistent view of risk by the officers. It is estimated that roughly 70 percent of the supervisory resources would be spent on the large CRAs; however the approach of the Unit is that there should be at least some engagement with all CRAs, even the small ones. In this regard, each CRA has been assigned a relationship manager in charge of continuous monitoring of such CRA. Feedback from the relationship managers would be one of the inputs for the risk assessment framework. Such minimum engagement would include also periodic (annual) meetings with the compliance officers of the CRAs. Once the inspections on all CRAs are concluded, it is estimated that on an on-going basis the Unit will conduct two thematic reviews and two vertical reviews per year, in addition to other supervisory work (registrations, handling of complaints, etc.). A system of internal oversight has been developed by ESMA. Medium term objectives are prepared by the staff of the CRA Unit (and discussed with the MB), and discussed and approved at BoS level. This process also applies to the annual work plan and the risk based supervisory approach. There is monitoring of implementation of the work plan via reporting to the management board and major changes to the objectives are to be reported to the BoS during the course of the year where necessary. ESMA has been active in ensuring coordination with non-EU regulators. ESMA has finalized MOUs with a number of jurisdictions including the United States, Canada, Australia, Hong Kong, Japan, Brazil, Singapore, Mexico and Argentina. In addition, ESMA has been actively involved in IOSCO's consultation on the establishment of a global "college" for CRAs. The expectation is that regulators would not only share information, but also that they would be able to conduct joint inspections. Mechanisms for public accountability are also in place. In particular, ESMA publishes a public version of the work program, an annual report, and reports following thematic reviews, such as the one published in March 2012.
Assessment	Broadly Implemented.
Comments	As stated in the description of this Principle, ESMA is the authority responsible for the supervision of CRAs used for regulatory purposes in the EU. Thus, this grade is the one assigned to ESMA. It has been assigned based on a review conducted on ESMA by the IMF in December 2012. The comments included below apply to ESMA, and not to the Irish supervisory authorities. Over the next couple years, ESMA needs to finalize the implementation of its risk-based supervisory approach for CRAs. Overall, the approach developed by the Unit is comparable to approaches taken by other regulators. In this regard, a risk-based supervisory approach is a sound way to go, provided that at least a minimum engagement is kept with the small CRAs, since they can be important in a domestic context. This is already envisioned by ESMA. Furthermore, the mission conducting the review of ESMA believes it is important that after the initial on-site inspections required by regulation for all CRAs, small CRAs are at least included from time to time in the samples for thematic on-site inspections. This would be in addition to the basic level of engagement via the relationship managers and the meetings with compliance officers. In addition, meetings with senior management of the CRAs should also be considered. Finally, it is important

	that the Unit keeps close coordination with the National Competent Authorities, as through their monitoring of issuers and market surveillance functions they can acquire information useful for the supervision of CRAs. The enforcement framework for CRAs should be reviewed. The mission conducting the review of ESMA considers positive the fact that the framework requires disclosure of the sanctions after their imposition by the BoS. However, the pecuniary sanctions that ESMA can actually impose appeared rigid and in practice could be too low to have any deterrent effect – although it is early to predict whether the publication of the sanction would suffice to alter behavior. The mission conducting the review of ESMA acknowledges that pecuniary sanctions are only one tool to influence behavior.
Principle 23.	Other entities that offer investors analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.
Description	The Central Bank undertook a review of entities not already captured by regulation during the introduction of the MiFID Regulations in 2007 and was satisfied that all analytical or evaluative services with respect to investments were captured under either MiFID or IIA and therefore would require authorization. The Central Bank has not identified any additional activities of a similar type operating in the jurisdiction and, therefore, has not conducted any subsequent review. (See also the discussion under Principle 7.) There is no evidence to date to suggest that these services have been offered other than by authorized entities. If an unauthorized entity were found to have been engaging in these activities, they would be in breach of the legislation and subject to disciplinary action. Sell-side securities analysts working for MiFID investment firms and IIA investment business firms are either subject to the conflict of interest provisions under the MiFID Regulations or under the Consumer Protection Code 2012. In both cases, the scope of the provisions is broad and requires an authorized firm to have a conflicts of interests policy in place to identify actual or potential conflicts of interest arising in relation to any of the firm's services, activities or ancillary services; sets down procedures to manage these conflicts; and where organizational or administrative arrangements (in relation to the management of conflicts of interest) are insufficient to ensure that risks of damage to client interests will be prevented, firms are required to disclose information on the conflicts of interest to the client before undertaking business on the client's behalf (MiFID Reg. 74 and 75; Consumer Protection Code, s. 3.28 – 3.36). For example, under s. 3.35 of the Code, an IIA firm must have effective Chinese walls in place to prevent conflicts of interest and inappropriate flow of information. MiFID Regulation 155 contains specific provisions in relation to the conflicts of interest that arise in the context of the provision of investment research services by MiFID investment firms. These provisions require MiFID investment firms to have in place arrangements to restrict the trading activities of financial analysts or other relevant persons engaged in the provision of investment research services. MiFID investment firms themselves, financial analysts, and other relevant persons must not accept inducements from those with a material interest in the subject matter of the research or promise issuers favorable research coverage.

	Further, under MAD Regulation 21, firms and others are required to disclose in any recommendation all relationships and circumstances that may reasonably be expected to impair the objectivity of the recommendation, in particular where the person has a significant: • financial interest in one or more of the financial instruments which are the subject of the recommendation, or • conflict of interest with respect to an issuer to which the recommendation relates. This requirement also applies to any person working for the firm who was involved in preparing the recommendation. Under the Consumer Protection Code 2012, a regulated entity must have in place and operate in accordance with a written conflicts of interest policy appropriate to the nature, scale and complexity of the regulated activities carried out by the regulated entity. The conflicts of interest policy must: • identify, with reference to the regulated activities carried out by or on behalf of the IIA investment business firm, the circumstances which constitute or may give rise to a conflict of interest entailing a risk of damage to the interests of its customers who are consumers; and • specify procedures to be followed, and measures to be adopted, in order to manage such conflicts. Where conflicts of interest arise and cannot be reasonably avoided, an IIA investment business firm must: • disclose the general nature and/or source of the conflicts of interest to the consumer. A regulated entity may only undertake business with or on behalf of a consumer where there is directly or indirectly a conflicting interest, where that consumer has acknowledged, on paper or on another durable medium, that he or she is aware of the conflict of interest and still wants to proceed; and • ensure that the conflict does not result in damage to the interests of the consumer. In both cases, the most stringent requirement is for disclosure to the client. (See also the discussion under Principle 8 on conflicts of interest and Principle 31 on conflicts and ethical standards.)
Assessment	Fully implemented
Comments	
Principles for Collective Investment Schemes	
Principle 24.	The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.
Description	In Ireland, all authorized investment funds fall within the scope of the AIFM Regulations or under the UCITS Regulations. *UCITS (Undertakings for Collective Investment in Transferable Securities)* UCITS (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 are open-ended funds and may be established as unit trusts, common contractual funds, or variable or fixed capital companies. The Central Bank is designated as the competent

	authority with responsibility for the authorization and supervision of UCITS. UCITS Regulation 17 and 18 require: The head office and registered office must be in the State; Initial capital of at least €125,000; the persons who effectively conduct the business of the UCITS management company are of sufficiently good repute and experienced; structure, organization, memorandum of association and articles, and suitability of qualifying shareholders are also considered. UCITS Regulation 42(4)(a) requires that the investment company has an initial capital requirement of at least €300,000; that it has submitted its organizational structure; and that its business is conducted by at least two persons who meet the Central Bank's fitness and probity standards. A UCITS management company is a company whose regular business is the management of UCITS in the form of unit trusts, common contractual funds or investment companies. Before authorizing a UCITS management company, the Central Bank also needs to be satisfied (under UCITS Reg. 18) with the suitability of its qualifying shareholders, the company's organizational structure and management skills, adequate staff levels and expertise. The management company is also required to have and to follow procedures and to have in place a business structure that the Central Bank can adequately supervise. *Entities authorized pursuant to AIFM Regulations* In Ireland, as in the rest of the EU, authorized investment funds, other than UCITS, fall within the AIFM Regulations. The Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD) was implemented into Irish law by the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. 257 of 2013) (AIFM Regulations), which includes in its scope the managers of alternative investment funds (AIF), including hedge funds. AIFMD is supplemented by the Commission Delegated Regulation (EU) No 231/2013 (AIFMD Level 2 Regulation) which has direct effect and does not require implementing legislation. In addition, rules set down by the Central Bank under powers available under the AIFM Regulations are contained in the AIF Rulebook. *AIFs* AIFs in Ireland are authorised under domestic investment fund legislation that allows the Central Bank to impose conditions in relation to the authorisation and supervision of the AIF. These funds are not directly subject to the AIFMD and authorised by the Central Bank in one of two categories: • A Retail Investor AIF ("RIAIF"), which may be marketed to retail investors; and • A Qualifying Investor AIF ("QIAIF"), which may be marketed to Qualifying Investors. Both categories are subject to the AIFM Regulations, the AIFMD Level 2 Regulation and the AIF Rulebook. *AIFMs* Each AIF must have an alternative investment fund manager (AIFM) that is authorized or registered under the AIFM Regulations. AIFMs are defined in the AIFM Regulations as legal persons whose regular business is managing one or more AIFs.

An AIFM can be either an Authorized AIFM or, in certain instances, a Registered AIFM.

Authorised AIFM

An "Authorised AIFM" is an AIFM that has complied with the requirements of the AIFM Regulations, the AIFMD Level 2 Regulation and the AIF Rulebook and authorised by the Central Bank. The requirements include capital requirements, risk and liquidity management, and the appointment of a single depositary and rules regarding disclosure to investors and reporting to competent authorities. The Central Bank's Fitness and Probity Regime also applies.

Registered AIFMs

A "Registered AIFM" is an AIFM that does not require authorisation and is subject only to a registration process. The AIFM Regulations allow an AIFM that falls below certain thresholds (€100 million in AIF under management or €500 million in the case of unleveraged closed ended AIF) to operate without authorisation. However, the AIFM Regulations require these AIFMs to register with the Central Bank, provide details of AIF under management on registration and report at regular intervals thereafter. Registered AIFMs are not required to comply with all the regulatory requirements that apply to an Authorized AIFM. Registered AIFMs are not permitted to passport their services to other Member States of the European Union but they can opt-in to full authorization.

The supervision of AIFMs falls under the Central Bank's PRISM framework. Conditions applicable to AIFMs in addition to those which apply from the AIFM Regulations and the AIFMD Level 2 Regulation are set out in Chapter 3 of the AIF Rulebook.

Retail Investment Funds – Assets Under Management
EUR millions

Fund Type	**2013**	**2012**	**2011**	**2010**	Growth 2010 to 2013
Money Market	297,856	297,322	287,600	359,015	-17%
Bonds	425,891	492,233	389,307	219,155	94%
Equities	329,498	295,032	260,368	267,817	23%
Hedge	93,120	95,862	82,118	61,060	53%
Mixed	119,963	122,531	96,026	80,710	49%
Real Estate	1,935	3,214	3,093	3,142	-38%
Other	66,633	72,656	50,273	37,721	77%
Total	**1,334,895**	**1,378,850**	**1,168,786**	**1,028,620**	30%

Source: Central Bank.

Non-Retail (Wholesale) Funds

	2012	**2011**	**2010**	**Growth**
Number of Funds	631	590	513	23%
No. of Funds (incl. sub-funds)	1820	1598	1422	28%
Assets Under Management (billions)	$307 (€232)	$266 (€206)	$228 (€171)	35%
AUM as % of GDP*	141	122	105	33%

* based on 2011 GDP of US$ 217.3 billion (€167.9 bn)

Source: Central Bank.

Both regulatory regimes provide detailed and exacting standards for eligibility for those who market (UCITS Reg. 7 and 100) and operate (AIFM Regs. 32-42) a CIS. The Central Bank's Fitness and Probity regime also applies.

Fund Type	**Numbers Authorized**		
	2011	**2012**	**2013***
Qualifying Investor Funds	320	367	235
UCITS (Retail)	440	360	248
Funds – Other **	17	16	8
Total	**777**	**743**	**491**
* as at 30 August 2013 ** Professional and Retail Investor non-UCITS funds			
Source: Central Bank.			

Fund Type	**Numbers Authorized**		
	2011	**2012**	**2013***
Qualifying Investor Funds	320	367	235
UCITS (Retail)	440	360	248
NU – PIF **	3	3	4
NU (AIF) – Retail ***	14	13	4
Total	777	743	491
* as at 30 August 2013 ** Professional Investor non-UCITS (AIF) funds *** Retail Investor non-UCITS (AIF) funds			
Source: Central Bank.			

The eligibility, governance criteria and standards for conduct under the UCITS and AIFM regimes are comprehensive and rigorous, and reflected, in Ireland's case, by a response in 396 paragraphs.

Honesty and integrity of the operator. UCITS Reg. 24 and AIFM Reg. 13(1) provide prescriptively that a UCITS management company and an AIFM must act honestly, fairly and with due skill, care and diligence. AIFMD Level 2 Regulation A. 21 requires the Central Bank must assess, at least: whether the governing body of the AIFM possesses adequate collective knowledge, skills and experience to understand the AIFM's activities; members of the governing body commit sufficient time to properly perform their functions; each of the governing body acts with honesty, integrity and independence of mind; the AIFM devotes adequate resources to the induction and training of members of its governing bodies. The Section 21 of the Central Bank Reform Act 2010 also applies to the authorization process to ensure the honesty and integrity of CIS operators and the powers and processes of the Bank's Fitness and Probity Regime supplements the UCITS and AIFM provisions.

	• Sufficient human and technical resources. The gist of UCITS Reg. 24(1)(c), Sch 5; AIFM Reg. 13(1), and AIFMD Level 2 Regulation A.22, 75(f) is ensuring that operators have sufficient human and technical resources and that they are effectively employed. • The financial capacity of the CIS or the operator. UCITS Reg. 17 and AIFM Reg. 10 require initial capital of at least €125,000 plus the "Additional Amount" (required when the net asset value of the CIS under management exceeds €250,000,000 and equals 0.02% of the amount by which the net asset value exceeds €250,000,000); or one quarter of its total expenditure taken from the most recent annual accounts. • The ability to perform specific powers and duties (the Board's responsibility. UCITS Regs Sch 5 and AIFMD Level 2 Regulation A. 7-82 set out suitably detailed organizational requirements and operating conditions for UCITS management companies and AIFMs. • Dealing with risk. The identification, monitoring and management of risks are set out in UCITS Reg. 69(1)(a), Sch 9, 5 (para. 50-53); AIFM Reg. 16, and AIFMD Level 2 Regulation A.38 and expected to be based on the size, complexity of the risk profile of the relevant CIS. Both regimes require the establishment of a risk management function. *Internal controls and compliance arrangements*. UCITS Sch. 5 (para. 39,40), AIFM Reg. 19, and AIFMD Level 2 Regulation A. 60 require the management company to establish, implement, and maintain adequate internal control mechanisms. Where a UCITS management company's financial position changes materially at any time between reporting dates, which would impact on its compliance with its regulatory capital requirements, it must notify the Central Bank immediately and take any necessary steps to rectify its position. AIFM Regulation 60(4) provides that an AIFM shall ensure that its senior management receives on a frequent basis, and at least annually, written reports on matters of compliance, internal audit and risk management indicating in particular whether appropriate remedial measures have been taken in the event of any deficiencies. • Effectively assessing compliance with eligibility criteria. The Central Bank's fitness and probity process and its PRISM ratings are employed to assess compliance. UCITS Reg. 123 gives Central Bank the necessary powers - themed inspections, analysis of annual and interim accounts, which are reviewed on a sample basis; AIFM Reg. 48-51 are also comprehensive but still to be tested. Some 8 firms have been deemed Medium-High Impact and are assessed between every two and four years. 37 firms are classified Medium-Low Impact while 202 are Low where sampling between one and eight or one in ten firms are subject to supervisory review. • Ensuring the interests of investors: UCITS Reg. 24 and AIFM Reg. 13 are intended to address the same concerns as key question 2(a): Honesty and integrity. • International cooperation: UCITS Regs 133, 136, and 137 cover cooperation with other Member States while AIFMD Reg. 54 applies to competent authorities. (See the discussion under Principle 28, Cooperation and Coordination) • Regulatory monitoring. UCITS Reg. 121 and AIFM Reg. 45 make the Central Bank the competent authority while UCITS Reg. 123 and AIFM Regs 48-51 invest it with the necessary supervisory and investigative powers. The depositary is obliged to

	inform the Central Bank of all material breaches concerning authorized CIS. The Central Bank regularly reviews breach/error reports provided by depositaries. By September, the Central Bank had received 90 reports from depositaries in 2013. • Remedying a Breach. Breaches are monitored by the Central Bank to ensure that they are properly rectified (UCITS Reg. 32(3), 128-131; AIFM Reg. 6, 12(e), 46(5), and 49). A number of licenses have been removed since 2011. • Regulatory review of reports. UCITS Reg. 88 requires annual and half-yearly reports; UCITS Reg. 98 prescribes an annual Key Investor Information Document. AIFM Reg. 23(1) provides for an annual report but up to six months following the end of the financial year; while AIFMD Level 2 Regulation A. 57(4) requires delivery to the competent authority in a timely manner a true and fair view of the financial position. • On-site inspections. Occurrence and frequency of an inspection is determined by PRISM, supplemented by themed reviews, sampling, formal and informal reporting • Pro-active investigation: The Central Bank performs some periodic inspections; the Fund Supervision team carries out desk-based reviews, relying on reports from depositories and auditors. • Obligation to report material changes. Where changes involve the prospectus, a change of ownership, any new activities, new branches, offices or subsidiaries, or change of auditor, the Central Bank must be consulted in advance. If a director departs, the Central Bank must be notified immediately (UCITS Notices 2, 5, 6, UCITS Reg. Sch 15, (para. 2); AIFM Reg. 23(2)(d) (in annual report), AIFMD Level 2 Regulation A. 28, 41, AIF Rulebook Chapters 1 (Pt 1), 2 (Pt 1), 3 (iv), (viii), (ix).) The AIF rulebook defines 'material' as meaning, though not exclusively, "changes which significantly alter the asset type, credit quality, borrowing or leverage limits or risk profile of the Retail Investor AIF." • Maintaining records. All transactions, subscription and redemption orders must be kept for at least five years (UCITS Reg. 125, Sch 5; AIFM Reg. 19, AIFMD Level 2 Regulation A. 19, 25, 35, 57, 58, 63-66) • Dealing with conflicts of interest. The provisions concerning conflicts of interest are extremely prescriptive. UCITS Reg. 24, Sch 5 addresses no less than 24 topics within its rules of conduct. For example, where there is a likelihood of making a financial gain, or of avoiding a financial loss, at the expense of the UCITS; or the manager has an interest in the outcome of a service or an activity provided to the UCITS or another client; or where the manager carries on the same activities for the UCITS and for another client or clients which are not UCITS. AIFM Reg. 13(1), 15, 29(2), and AIFMD Level 2 Regulation A. 30-33, 43, and 80 also cover them. • Compliance with operational conduct standards. These requirements differ little from those in Key Question 12. UCITS Reg. 24, 37, Sch 5; AIFM Reg. 13(1), Level 2 A. 17, 22, 23 (and generally A. 16-82) require CIS operators to act honestly, fairly, and take all reasonable steps to avoid conflicts of interest. • Best execution. UCITS Reg. Sch 5 (para. 22, 24, 34); AIFMD Level 2 Regulation A. 25, 29, 58. In relation to churning: UCITS Reg. Sch 5 (para. 13); AIFMD Level 2 Regulation A. 27 (para. 1) provide for best execution. UCITS requires the management company to monitor its execution policy on a regular basis. AIFMD

	Level 2 Regulation A. 27 (para. 5) requires the AIFM to review its execution policy on an annual basis and also requires the AIFM to demonstrate it has executed orders on behalf of the AIF.
	• Related Party transactions. UCITS Reg. Sch 5 (para. 54); AIFM Reg. 19, AIFMD Level 2 Regulation A. 63. For example, the AIF Rulebook (Ch. 1, Pt 1, s. 1(xii), para. 1) provides that a QIAIF, "shall only enter into a transaction with a management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these where it is effected on normal commercial terms negotiated at arm's length. Transactions must be in the best interests of the unit holders."
	• Underwriting. Underwriting is rare for Irish authorized CIS. A small number (less than 5 UCITS) have been granted approval subject to conditions; AIFMD Level 2 Regulation A.53 makes provision for underwriting;
	• Due Diligence. UCITS Reg. Sch 5 (para. 5-8) requires that analysis shall only be carried out on the basis of reliable and up-to-date information, both quantitative and qualitative. AIFM Reg. 16(6), AIFMD Level 2 Regulation A. 18, and 19 are satisfactorily prescriptive.
	• Fees and expenses. Commissions are permitted provided they do not conflict with the operator's duty to act in the investors' best interest: UCITS Reg. 73, 86, Sch 5 (para. 28, 29, 65), Notice UCITS 5, 6, 12 and 13; AIFM Reg. 24 (1), and AIF Rulebook Ch. 1 Pt I, Pt II. Level 2 A. 24 (para. 1) sets out certain exceptions to the non-applicability of commissions. The Central Bank looks closely at fees and expenses. Excessive charges were occasional and very rare. A rate of 20-25% is regarded as standard.
	• Delegation.
	  • Delegation is permitted but not to the extent that the management company is an empty box (UCITS Reg. 23, Notice UCITS 2 (para 12-13); AIFM Reg. 21, AIFMD Level 2 Regulation A. 75-82, AIF Rulebook Ch. 3(iii) (para 4-5)). UCITS requires the management company to identify a board member or other individual to monitor and control, on a day-to-day basis, each of the individual activities delegated. The board of the management company must formally adopt a statement of responsibility.
	  • The operator is still responsible, despite the delegation: UCITS Reg. 23(2); AIFM Reg. 21(3), AIFMD Level 2 Regulation A. 75 (a). The operator is obliged to monitor the activity and evaluate the performance of the delegate: UCITS Reg. 23(1)(f), (g); AIFM Reg. 21(f), AIFMD Level 2 Regulation A. 75.
	  • Where a delegation is terminated, the operator must make alternative arrangements: UCITS Reg. 23(1)(g), and AIFMD Reg. 21(f).
	  • The identity of a delegate must be disclosed: UCITS 23(1)(i); AIFM Reg. 24(1)(f). The prospectus has provided for delegation and what can be delegated; the manager must advise the Central Bank of the identity of the third party.
	A delegation should not jeopardize the accessibility of data: UCITS Reg. 23(1)(b); further, the investigative powers of the Central Bank Reform Act of 2010 provide sufficient coverage to ensure necessary data can be obtained; also AIFM Reg. 21(e) and Level 2 A.79.

Assessment	Fully implemented
Comments	The Central Bank's Fitness and Probity regime supplements the rigorous UCITS and

	AIFM/AIF requirements. The Central Bank has also devoted a team to Low Impact Funds, addressing concerns (expressed in other areas) of the Central Bank's concentration on higher impact firms.
Principle 25.	The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.
Description	The UCITS Regulations and the AIFM Regulations provide in some detail how CIS can be constituted in Ireland. UCITS Reg. 4 delineates the investors' interests and rights. It may be constituted as a unit trust, a common contractual fund, an investment company with fixed capital, an investment company with variable capital (with paid-up share capital equal to the net asset value of the company and shares with no par value). An AIF can be constituted under a number of laws: • An unit trust (Article 1(1) and Article 4 of the Unit Trusts Act, 1990); • An investment company (s. 252 and 253 of the Companies Act 1990, Part XIII); • An investment limited partnership (s. 5 and 23 of the Investment Limited Partnerships Act, 1994); or • A common contractual fund (Article 6 and Article 8 of the Investment Funds, Companies and Miscellaneous Provisions Act, 2005). *Disclosure of Risks to Investors* Each prospectus must disclose the nature of risks for each CIS. UCITS Regs 88 to 90 prescribe the information necessary to make an informed decision and require disclosure of the categories of assets. UCITS Reg. 90 requires 'a prominent statement' drawing attention to: its investment policy where deposits, derivative instruments are involved or where a stock or debt securities index is being replicated, or its portfolio composition where net asset value is likely to have high volatility. UCITS Reg. 98 provides for a Key Investor Information Document (KIID), which is a short document containing all the key information such as the risk-reward profile of the investment and warnings in relation to the risks associated with investments in the UCITS. See also the discussion under Principle 26. AIFM Regulation 24 also requires that all necessary information be provided in the prospectus. This includes details on the investment strategy and objectives of the AIF, description of the type of assets, the techniques employed and all associated risks, description of how the AIFM ensures a fair treatment of investors, procedures and conditions for the issue and sale of units or shares, and the latest NAV. The Central Bank imposes similar conditions on AIFs as it does for UCITS, requiring information such as the investment strategy and objectives of the fund, description of the type of assets, the techniques employed and all associated risks, description of how the manager ensures a fair treatment of investors, procedures and conditions for the issue and sale of units or shares, and the latest NAV, using s. 257(1) of the Companies Act 1990. *Ensuring Form and Structure* It is the responsibility of the Central Bank to ensure that form and structure requirements are met. The Central Bank's Funds Authorization Team, a unit of twenty, relies on assurances from the management company's directors or legal advisors that all the

	information is provided. Checking of QIAIFs is effected by sampling, between one in eight or ten prospectuses. However, every prospectus for every retail fund and UCITS is inspected, with a turn-around of between two and four weeks. Both UCITS (Notice UCITS 5 (para. 2) and the AIF Rulebook Ch. 1 Pt 1, s. 2i, Ch. 2, Pt 1, s. 2i require prior approval of the Central Bank before a prospectus is amended. *Notice of Material Changes to Investors and Central Bank* In most cases the Central Bank requires that all material changes to investor rights obtain prior approval from investors and notice is given before the changes take effect. The main exception is a material change to the provisions of the Trust Deed for UCITS or AIFs established as unit trusts, which does not require unit holders' prior approval. However, in such cases the depositary must provide confirmation to the Central Bank that the change does not prejudice investors: investors must receive notice that will allow reasonable time for the investor to redeem prior to the change taking effect. UCITS Regulation 12 provides that neither the management company nor the depositary shall be replaced, nor shall the trust deed, the deed of constitution or the investment company's articles be amended, without the approval of the Central Bank. AIFM Reg. 8(3) and Ch. 1 and 2 of the AIF Rulebook make a similar provision. *Restrictions on type and level of investment* UCITS Regulation 123 gives the Central Bank broad supervisory and investigative powers to ensure that restrictions on investments and borrowing are complied with. AIFM Regulation 48 has a similar effect. In cases where the AIF is established as an investment limited partnership, the custodian is required (by Section 24 of the Investment Limited Partnership Act of 1994) to produce a report stating whether the general partner has, in the custodian's opinion, managed the partnership in accordance with that Act, with the partnership agreement, and with any directions of the Central Bank. If the general partner has not done so, the custodian's report must detail the failures and what steps have been taken to deal with them. Similarly, for other AIFs, a depository is obliged to enquire into the conduct of the AIFM, management company, investment company or partner and report to the unit holders. By September 2013 the Central Bank's Fund Supervisory Team had received some 60 reports from depositaries and auditors for that year. An annual report is required to be produced, together with the auditor's report and submitted to the Central Bank. The Central Bank's Fund Supervision Team individually reviews any auditor or depositary's report that relates to a regulatory or supervisory issue. The existence of such an issue is highlighted for the team on receipt of a completed questionnaire, which accompanies the auditor's report. In those cases where there are issues, the Fund Supervision Team engages with the parties and has the option of referring a case to the Enforcement Directorate where a breach of the law is apparent. One management company, which was found to have weak systems and a series of suspected breaches, was referred to Enforcement in the 2nd Quarter of 2013. *Segregation of Assets* UCITS Regulations 33(1) and 46(1) require that the assets of a UCITS must be entrusted to a depositary for safekeeping. UCITS Regulation 37(2) and (3) and 46(3) require that the assets shall be segregated from the assets of either the depositary or its agent or both and shall not be available or used to discharge directly or indirectly liabilities or claims

against any other undertaking or entity. AIFM Regulation 22(8)(a)(ii) requires that the assets of the AIF shall be entrusted to the depositary for safekeeping and similarly segregated.

Independence of Custodians and Depositaries

UCITS Regulation 37(1) provides that no single company shall act as both management company and trustee in respect of the same UCITS and in the context of their respective roles the management company and the trustee must act independently and solely in the interest of the unit-holders. Section 8(1)(d) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 provides that the Central Bank will not authorize a common contractual fund unless the Central Bank is satisfied that effective control over the affairs of the management company and of the custodian of the fund will be exercised independently of one another.

While there is no requirement that the various parties in the management of funds be separate, arm's length entities, it is prohibited for the function of the custodian and/or the depositary to be performed by the same legal entity responsible for the investment functions. Further, Notice 4, paragraph 10 of the UCITS Series of Notices provides that the board of directors of the trustee acting for a UCITS must not have directors in common with the board of directors of the management company/administration company or the investment company.

Similarly, AIFM Regulation 22(4)(a) provides that the AIFM shall not act as depositary. AIFM Regulation 22(10)(a) states that in the context of their respective roles the AIFM and the depositary shall act honestly, fairly, professionally, independently and in the interest of the AIF and the investors in the AIF. The AIF Rulebook Ch. 6 iv (para. 1) provides that the depositary shall not have directors in common with the board of directors of the AIFM or the management company, the fund administrator, the investment company or the general partner. Appointments of directors of the depositary require the prior approval of the Central Bank and, as with the trustee under UCITS, the depositary must notify the Central Bank immediately of the departure of a director.

Orderly Winding Up

Schedule 11 of the UCITS Regulations requires that the prospectus details the circumstances in which winding-up of the UCITS can be decided on and the winding-up procedure. UCITS Reg. 107 and 131 allow the court to wind up a UCITS on the grounds that it is just and equitable to do so including where the trustee or Central Bank petition/apply to the court for winding up in certain circumstances, for example, where the depositary has given 6 months' notice of its intention to retire and no replacement is appointed, or where winding up is deemed in the best interests of investors.

CIS Revocations 2011 – 2013

Fund Type	**Numbers Revoked**		
	2011	**2012**	**2013***
Qualifying Investor Funds	138	151	121
UCITS (Retail)	256	270	142
Funds – Other **	81	64	70
Total	**475**	**485**	**333**

* as at 30 August 2013

	** Professional and Retail Investor non-UCITS funds Source: Central Bank. The dissolution of an AIF established as an Investment Limited Partnership is provided for under Section 38 of the Investment Limited Partnership Act 1994. Section 258 of the Companies Act, 1990, Part XIII, Section 18 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005, Section 15 of the Unit Trusts Act 1990 apply the provisions of UCITS Regulation 131 to AIFs established as investment companies, common contractual funds and unit trusts respectively. Once the revocation has been processed the Central Bank will issue a formal letter of revocation and the CIS will be removed from the relevant Central Bank register. Notice will be published in national newspapers in the case of revocation of a UCITS or an AIF established as a Unit Trust.
Assessment	Fully implemented
Comments	
Principle 26.	Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.
Description	*Valuation disclosure* UCITS Regulation Schedule 11, Section 1.16 provides that the prospectus must contain the rules for the valuation of assets. UCITS Reg. 92 and 95 require that the essential elements of the prospectus shall be kept up-to-date and provided to investors on request and free of charge. UCITS Reg. 108 requires that the rules on the valuation of assets of a UCITS must be set out in the UCITS constitutional documents. Constitutional documents are deemed to be publicly available documents. AIFM Reg. 20 states that an AIFM shall ensure that appropriate and consistent procedures are established so that a proper and independent valuation of the assets of the AIF can be performed. The AIF rules or instruments of incorporation shall set out the rules applicable to the valuation of assets and the calculation of the net asset value per unit or share of the AIF. *Clear disclosure of information* Section 1 of Guidance Note 1/00 provides that a CIS is required to ensure that the valuation rules are clear and unambiguous. This applies to UCITS funds. Chapter 1, Section 1 (vii) and Chapter 2, Section 1 (iii) of the AIF Rulebook requires the RIAIF and QIAIF to specify, in their constitutional documents, the rules for the valuation of their assets and these rules shall clearly and unambiguously define an expected method of valuation. *Standard format* AIF Reg. 24(1) and UCITS Reg. 89(1) both detail the information required for investors in the offering documents. The EU's Key Investor Information Document (KIID) has been

	adopted, providing a sufficiently prescriptive standard format. KIID is regarded as, in essence, mandatory as it is necessary for passporting. *Investor evaluation of suitability* UCITS Reg. 89(1) requires that the prospectus include the information necessary for investors to be able to make an informed judgment of the investment proposed to them and of the risks attached thereto. Schedule 11 of the UCITS Regulations details the information that must be contained in the prospectus of a UCITS. Notice UCITS 6 (para. 12-14) sets out additional information requirements of the Central Bank which must be contained in the prospectus for specific UCITS. UCITS Reg. 89(3) states that the annual report of a UCITS shall include a balance sheet or a statement of assets and liabilities, a detailed income and expenditure account for the financial year, a report on the activities of the financial year and the other information provided for in UCITS Reg. Sch 12. AIFM Reg. 24(1) details the information an AIFM must make available to investors or potential investors. Ch. 1 and 2 of the AIF Rulebook prescribe additional information to be included in the prospectus of a RIAIF or QIAIF. AIFM Regulation 23 requires an AIFM, for each AIF that it managers and markets in the European Union, to make available in an annual report the information listed in AIFM Regulation 23(2). This includes a statement of assets and liabilities and of the income and expenditure account; a report on the activities of the financial year; disclosure of remuneration; specific disclosures, such as the percentage of the AIF's assets subject to special arrangements arising from their illiquid nature, and changes to the maximum level of leverage calculated in accordance with the gross and commitment methods and any right of re-use of collateral or any guarantee under the leveraging arrangements. *Content of Prospectuses* Both the UCITS and AIF regimes require the provision of the following publicly available information in their offering documents: • Date of issuance • Legal constitution • Investors rights • Operator and principals • Methodology of asset valuation • Procedures for purchase, redemption and pricing of units/shares • Audited financial information • Custodial arrangements • Investment policy • Risks to objectives • External appointments • Fees and charges *Regulatory Intervention* The Central Bank has the power to intervene or hold back a prospectus. The Central Bank can comment on a draft and under UCITS Reg. 123(5) it may impose requirements or conditions, to which the UCITS must comply. The AIF Rulebook (Ch. 1, Pt 1 Section 2.i 2 and 4 (re RIAIF), and Ch. 2, Pt 1, Section 2.1 3 (re QIAIF)) requires that the Central Bank be notified in advance of amendments to

documentation. The Central Bank may object. In 2012 the Central Bank's Post Authorization Team received 9000 notifications for amendment. From the number received by September, a similar volume was expected in 2013.

Advertising Material

The Central Bank's advertising standards in relation to CIS are set out in Notice UCITS 6 and are based on the Advertising Standards Association of Ireland's Code for Advertising, Promotional and Direct Marketing, in use since the early 1990's.

The provisions of Notice UCITS 6 (para. 6-9) apply to Irish authorized UCITS generally. Notice UCITS 6, paragraph 10 set out general principles regarding advertising. Paragraph 10 contains 19 detailed rules about advertising materials used in Ireland, among them:

- the design and presentation of an advertisement should allow it to be easily and clearly understood;
- footnotes should be of sufficient size and prominence to be easily legible and linked;
- it should always be designed and presented so that any person who looks at it can see immediately that it is an advertisement;
- any statements made or risk warnings given in an advertisement must not be obscured or disguised in any way by the content, design or format of the advertisement;
- it should not mislead investors about any matter likely to influence their attitudes to the investment either by inaccuracy, ambiguity, exaggeration, omission or otherwise;
- whether account has been taken of the incidence of any taxes or duties and, if so, how
- whether the forecast or projected rate of return will be subject to any deductions other than upon premature realization or otherwise;
- where it leads to the employment of money in anything the value of which is not guaranteed, it should clearly indicate that the value of the investment can go down as well as up and that the return upon the investment will therefore necessarily be variable;
- it must not describe an investment as guaranteed or partially guaranteed unless there is a legally enforceable agreement with a third party who undertakes to meet that guarantee;
- any reference to past performance must also contain the following warning: *"Past performance may not be a reliable guide to future performance";* and
- Phrases such as tax-free, tax-paid should not be used

UCITS Regulation 123(1) makes it an offence to breach a condition imposed by the Central Bank.

Updated Prospectus

UCITS Reg. 92 provides that the essential elements of the prospectus must be kept up to date while Notice UCITS 6 also provides that the prospectus must be kept up to date and that material changes to the content of the prospectus must be notified to unit holders in the subsequent periodic report.

UCITS Regulation 102 requires a UCITS to send its KIID and any amendments to the Central Bank. It further requires the essential elements of the key investor information set

	out in the KIID to be kept up to date. Ch. 1, S.3 (para. 1) and Chapter 2, S.3 (para. 1) of the AIF Rulebook provide that the RIAIF and the QIAIF must publish a prospectus, which must be dated and the essential elements of which must be kept up-to-date. *Periodic Reporting* UCITS Reg. 88 requires the publication of an annual report for each financial year and a half-yearly report covering the first 6 months of the financial year. The annual report must be published within 4 months and the half-yearly report must be published within 2 months. UCITS Notice UCITS 5(3) requires that a monthly return be submitted to the Statistics Department of the Central Bank. Notice UCITS 7 sets out the information to be included in the monthly returns: • Total gross asset value of the UCITS at end-month. • Total net asset value of the UCITS at end-month. • Number of units in circulation at end-month. • Net asset value per unit at end-month. • Net proceeds from the issues of units during month. • Payments made for the repurchase of units during month. • Net amount from issues and repurchases during the month Significantly, this return must be submitted to the Central Bank within 10 working days of the end-month to which it refers. Notice UCITS 5 requires a CIS to send a quarterly Survey of Collective Investment Undertakings (OFI1 Form) return to the Statistics Department of the Central Bank within ten working days of the end-quarter to which it refers. The information required covers: • Income - from bonds, money market instruments, interest dividends, net income on derivatives; and • Fees - for management and administration, custodians and trustees, investment advice; other professional fees. AIFM Regulation 23 provides that an AIFM shall, for each of the AIFs it manages and for each of the AIFs that it markets in the EU, make available to the relevant competent authority an annual report for each financial year no later than 6 months following the end of the financial year. The AIFM must also provide to the competent authority of its home Member State an annual report of each EU AIF for each financial year, and for the end of each quarter, a detailed list of all AIF managed by the AIFM. Ch. 1, S.2 (vii) and Ch. 2, S. 2 (vii) of the AIF Rulebook both require the RIAIF and the QIAIF, respectively, to submit a monthly NAV return to the Central Bank. The same provisions also require a RIAIF and a QIAIF, respectively, to submit a quarterly Survey of Collective Investment Undertakings return to the Central Bank within ten working days of the end-quarter to which it refers. The RIAIF/QIAIF must also submit a Fund's Annual Survey of Liabilities return to the Central Bank for the first quarter of each year. *Timely distribution of reports* UCITS Reg. 88 requires an annual report but allows four months for it to be published. The half-yearly report is required to be published within two months. AIFM Reg. 23 allows a six

	month delay for an annual report. A RIAIF (like a QIAIF) is allowed two months from the end of the period to submit its half-yearly report. *Accounting standards* Section 148 of the Companies Act 1963 requires CISs to prepare accounts in accordance with either IFRS or U.K. and Irish GAAP (See the discussion of these accounting standards under Principle 18). The accounting standards of the United States, Japan, and Canada are also permitted under Part XIII of the Companies Act 1990. AIFM Reg. 93 provides that the accounting information provided in the annual report must be audited according to Companies legislation (the Statutory Audit Regulations and the Companies Acts 1963 to 2012), which means it must be audited in accordance with the ISAs (U.K. and Ireland) as issued by the FRC. The ISAs (U.K. and Ireland) are based on International Standards on Auditing (ISAs) as issued by the IAASB. See the discussion under Principle 21. *Reviewing Investment policy and strategy* UCITS Regulation 123 provides that the Central Bank has ultimate supervisory and investigatory powers over CIS and CIS Operators. The Central Bank's supervisory process is informed by PRISM and mainly carried out by way of: • Analysis of returns submitted to the Central Bank • Impact and Probability Risk-rating of FSP's • Themed inspections and Full Risk Assessment • Regular correspondence and engagement with FSPs under the Central Bank's supervision. Ch. 3 of the AIF Rulebook and UCITS Notice 3 requires all Irish authorized CIS to have a Depositary that is authorized and supervised by the Central Bank. (See the discussion under Principle 25.) Notice UCITS 4 (para. 7) requires the depositary to notify the Central Bank promptly of any material breach of the Regulations. Article 46 para. 2 of Directive 2011/61/EU provides that the depositary shall notify the Central Bank promptly of any material breach of the investment fund legislation.
Assessment	Broadly implemented
Comments	The reporting requirements, for both AIFs and UCITS, although regular and adopted throughout the EU, are too slow to be effective. UCITS Reg. 88 allows reporting up to four months after the year's end while the half-yearly report does not have to be submitted for two months after the period being covered. AIFM Regulation 23 provides that an AIFM shall, for each of the AIFs it manages and for each of the AIFs that they market in the EU, make available to the relevant competent authority an annual report for each financial year no later than six months following the end of the financial year. This is not timely (as required by KQ10). The periods within which CIS are required to publish reports as prescribed by the EU should be reduced to enhance transparency for investors and the ability to take prompt investigative or remedial action. See the shortened periods recommended in Principle 16.
Principle 27.	Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.

Description	*Valuation of CIS assets* The valuation policy for a CIS established by the management company/AIFM, investment company or general partner must appear in and is governed by the constitutional document. UCITS Reg. 108 and AIFM Reg. 20 provide for the valuation of assets. UCITS Reg. 108 prescribes the value of the assets of a UCITS is based, in the case of securities traded on a stock exchange or on a regulated market, on the last known stock exchange or market quotation unless such quotation is not representative. AIFM Reg. 20 provides that the "AIF rules or instruments of incorporation" shall set out the rules applicable to the valuation of assets and the calculation of the net asset value per unit or share of the AIF and that they be disclosed to the investors "in the rules or instruments of incorporation." The AIF Rulebook provides that the assets of a Retail or QIAIF will be valued in accordance with rules laid down in the constitutional document. UCITS Regulations 34 and 47 and Chapter 6 of the AIF Rulebook require the depositary to ensure the value is calculated in accordance with the relevant provisions in the legislation and the constitutional documents. These provisions also impose an obligation on the depositary to enquire into the conduct of the management company/AIFM. A CIS is required, as stated in Guidance Note 1/00 and Chapters 1 and 2 of the AIF Rulebook, to ensure that the valuation rules disclosed to investors are clear and unambiguous. The Central Bank reviews valuation provisions contained in the CIS documentation during authorisation. *Net Asset Value* UCITS Reg. 96 requires each UCITS to make prices public each time it sells, issues, re-purchases or redeems its units/shares and at least twice a month. AIFM Reg. 20(4) provides that the valuation procedures used require that the assets are valued, and the net asset value per unit or share is calculated, at least once a year. If the AIF is open-ended, the valuation and calculation of the net asset value must be carried out at a frequency which is appropriate to its redemption frequency. For a RIAIF the prospectus must specify the method and frequency of the calculation. *Fair Valuation of Assets* UCITS Reg. 108 provides that, unless otherwise provided for in the trust deed of a unit trust or the deed of constitution of a common contractual fund or in an investment company's articles, the value of the assets of a UCITS where such assets are not traded on a stock exchange or on a regulated market or where the market quotation is not representative, shall be based on the probable realisation value and such value shall be estimated with care and in good faith. AIF Rulebook Ch. 1, Pt 1, Section 1.vii makes a similar provision for RIAIFs. Guidance Note 1/00 covers unlisted securities and securities which are listed or traded on a regulated market and the market price is unrepresentative or not available and provides: • that the value of the security is its probable realization value (which must be estimated with care and in good faith); • the security may be valued by the manager, directors or general partner, or by a competent person appointed by them, or by any other means provided the value

	is approved by the depositary; and • the possibility of matrix pricing for fixed income securities where reliable market quotations are not available. *Independent Audit Valuation* An independent auditor checks CIS asset valuations annually. UCITS Regulation 93, as applied to UCITS and AIFs provide that the accounting information (including a balance sheet or statement of assets and liabilities which will show the valuation of CIS assets at the end of the financial year) must be audited by one or more persons empowered to audit accounts in accordance with the Companies Acts. The auditor's report to unit holders, including any qualifications, must be reproduced in full in the annual report. AIFM Regulation 20(14) provides that where the valuation function is not performed by an independent external valuer, the Central Bank can require the AIFM to have its valuation procedures or valuations (or both) verified by an external valuer or, where appropriate, by an auditor. *Redemption* UCITS Reg. 89 and Sch. 11 set out the information to be included in the UCITS' prospectus and periodic reports, including a requirement that the prospectus disclose the procedures and conditions for the repurchase or redemption of units, and in which circumstances repurchase or redemption may be suspended. AIFM Regulation 24 requires that an AIFM shall make available, in advance of investing, a description of the AIF's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with investors. The AIF Rulebook requires that this disclosure be contained in the fund prospectus. UCITS Regulation 110 and the AIF Rulebook provide that the assets of a CIS may only be purchased and sold at prices which are in conformity with the method defined in the trust deed, deed of constitution, articles of association or partnership agreement. *Fair and Reliable Valuation* The conduct requirements applicable to management companies, as set out in Schedule 5 of the UCITS Regulations, requires that management companies ensure that fair, correct and transparent pricing models and valuation systems are used for the UCITS they manage. AIFM Regulation 19 and Article 57 of the AIFMD Level 2 Regulation provide that AIFMs must put in place accounting policies and procedures and valuation rules to deliver in a timely manner to the Central Bank financial accounts which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules. *Regular Disclosure of Price* UCITS Regulation 96 provides that UCITS shall make public in an appropriate manner the issue, sale, repurchase or redemption price of its units each time it issues, sells, repurchases or redeems them, and at least twice a month. Reg. 96(2) provides that the Central Bank may permit a UCITS to reduce the frequency of reporting to once a month on condition that such derogation does not prejudice the interests of the unit holders. However, the Central Bank has never permitted such derogation. In fact, one request has

	been refused. AIFM Regulation 20 provides that assets are valued, and the net asset value per unit or share is calculated, at least once a year. If the AIF is of the open-ended type, such valuations and calculations shall also be carried out at a frequency which is both appropriate, pursuant to A. 67 of AIFMD Level 2 Regulation, to the assets held by the AIF and its issuance and redemption frequency. *Pricing errors* The Central Bank asserts that due to the diversity of the CIS market in Ireland and the benefits derived by consumers regarding flexibility of the CIS manager to address pricing errors, the Central Bank does not impose prescriptive procedures with respect to rectifying pricing errors but monitors the action taken to address pricing errors to ensure appropriate compensation for investors. Guidance Paper 6: Incorrect Pricing Of Funds Correction and Compensation, dated 2 February 2009, has been published by the Irish Funds Industry Association and is considered the standard accepted by the industry in Ireland. Acceptance of the Guidance Paper is on a voluntary basis. *Suspension/deferral of Valuation* UCITS Reg. 104(2) provides for the possibility of suspension of redemptions, under which the associated suspension or deferral of valuation and pricing are included. Procedures in relation to suspension must be provided in the fund rules and the possibility to suspend stated in the prospectus. AIF (AIF Rulebook, Ch. 1, Pt I, s. 1.ix.5; Ch. 2, Pt I, s. 1.v.3) are permitted to establish "side pockets" where this is provided for in the AIF's constitutional document. Side pockets are only permitted for those assets which become hard to value or illiquid after they have been acquired and accordingly will only be used in exceptional circumstances. Once side pocketed assets have been identified, a new share class is established where the problem asset is allocated. *Ensuring Compliance on Valuation and Pricing* UCITS Reg. 123 provides that the Central Bank shall have all supervisory and investigatory powers that are necessary for the exercise of their functions. Reg. 127 provides that the Central Bank may apply to the court to prohibit the continuance of a failure by an authorized UCITS to comply. UCITS Reg. 128 gives the Central Bank the power to replace the management company or depositary. Reg. 129 makes provisions for the Central Bank to revoke the authorisation of a UCITS. These UCITS provisions are also applied to AIF unit trusts, investment companies and common contractual funds. No revocations have been made under UCITS Reg. 129. The Central Bank can undertake detailed inspections of fund service providers, including administrators and trustees. Informed by PRISM, its focus is on Medium High or Medium Low rather than firms in the lower risk category. In the course of these inspections, the Central Bank requests information on, and examines procedures surrounding, the valuation and pricing of assets. This includes (i) an interview with the responsible parties at the various fund service providers, (ii) a detailed examination of the CIS net asset valuation processes, including CIS "NAV-Packs" (the package of documentation/information underlying pricing and valuation of assets, validations of prices and verification sign-offs

surrounding the calculation of a CIS's net asset value) and (iii) a review of the trustee NAV checking process, which includes pricing and valuation verifications.

A review of the governance on pricing procedures and arrangements on the pricing of certain hard-to-value assets within funds was being conducted in the second half of 2013 as part of the Central Bank's Themed Inspection supervisory framework.

Redemption

UCITS Reg. 104(2) provides for the possibility of a suspension of redemption requests and requires that a UCITS should, without delay, communicate its decision to the Central Bank and to the competent authorities of the Member States in which it markets its units. Reg. 104(2) is also applied to AIF unit trusts, investment companies and common contractual funds where the Central bank should be notified without delay.

Where an Operator is failing to honour redemptions, improperly suspending redemptions or otherwise violating national law, UCITS Reg. 123 provides that the Central Bank shall have all supervisory and investigatory powers that are necessary for the exercise of its functions. With regard to AIFs and AIFMs, the Central Bank Reform Act 2010 and the Central Bank (Supervision and Enforcement) Act 2013 give the Central Bank the supervisory and investigatory powers that are necessary for the exercise of its functions.

Valuation of CNAV Money Markets Funds

Ireland is one of the biggest markets for CNAV money market funds in the EU. CNAV funds are subject to the CESR Guidelines on money market funds, (ref: CESR/10-049) – "CESR's Guidelines on a common definition of European money market funds." These guidelines refer to CNAV money market funds as "short-term money market funds."

As outlined in the Guidelines, CNAV money market fund's assets are generally valued on an amortised cost basis which takes the acquisition cost of the security and adjusts this value for amortisation of premiums (or discounts) until maturity. The fund must ensure that such a method will not result in a material discrepancy between the market value of the instruments held by the fund and the value calculated according to the amortisation method, whether at the individual instrument level or at the UCITS level. The fund must periodically calculate both the market value of its portfolio and the amortised cost valuation and take action if any discrepancy between them becomes material. The constant NAV is not guaranteed and where a discrepancy between the market value and the amortised cost value of the portfolio becomes material, the money market fund can no longer issue and redeem units at the stable NAV of $1/€1 per unit ('breaking the buck'). This may occur, for example, where there is a default by the issuer of an instrument in the portfolio.

The Central Bank's UCITS Notices provides further requirements for the valuation of short term money market funds. Specifically, Notice UCITS 17 includes the following criteria:

- Short-Term Money Market Funds are permitted to follow an amortised cost valuation methodology provided the UCITS or, where relevant, its delegate have demonstrable expertise in the operations of money market funds which follow this method of valuation. This condition is satisfied where:
    - the Short-Term Money Market Fund has obtained a triple-A rating from an internationally recognised rating agency; or
    - the management company or investment manager is engaged in the

	management, or has been engaged in the management, of a triple-A rated money market fund; or ○ in exceptional circumstances, the management company or investment manager may provide sufficient information to the Central Bank to demonstrate appropriate expertise in the operation of this type of money market fund. Such applications will be considered on a case-by-case basis and should be submitted in advance of the application for authorisation of the money market fund. • The UCITS must be satisfied that the persons responsible for the operation of the Short-Term Money Market Fund including under any delegation arrangements have and continue to have the necessary expertise. • The UCITS must carry out a weekly review of discrepancies between the market value and the amortised cost value of the money market instruments. Escalation procedures must be in place to ensure that material discrepancies between the market value and the amortised cost value of a money market instrument are brought to the attention of personnel charged with the investment management of the UCITS. In this regard: ○ discrepancies in excess of 0.1% between the market value and the amortised cost value of the portfolio must be brought to the attention of the management company or the investment manager; ○ discrepancies in excess of 0.2% between the market value and the amortised cost value of the portfolio must be brought to the attention of senior management/directors of the management company or the board of directors and the trustee; and ○ if discrepancies in excess of 0.3% between the market value and the amortised cost value of the portfolio occur a daily review must take place. The UCITS must notify the Central Bank with an indication of the action, if any, which will be taken to reduce such dilution. • The trust deed, deed of constitution or articles of association must provide for the escalation procedures set out in paragraph 29 and 30 of the Notice or, alternatively, provide that a review of the amortised cost valuation vis-à-vis market valuation will be carried out in accordance with the requirements of the Central Bank. Weekly reviews and any engagement of escalation procedures must be clearly documented. • The UCITS must engage in monthly portfolio analysis incorporating stress testing to examine portfolio returns under various market scenarios to determine if the portfolio constituents are appropriate to meet pre-determined levels of credit risk, interest rate risk, market risk and investor redemptions. The results of the periodic analysis must be available to the Central Bank on request. Identical provisions are contained in the Central Bank's AIF Rulebook (Chapter 1, Part II – Retail AIF and Chapter 2, Part II – Qualifying investor AIF).
Assessment	Broadly implemented.
Comments	It is not clear that the valuation of CIS assets is to be performed in accordance with IFRS or U.K. and Irish GAAP, or some other high quality accepted accounting standard applied on a consistent, fair and reliable basis as required by KQ 2.b and 6. This should be set out clearly in the applicable requirements. There are no regulatory requirements or published rules specifically prescribing how pricing errors are to be treated for CIS. The Central Bank imposes no prescriptive procedures with regard to rectifying pricing errors. However, guidance published by the

<table>
<tr><td></td><td>Irish Funds Industry Association is considered the standard accepted by the industry in Ireland. Acceptance of the Guidance Paper is on a voluntary basis. A Law or rule concerning pricing errors should be introduced so that the Central Bank can enforce such a requirement.</td></tr>
<tr><td>Principle 28.</td><td>Regulation should ensure that hedge funds and/or hedge funds managers/advisers are subject to appropriate oversight.</td></tr>
<tr><td>Description</td><td>"Hedge fund" is not a defined term in the jurisdiction. However, the Central Bank regards Hedge Funds (for the purpose of the Assessment) to mean any CIS regardless of its legal structure under national law that applies relatively unconstrained investment strategies to achieve positive absolute returns, and whose managers, in addition to management fees, are remunerated in relation to the hedge fund's performance. Hedge funds have few restrictions on the type of financial instruments in which they may invest and may therefore flexibly employ a wide variety of financial techniques, involving leverage, short-selling or any other techniques. This definition also covers funds that invest, in full or in part, in other hedge funds provided that they otherwise meet the definition. These criteria to identify hedge funds must be assessed against the public prospectus as well as fund rules, statutes or by-laws, subscription documents or investment contracts, marketing documents or any other statement with similar effect of the fund.
<table>
<tr><th></th><th>Net asset value of hedge funds</th><th>Number of hedge funds</th></tr>
<tr><td>Q3 13</td><td>90,088,190,723</td><td>875</td></tr>
<tr><td>April 13</td><td>84,373,271,186</td><td>878</td></tr>
<tr><td>End-12</td><td>75,888,550,331</td><td>865</td></tr>
<tr><td>End-11</td><td>60,386,434,220</td><td>714</td></tr>
<tr><td>End-10</td><td>46,893,253,569</td><td>613</td></tr>
</table>
AIFM Regulations (and AIFMD) includes in its scope managers of AIF that include all collective investment undertakings other than UCITS, including hedge funds. An AIFM is required to have capital requirements, risk and liquidity management, a single depositary, rules regarding disclosure to investors and reporting to competent authorities.

AIFM Regulations 8 - 12 set out:
• Information to support an application for authorisation; (this includes: those effectively conducting the business of the AIFM; the identities of the shareholders or members; a program of activity; the remuneration policies and practices; arrangements made for delegation and sub-delegation of AIFM functions; and, for each AIF, the investment strategies, the AIFM's policy on the use of leverage, the risk profiles and other characteristics of the AIFs it will manage, and the arrangements made for the appointment of the depositary for each AIF);
• Conditions for granting authorisation of the AIFM;
• Capital requirements;
• Notification in the event of any changes to information; and
• Withdrawal of authorisation by the Central Bank.

The Central Bank's Fitness and Probity Regime also applies.</td></tr>
</table>

	The AIFM Regulations exempt an AIFM falling below certain size thresholds (€100 million in AIF under management or €500 million in the case of unleveraged closed ended AIF) from authorisation. These AIFMs are subject only to a registration process (Registered AIFM). Registered AIFMs are not required to comply with all the regulatory requirements with which an Authorized AIFM must comply. Registered AIFMs are not permitted to passport their services to other Member States of the European Union but they can opt-in to full authorization. AIFM Regulation 4(3) requires registered AIFM to register with the Central Bank, provide details of AIF under management on registration and report regularly. A lighter regime for smaller AIFM is considered proportionate, as a failure of a manager of this size is unlikely to have significant consequences for financial stability. As to the possibility for aggregation to give rise to systemic risks, Registered AIFM are required to provide information to the Central Bank on the AIFs under management, the main instruments they are trading and their main exposures. Registered AIFMs must monitor the value of their AIFs under management and apply for authorisation if thresholds are breached. *Registration of the Fund* Irish AIFs (including those which might be categorized as hedge funds) are authorized under: • Unit Trusts Act, 1990 • Companies Act 1990 – Part XIII • Investment Limited Partnerships Act, 1994 • Investment Funds, Companies and Miscellaneous Provisions Act, 2005 The Central Bank can impose requirements in addition to those set out in the legislation. *Internal Organization and Operational Conduct* AIFM Regulations 13 to 22 set out general requirements, remuneration, conflicts of interest, risk management and liquidity management, and under organisational requirements: general principles, valuation provisions, delegation provisions, and provisions relating to ensure appointment of a single depositary. AIFMD Level 2 Regulation supplements these provisions. Risk management systems must be reviewed by the AIFM at least yearly (Regulation 16(5)). As for independent compliance, Regulation 13(1) provides that AIFMs must have and employ effectively the necessary resources and procedures for proper performance of their business activities. Article 57 of the AIF Level 2 Regulations provides further detailed requirements on systems, record keeping and procedures. Article 61 of the AIFMD Level 2 Regulation addresses the permanent compliance function that AIFM should have in place. The AIFM does not have to establish an independent compliance unit if such a requirement would be disproportionate in view of the size of the AIFM, and the nature, scale and complexity of its business. AIFM Reg. 20(1) provides for proper and independent valuation of the assets of the AIF. Where valuation is carried out by the AIFM, AIFM Reg. 20(8) requires that the valuation task is functionally independent from the portfolio management function. Remuneration policy and other measures must ensure conflicts of interest are mitigated and that undue influence upon the employees is prevented. To ensure this, an external valuer may be appointed in accordance with the requirements of AIFM Reg. 20

	AIFM Regulation 22 requires AIFM to ensure that a single depositary is appointed for each AIF to which the assets of the AIF must be entrusted for safekeeping. The appointment must be evidenced by a written contract and, for an Irish AIF, the depositary must be located in Ireland. AIFM Regulation 22(9) sets out the oversight duties the depositary must carry out over certain aspects of the management of the AIF, including the valuation and dealing processes. AIFM Regulation 22(10) requires both AIFM and depositaries to act honestly, fairly, professionally, independently and in the interest of the AIF and the investors in the AIF. AIFM Regulation 22(11) prohibits delegation of the depositary cash monitoring and oversight tasks. AIFM Regulation 19 requires the AIFM to have adequate and appropriate human and technical resources, processes and procedures in place. In Ireland, records must be retained for six years, after the life of the AIF (a year longer than the AIFMD requires). The Central Bank has comprehensive powers, under AIFM Regulation 48(4), to obtain records, require information, to have a person appear before it and provide an explanation of a decision, course of action, system or practice, or the nature or content of any records or information. The AIF Rulebook requires AIFM to prepare and submit half-yearly financial and annual audited accounts of the AIFM to the Central Bank. AIFM Regulation 23 requires AIFMs, for each of the EU AIFs it manages and for each of the AIFs it markets in the EU, to make available an annual report for each financial year no later than 6 months following the end of the financial year, to the Central Bank. The annual report must be provided to investors on request. *Conflicts of Interest* AIFM Regulation 13 (1) requires AIFM, at all times, to take all reasonable steps to avoid conflicts of interest. AIFM Regulation 15 addresses all reasonable steps the AIFM must take to identify conflicts of interest that arise. Articles 31-35 of the AIFMD Level 2 Regulation set down requirements in relation to an effective conflicts of interest policy while Article 36 requires disclosure of any conflicts to investors in a durable medium or by means of a website. *Systemic Risk* AIFM Regulation 25(1) requires AIFM to report regularly to the Central Bank on the principal markets and instruments in which they trade and the principal exposures and most important concentrations of each AIF. AIFM Regulation 25(6) allows the Central Bank to request additional information from an AIFM if the Central Bank considers it necessary to do so for effective monitoring of systemic risk or where requested to do so by ESMA to ensure the stability and integrity of the financial system or to promote long term growth. *Proper Disclosure, Prudential Requirements, On-going Supervision* AIFM Regulation 24 provides a very detailed list of requirements relating to disclosure to investors. AIFM Regulation 10 specifies capital requirements. On-going supervision consists mainly of analysis of returns and reports by AIFM and of themed inspections. AIFM which are rated Medium High and Medium Low Impact under PRISM are subject to a prescribed set of supervisory engagements including periodic full risk assessments.

	AIFM are required to prepare and submit half-yearly financial and annual audited accounts of the AIFM to the Central Bank. In the case of AIF under management, the AIF Rulebook requires monthly and quarterly data to be submitted. Auditors of AIFMs are required, under s. 27B of the Central Bank Act 1997, to submit a report to the Central Bank within one month of the date of their audit report stating whether or not circumstances have arisen that require them to report a matter to the Bank. Depositaries of AIF are required, under the AIF Rulebook, to report annually on the management of the AIF. Depositaries are also required to notify the Central Bank promptly of any material breach of the legislation or of any requirements imposed by the Central Bank or of provisions of the AIF prospectus. The likelihood of inspection or oversight from the Central Bank is dependent on the firm's Impact Rating under PRISM. *Regulatory Powers* The Central Bank has comprehensive powers to access and inspect hedge fund managers and advisors under Part 5 of the Central Bank Reform Act 2010. These powers have been enhanced by Part 3 of the Central Bank (Supervision and Enforcement) Act 2013; specifically, the ability of the Central Bank to require a skilled person's review at the firm's cost. This only became effective on 1 August 2013. The Central Bank has used this approach before but it can now make a request for review mandatory. The power to enforce would be effected by way of administrative sanction under Part 111C of the Central Bank Act 1942. *Cooperation and Coordination* AIFM Regulation 54 requires the Central Bank to cooperate with the competent authorities of other Member States and with ESMA and the ESRB for the purpose of carrying out their duties and exercising their powers, even where the conduct does not constitute a contravention of any Irish law. Article 50 of AIFMD requires competent authorities of the Member States to co-operate with each other and with ESMA and the ESRB. The Central Bank has, through ESMA, also entered into a series of MOUs with non-Member States to ensure cooperation in relation to AIFMs. *Reporting on exposure to counterparties* AIFM Regulation 25 requires AIFM which manage AIF employing leverage on a substantial basis to report the identity of the five largest sources of borrowed cash or securities for each AIF and the amount of leveraged funding received from each of these sources.
Assessment	Fully implemented
Comments	
Principles for Market Intermediaries	
Principle 29.	Regulation should provide for minimum entry standards for market intermediaries.
Description	*Authorization* *Requirement to be authorized.* Market intermediaries are required to be authorised under the MiFID Regulations or under the IIA prior to performing functions that constitute

	"operating a securities business" in the jurisdiction as that term is defined in the Assessment Methodology. The Central Bank is the competent authority responsible for granting authorization under both MiFID and the IIA. Authorization and supervision of MiFID firms and non-retail IIA intermediaries is done by the Markets Directorate. Retail IIA intermediaries are authorized and supervised by the Consumer Protection Directorate. Under Reg. 7 of the MiFID Regulations, a firm must be authorized to act as "investment firm" if its regular occupation or business is the provision of one or more investment services to third parties on a professional basis, or the activity of dealing on own account on a professional basis. "Investment services" are set out in Parts 1 and 2 of Schedule 1 of the MiFID Regulations, and include: • The reception and transmission of orders in relation to one or more financial instruments; • Execution of orders on behalf of clients; • Dealing on own account; • Portfolio management; • Investment advice; • Underwriting or placing of financial instruments with or without a firm commitment; and • Operation of multilateral trading facilities. "Financial instruments" are set out in Part 3 of that Schedule and include: • Transferable securities, such as shares and debt instruments; • Money market instruments; • Units in UCITS and other CIS; • Options, futures, swaps, forward rate agreements and any other derivative contracts on securities, currencies, interest rates, indices, etc.; • Contracts for differences; and • Other derivative instruments. Individuals acting for MiFID firms[21] (called tied agents) are not individually authorized by the Central Bank and may act for one firm only. The firm for which they are acting is fully and unconditionally responsible for the actions of the sponsored tied agents and for ensuring they are fit and proper to carry out their appointed duties (MiFID Regulation 109). If the activities are caught by the MiFID Regulations, authorization must take place under those Regulations. If investment activities are not caught by the MiFID Regulations or fall into certain exemptions set out in MiFID Reg. 5, they likely trigger the requirement to be authorized under the IIA. If a bank or insurance company is engaging in investment activities under the MiFID Regulations or listed in the IIA, it is caught by that legislation. While it is not subject to a separate authorization process to carry out these activities, it is subject to many of the same obligations imposed on investment firms. In particular it is subject to the consumer

[21] An individual may be considered an investment firm under the MiFID Regulations and subject to authorization where the individual provides services involving the holding of client assets. However, the Central Bank has not authorized any such MiFID investment firm to date.

	protection provisions set out in Part 7 of the MiFID Regulations or the Consumer Protection Code 2012. The financial institution's compliance with these requirements is supervised by the Consumer Protection Directorate of the Central Bank. Retail investment intermediaries require authorisation pursuant to Section 10 of the IIA to do any of the following activities: • Offering advice on retail investment instruments; • Receiving and transmitting orders in relation to retail investment instruments; or • Acting as a deposit agent or a deposit broker. Retail investment instruments include units in collective investment schemes, shares and bonds listed on a stock exchange, tracker bonds, insurance policies and personal retirement savings accounts (a personal pension product). These entities are "investment business firms" as defined under the IIA and are referred colloquially as "Investment Brokers/Intermediaries." They are not permitted to hold client assets or otherwise be indebted to clients. The categories of authorization to deal with retail clients include: • Authorized adviser (AA) that are required to provide advice to clients on the most suitable product in the market for that investor, regardless of the relationships that adviser may have with issuers of investment products (product providers); • Multi-agency Intermediary (MAI) that holds letters of authorization to sell the products of one or more product providers and may advise clients only with respect to these products. These entities are called Restricted Activity Investment Product Intermediaries (RAIPIs) in s. 26 of the IIA; • MAI non-RAIPIs who deal with non-resident intermediaries in insurance products; • Product producers – those who produce investment products or those who act as wholesale distributors of third party products to other intermediaries. AA and MAI non-RAIPIs can only act as wholesaler distributor who receive and transmit orders for investment products to another product producer. There are a few IIA non-retail intermediaries authorized under Section 10 of the IIA that fall outside the MiFID Regulations because the totality of their activities are not "investment services" or "investment activities" as defined. Typically, their main line of business is acting as (i) a Business Expansion Scheme fund manager; (ii) an administrator/custodian of collective investment schemes; or (iii) reception/transmission and/or the provision of investment advice in relation to investment instruments as defined in the IIA that fall outside the MiFID Regulations. These non-retail intermediaries generally do not hold client assets, but may be given specific permission to do so by the Central Bank. Only two firms hold such permission. In all cases, carrying on these investment activities without authorization is an offence. Certain activities and entities are exempt from the authorization requirements under both the MiFID Regulations and the IIA, such as providing investment services only to related companies; acting as trustees, liquidators or executors of estates; or activities by public bodies such as central banks, etc. (MiFID Regulation 5(1), IIA, s. 2(6)) *Minimum standards for applicants*. Minimum standards for authorisation of regulated entities are set out in both the MiFID Regulations and the IIA. There are standardized, separate application forms for MiFID firms, retail IIA firms and non-retail IIA firms and all

	of these are posted on the Central Bank website, along with detailed guidance on the application process. For firms applying for authorisation as a MiFID investment firm, the minimum criteria necessary for authorisation are publicly available in the MiFID Legislation. The criteria are also made available in the standardised MiFID Application Form. The applicant firm is required to submit a detailed application pack, which includes the MiFID Application Form, the detailed Business Plan and the information related to the following principal areas of consideration. The Central Bank requires extensive information on: • structure and head office; • general business information on the investment services, ancillary services and financial instruments the applicant proposes to provide, a breakdown of income, and details regarding the number of clients and proposed appointment of tied agents; • memorandum and articles of association (or other constituting document); • financial information, including details of its initial and minimum capital requirements, three years detailed financial projections and details of any insurance or indemnity in place; • probity and competence of directors and managers including details of directors of the firm, individuals performing functions requiring pre-approval (a pre-approval controlled function [PCF]), those performing 'controlled functions', and the firm's compliance and administrative arrangements (See the discussion below on the Central Bank's Fitness and Probity Standards and process.); • shareholders/members (including qualifying shareholders), listing all direct and indirect shareholders or members with qualifying holdings[22] in the firm, up to and including the ultimate parent and a group structure chart (if applicable); • organisational structure – staff and business profile, outsourcing, compliance and risk functions, internal audit, administration and accounting, client assets, conflicts of interest, business continuity, complaints procedures and security, integrity and confidentiality of information; • ability to provide information on an ongoing basis - the policies the applicant has in place regarding its records to ensure the central bank can carry out its supervisory functions appropriately; • supervision - details regarding close links, consolidated supervision and whether the applicant is a member of a financial conglomerate; and • regulatory background of the applicant's shareholders, directors, partners (if applicable) and managerial staff (MiFID Reg. 13 and MiFID Application Form). An applicant firm seeking authorization under the IIA as a retail investment intermediary must provide a completed standard Investment Broker/ Intermediary (IIA) Application Form which sets out the information required on • the legal status of the applicant; • the general business of the applicant; • governance and staff;

[22] A qualifying holding is a direct or indirect holding in the firm that represents 10% or more of the capital of, or the voting rights in, the firm or a direct or indirect holding in the firm that makes it possible to exercise a significant influence over the management of the firm (MiFID Regulations, Reg. 3(1))

	• financial information; • compliance matters; and • the applicant's regulatory background. Like the MiFID application process, the decision to authorise IIA non-retail intermediaries is based on the information provided during the application process with particular focus on corporate governance and oversight arrangements, controls and the business plan. The applicant firm is required to submit a detailed application pack, which includes the IIA Application Form, the detailed Business Plan and the information related to the same principal areas of consideration as described above for MiFID Investment Firms. *Consistent application* The nature, scale and complexity of an applicant firm's proposed business and the nature and range of the applicant's proposed investment services are taken into consideration when assessing applications. Similarly situated firms are required to meet similar criteria. Accordingly, variations in requirements for authorisation may occur. However, all applications are subject to a structured, detailed and systematic review. The level of detail and extent of the review process and materials required to be delivered increases as the complexity of the firm and the businesses it is proposing to enter into increases. There is a "'Retail Intermediaries – Pre Authorisation Checklist" included in the application forms that has been devised to ensure a consistent approach when reviewing applications for IIA Retail Intermediaries and is used in the assessment of all applications. *Initial Capital.* Both MiFID Regulations (Reg. 13(c)) and the IIA (s. 10(5)(c)) require initial capital requirements to be fulfilled before authorisation. The amount of initial capital required is specified by the Central Bank based on the investment services or the investment activities provided. The minimum required and the applicable formulae vary. See the discussion of capital requirements in Principle 30. *Comprehensive assessment* of *applicant and those in a position of control or material influence*. Both the MiFID Regulations (Reg. 12 and 29) and the IIA (s. 10(5)(d), (e)) require assessment of the applicant and all persons in a position to control or materially influence the applicant. Information on the directors, officers and shareholders is collected as part of the application process. The Central Bank introduced a comprehensive Fitness and Probity regime effective December 2011 that applies a single regime to key personnel of all regulated financial services providers under its jurisdiction. The Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011 (S.I. 437 of 2011) (Sections 20 and 22 Regulations) identify those functions which come under the scope of the regime. The Sections 20 and 22 Regulations apply to Pre-Approval Controlled Functions (PCF) and Controlled Functions. The Sections 20 and 22 Regulations identify 41 senior positions as PCFs, such as all directors, the Chief Executive Officer and the Directors or Heads of Compliance, Risk, and Internal Audit. Central Bank approval is required before appointments are made to these positions. The Sections 20 and 22 Regulations also prescribe specific categories as Controlled Functions and persons performing these functions include the staff who exercise a significant influence on conduct of the affairs of the financial service provider, monitor compliance or perform functions in a customer-facing role. The relevant regulated entity must be satisfied that the person carrying out any of these identified roles complies with the applicable standards of fitness and probity as prescribed

	by the Central Bank (Central Bank Reform Act 2010, s. 21). Each PCF individual must submit an Individual Questionnaire to the Central Bank's Regulatory Transactions Division. Each MiFID firm must have at least two PCFs in place. The Central Bank will only grant authorization to the applicant if it is satisfied that anyone owning a qualifying holding[23] in a firm is 'suitable' (MiFID Reg. 12(2); IIA, s. 10(5)(e)). Detailed information on these persons must be provided as part of the application process. *Internal Organization, Risk Management and Supervisory Systems*. Applicants for authorization under MiFID or IIA have to provide materials setting out their organizational structure, internal controls and risk management processes. MiFID Regulations outline the internal organisational requirements that must be in place within the applicant firm before an authorisation can be approved, including business procedures, internal control mechanisms and reporting procedures and the monitoring and evaluating systems that ensure the firm's obligations are continuously being met. It is also required to show that it has established and maintains effective risk management policies and procedures that identify, manage and monitor the risks faced by the firm in carrying out its proposed activities. These must be proportionate to the nature, scale and complexity of the firm. (Reg. 33-35). In essence, the applicant must conduct an internal assessment of its risk management, internal controls and capital needs in accordance with the Internal Capital Adequacy Assessment Process (ICAAP) that is part of Basel 'Pillar 2'. For authorisation under the IIA, an applicant firm must satisfy the Central Bank that the organisational structure and management skills of the proposed investment business firm are sufficient, that adequate levels of staff and expertise will be employed to carry out its proposed activities, and that the applicant firm's conduct and resources will be sufficient for proper and orderly regulation and supervision and protection of investors (s. 10(5)(f) and (j)). The application forms for applicant IIA retail intermediaries and IIA non-retail intermediaries set out the information that must be provided. This may vary based on differences of nature, scale and complexity for the applicant in question. *Application review process.* Upon being approached by a potential applicant for authorization under MiFID or as an IIA non-retail intermediary, the Central Bank arranges a preliminary meeting at which the firm's proposal is discussed further, any significant issues are identified/addressed and the application process is explained to the applicant firm. At this stage, the applicant firm may either be requested to provide further information/clarifications or be invited to submit an application for authorisation consisting of a standard application form and other supporting documentation as set out in the application form and guidance material. The application process involves a detailed desk-based review of the firm's application documentation by the Markets Directorate of Central Bank. The relevant internal procedure is performed and any issues or comments to be addressed are brought to the

[23] A qualifying holding is a direct or indirect holding in the firm that represents 10% or more of the capital of, or the voting rights in, the firm or a direct or indirect holding in the firm that makes it possible to exercise a significant influence over the management of the firm (MiFID Regulations, Reg. 3(1)) The language in s. 2(1) of the IIA is essentially equivalent.

	attention of the applicant firm. There may be extensive discussions between the bank and the applicant until such time as all matters are addressed satisfactorily by the applicant firm. The Central Bank carries out a "four-eyes" review to ensure that is satisfied the applicant firm is in full compliance. Supervisory teams provide input in relation to complex business models. An approval recommendation and letter of authorisation is reviewed and, once any further issues have been addressed, the letter of authorisation is signed and issued to the firm. A completed application for authorization as an IIA Retail Investment Intermediary is reviewed by the Consumer Protection Directorate of the Central Bank and comments are issued to the applicant firm as required. Once all issues raised are appropriately resolved, the application passes to a higher level staff member for further review, in conformity with the "four eyes" principle. Any further issues are raised with the applicant firm. The finalized application and recommended action is then passed further up the organization for final review and sign off. The Central Bank does not routinely request policy and procedure manuals for functions such as internal controls or risk management be submitted as part of the application process. However, they must be complete and available on request. The Central Bank also does not often do on-site inspections either prior to a new firm beginning operations or shortly after operations are underway. The ISE, when authorizing a new member firm, requires testing to ensure the new firms systems connect and work with the relevant trading, clearing and settlement systems at the exchange. The authority to issue authorizations under MiFID and the IIA has been delegated to supervisory staff. The more complex the business model or the activities to be undertaken, the more senior the staff member who must sign off on the licence. For example, an authorization of a complex MiFID firm would have to be unanimously approved by the Authorization Committee that is chaired by the Head of Financial Regulation. *Authority of the Regulator* *Refusal*. The Central Bank has full authority to refuse to grant authorization under the MiFID Regulations and IIA. The Central Bank may refuse to grant an authorisation to an applicant to operate as a MiFID investment firm if • the Central Bank deems that the applicant has not fully satisfied the requirements in Part 4 and Part 5 of the MiFID Regulations (Reg. 11); or • the applicant firm does not provide a complete application as required under the regulations within twelve months (Reg. 15). If the Central Bank decides to refuse authorisation on the first basis, it is required to notify the applicant firm of its decision in a reasonable timeframe and include the reasons for its decision for refusal (MiFID Reg. 11(3) and 15(1)). This decision is appealable under MiFID Reg. 191 to the Irish Financial Services Appeals Tribunal. If the Central Bank, following its review of an application, deems that an applicant firm is not in a position to satisfy the authorisation requirements set out under Section 10(5) of the IIA, it may refuse authorisation pursuant to Section 10(1) of the IIA. The Central Bank must advise the applicant firm of its intention to refuse authorisation and the reason for this intention (IIA, s. 10(3)). This decision may be appealed to the Irish Financial Services Appeals Tribunal.

	In practice, applications are unlikely to reach the stage of an outright refusal. Problematic applications tend to be withdrawn or abandoned. *Withdrawal.* The Central Bank can withdraw authorisation of a MiFID investment firm under MiFID Reg. 21 if the investment firm: • fails to operate as a MiFID investment firm during the 12 month period following after the date of the authorisation, • expressly renounces the authorisation, • obtained the authorisation by making false statements or by any other irregular means, • no longer meets the conditions under which the authorisation was granted or the prerequisites to granting authorisation for MiFID investment firms, • has seriously or systematically infringed the provisions of the MiFID Regulations governing the operation of MiFID investment firms, or • has not provided investment services for the immediately preceding 6 months. The Central Bank may make a summary application to the High Court to withdraw the authorization if the revocation is expedient: • in the interests of the proper and orderly regulation and supervision of MiFID investment firms, • in order to protect investors, or • in one or more specified circumstances including failure to meet ongoing requirements or conviction of an offence. (MiFID Reg. 22) Under s. 16(2) of the IIA, the Central Bank may revoke the authorization of a retail and non-retail investment intermediary in specified circumstances, which largely track those under MiFID. *Issue Directions.* The Central Bank can issue a direction to a MiFID investment firm to suspend some or all of its activities where the Central Bank is of the opinion that it is necessary in the interests of the proper and orderly regulation and supervision of investment firms, for the protection of investors or both, or if the firm: • has become or is likely to become unable to meet its obligations to its creditors or clients; • is not maintaining or is unlikely to maintain adequate capital resources or no longer complies with the capital or other financial requirements; • has failed to comply with any condition or requirement imposed under the MiFID Regulations, and the stability or soundness of an investment firm or regulated market may be materially affected by this failure; • is conducting business in such a manner as to jeopardise client assets held by it; or • has failed to provide to the Central Bank within a reasonable time the information reasonably requested for the purpose of the Central Bank's functions under the MiFID Regulations (Reg. 148). The Central Bank has extensive authority to give directions to a MiFID investment firm to suspend its activities or services, including the provision of any investment service; the acquisition or disposal of any assets or liabilities; and carrying on business in a specified manner or otherwise than in a specified manner (MiFID Reg. 148). The duration of a direction cannot be longer than 12 months.

	Under s. 21 of the IIA, the Central Bank may give directions where it considers it necessary to do so in the interests of the proper and orderly regulation and supervision of investment business firms or the protection of investors. These directions may be given to a wide array of parties including any or all investment business firms (authorized, proposed, or formerly authorized), directors and management of those firms or any person acting on a firm's behalf. A direction can be given when similar circumstances are present as under MiFID Regulation 148 above. There is evidence that the authority to issue directions has been exercised in practice. *Terms and Conditions*. Authorisation under MiFID may be given unconditionally or subject to conditions or requirements. The Central Bank may impose such conditions or requirements on MiFID investment firms at the time of the authorization or thereafter and may vary the conditions or requirements as appropriate (MiFID Reg. 11(2) and 145(1)). Under the IIA, the Central Bank may put in place conditions at the time of authorisation (s. 10(2)) and it may impose a range of conditions or requirements where an IIA intermediary (retail or non-retail) has failed to meet relevant on-going requirements (ss. 10(6) to (13)). There is evidence that terms and conditions are applied both routinely to some activities and ad hoc where specific circumstances warrant. *Powers to act vs. unsuitable individuals*. The Central Bank has the power to investigate, suspend, remove or prohibit individuals from performing controlled functions in the financial services industry where concerns arise about their fitness and probity, including those associated with regulated entities authorised under the MiFID Regulations or the IIA (Central Bank Reform Act 2010, Part 3). If a person's fitness and probity is the subject of an investigation, and the Head of Financial Regulation is satisfied that it is necessary in the interests of the proper regulation of the firm concerned that the person stop performing a controlled function, the Central Bank has the authority to issue a suspension notice (Central Bank Reform Act 2010, s. 25). If the Central Bank (or the Governor) has reasonably formed the opinion that a person is not of such fitness and probity as is appropriate to perform any or all controlled functions, the Central Bank can issue a prohibition notice forbidding the person from performing designated controlled functions or putting conditions on the person when performing specific controlled functions for either a specified period or indefinitely (Central Bank Reform Act 2010, s. 43). Firms are responsible for the actions of their staff. If a person outside the scope of the fit and probity remit is viewed as a problem, the Central Bank would look to the regulated firm to ensure the appropriate action is taken. *Ongoing Requirements* Regulated entities are required to provide prompt updates to relevant information regarding their authorisation under both the MiFID Regulations and the IIA. MiFID investment firms have an obligation to comply with the conditions and requirements imposed at authorisation by the Central Bank at all times and are required to notify the Central Bank in respect of any material changes to the conditions that were prerequisites to the original authorisation (MiFID Reg. 72).

	The Central Bank's Supplementary Supervisory Requirements for Investment Firms under S.I. No. 60 of 2007 (Supplementary Supervisory Requirements) require investment firms to consult with the Central Bank prior to engaging in any significant new activities or establishing new branches, offices or subsidiaries. An investment firm also has an obligation under the Supplementary Supervisory Requirements to notify the Central Bank as soon as it becomes aware of: • any breaches of the MiFID Regulations or the Supplementary Supervisory Requirements; • breaches of other Irish legislation which may be of prudential concern or which may impact on the firm's reputation or good standing; • the commencement of any significant legal proceedings by or against firm; • any situation or events which may have a significant impact on the firm; • the imposition of fines by another supervisory authority; or • a visit by another supervisory authority. Under the IIA, the Central Bank must be kept informed of material changes to an IIA Retail Intermediary, including changes of name/trading name, changes of address and proposed changes of directors. The Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries, which is issued under Sections 14 and 19 of the IIA, sets out, inter alia, general supervisory requirements and reporting requirements for IIA Retail Intermediaries. For example, an IIA Retail Intermediary is required to notify the Central Bank of: • any breach by it of the IIA or of any breach of the Central Bank's requirements, or • all current or impending legal action being taken either by or against the IIA Retail Intermediary. After authorisation is granted, IIA Retail Intermediaries must inform the Central Bank of any changes in relation to the information that would have been assessed at the time of authorisation, including name, address, changes in directors, proposed change to qualifying shareholders or proposed changes to business. On an annual basis, IIA Retail Intermediaries are required to submit an online return via a secure web-based electronic reporting system. Information provided in respect of the online annual return includes: (i) financial information such as profit and loss account and balance sheet; (ii) description of unregulated activities, if applicable, (iii) shareholding information and (iv) number of clients. The Central Bank's Prudential Handbook for Investment Firms applies to Non-Retail Intermediaries authorised under Section 10 of the IIA. The Handbook sets out the prudential requirements applicable to these entities and contains the general and supervisory requirements, reporting requirements and books and records requirements that apply to each IIA Non-Retail Intermediary. The Prudential Handbook for Investment Firms requires IIA Non-Retail Intermediaries to: • consult with the Central Bank prior to engaging in any significant new activities, or establishing new branches, offices or subsidiaries, and • notify the Central Bank as soon as it becomes aware of: • any breaches by the intermediary of the IIA or the Prudential Handbook for Investment Firms; • breaches of other Irish legislation which may be of prudential concern or

	which may impact on the firm's reputation or good standing; • the commencement of any significant legal proceedings by or against the firm; • any situation or events which may have a significant impact on the firm; • the imposition of fines by another supervisory authority; or • a visit by another supervisory authority. In addition, the IIA Non-Retail Intermediary is required to obtain the prior approval of the Central Bank in respect of a proposed change of its name and must promptly notify the Central Bank of any change to its address, telephone number, email address or fax number. It must also notify the Central Bank in respect of any direct or indirect acquisition or disposal of shares or other interest in any other undertaking or business that it proposes to undertake and in respect of any proposed change in auditor and the reasons for the proposed change. It must also seek the approval of the Central Bank in respect of the appointment of a new director to the IIA Non-Retail Intermediary and inform the Central Bank in the case of a resignation or retirement of a director of the IIA Non-Retail Intermediary. *Information available to the Public*. Public registers are available to the public regarding regulated entities authorised pursuant to the MiFID Regulations and the IIA. Under MiFID a register of information on MiFID firms is kept on the Central Bank's website. The MiFID Register provides details of MiFID investment firms, including addresses, authorisation date, services provided, client assets permissions, financial instruments, passporting jurisdictions and tied agents (as applicable) (MiFID Reg. 9). There are three public registers available on the Central Bank website for IIA intermediaries: • Register of Investment Business Firms authorised under Section 10 of the Investment Intermediaries Act, 1995 (as amended) that contains the following information on all Authorised Advisors and Multi-Agency Intermediaries: o Name, address of firm, including trading name; o Authorisation category (AA or MAI) and date of authorisation; o If the Client Money Rules apply; o List of business services provided; o List of investment instruments for which they can provide services • List of Investment Business Firms deemed authorised as Multi-Agency Intermediaries (RAIPI) pursuant to Section 26 of the Investment Intermediaries Act, 1995 (as amended) that contains the following information on intermediaries of this category who were operating in the industry prior to the Central Bank becoming the competent authority for regulating such firms: o Name, address of firm, including trading name; o Details of authorisation status and date of authorisation; • Register of Investment Product Intermediaries maintained by the Central Bank of Ireland in accordance with Section 31(4) of the Investment Intermediaries Act, 1995 (as amended) that contains the following information about entities that hold letters of appointment from product producers as set out in Section 31(4) the IIA: o Legal & trading name of firm

	○ Address ○ Product Producers ○ Status Each product producer is required to provide a list of all intermediary appointments to the Central Bank and for the Central Bank to record these details on a public register. The permitted activities for an investment product intermediary are not disclosed on the Register of Investment Product Intermediaries. The identity of senior management and names of other authorised individuals who act in the name of a MiFID investment firm or an IIA firm are not included in the public registers referred to above, as this is not legally required under the legislation. *Investment Advisers* MiFID investment firms that provide investment advice are subject to the full range of requirements imposed on all MiFID market intermediaries, including capital requirements and operational controls (see the discussion above and under Principles 30 & 31). MiFID Regulations contain requirements that govern holding of client assets. In addition to these legislative provisions, the Central Bank published the Client Asset Requirements 2007 (CAR) which establish in more detail the rights, duties and responsibilities of MiFID investment firms and IIA Non-Retail Intermediaries in relation to client money and client financial instruments received and held by them arising from their investment business activities. These firms are required to have their external auditors assess, at least on a six monthly basis, their compliance with the requirements. They are also subject to inspection by the Central Bank's Client Asset Specialist Team (CAST). Retail investment business firms under the IIA are limited to providing advice and arranging the completion of transactions in respect of a limited range of retail investment instruments. These firms are not permitted to hold client assets or engage in activities such as asset management, execution of orders, stockbroking, and dealing on own account. Non-retail advisers are limited to providing advice in respect of certain investment instruments. These intermediaries are subject to requirements regarding record keeping, conflicts of interest and general client disclosure requirements. See the discussion in Principle 31.
Assessment	Fully implemented
Comments	All of the requirements under the Assessment Methodology for this Principle are met, save some minor requirements with respect to disclosure on the public register of: • The permitted activities for an investment product intermediary under the IIA; and • The identity of senior management and names of other authorised individuals who act in the name of a MiFID investment firm or an IIA firm. The Central Bank should make this information available to the public on its website.
Principle 30.	There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.
Description	*Initial & On-going Capital Requirements* *Initial Capital* Both MiFID Regulations (Reg. 13(c)) and the IIA (s. 10(5)(c)) require initial

capital requirements to be fulfilled before authorisation. The amount of initial capital required is specified by the Central Bank based on the investment services or the investment activities provided. The minimum required and the applicable formulae vary.

Depending on the investment activities undertaken, MiFID investment firms are required to hold amounts of capital in accordance with the criteria outlined in the European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006)(as amended) (the Capital Requirements Regulations) and European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006)(as amended) (the Capital Adequacy (Credit Institutions) Regulations) (together, the CRD Regulations)) which transpose Directive 2006/49/EC (as amended) and Directive 2006/48/EC (as amended) into Irish law, respectively. MiFID investment firms are required to hold the minimum level of capital as calculated under the CRD Regulations at all times.

MiFID Firms	
Category	**Initial Capital**[1]
MiFID investment firms - trade on own account or underwrite on a firm commitment basis	EUR 730,000
MiFID – no proprietary trading or firm underwriting but hold client assets and offer receipt and transmission of orders; execution of investors' orders or management of portfolios	EUR 125,000
MiFID Firms not subject to CRD[2]	
Firms only authorised to provide investment advice and/or receive and transmit orders from investors without holding money or securities	EUR 50,000 and/or professional indemnity insurance representing at least EUR 1,000,000 applying to each claim and in aggregate EUR1,500,000 per year for all claims
Local firms dealing in derivatives on own account only on markets where clearing members guarantee performance.	EUR 50,000

[1]. Initial capital for MiFID investment firms must be comprised exclusively of fully paid up share capital (including share premium) and reserves in accordance with the provisions in Capital Adequacy (Credit Institutions) Regulation 3(1)(a) and (b) as applied to investment firms via Capital Requirements Regulation 2(1)). "Reserves" would include retained earnings.
[2]. Excluded from definition of investment firms under the Capital Requirements Regulations by s. 2(1)

IIA intermediaries are not subject to the CRD, but are required to have initial capital under s. 10(5) of the IIA.

IIA Firms	
Category	**Initial Capital**
Non-retail Intermediaries	Minimum Initial Capital Requirement (MICR) of EUR 50,000[1]
Multi Agency Intermediaries (MAI) and restricted activity investment product	Must be 'solvent'[2] at all times

intermediaries	
Authorised Advisors (AAs) and MAI Non- restricted activity investment product intermediaries – not product producers – are product producers	Minimum shareholders' funds or a capital account of EUR 10,000 EUR 50,000
1. MICR calculated as under CRD 2. 'Solvent' means the firm has positive shareholders' funds or a positive capital account and is able to meet its financial commitments as they come due.	

The Central Bank has the authority to require all firms to hold capital in addition to these minimums, both initially and on an on-going basis. In virtually all cases, apart from IIA retail intermediaries, the minimum required is higher than the amounts set out above.

On-going Capital. MiFID investment firms subject to the CRD are obliged to maintain on-going minimum capital requirements in accordance with Capital Requirements Regulation 18. The nature of such MiFID investment firms' own funds shall be determined in accordance with Part 4 of the Capital Requirements Regulations. The Central Bank can impose conditions, requirements or both, in respect of the level of capital to be maintained by these firms, in accordance with MiFID Regulation 16(1).

For MiFID investment firms that are subject to the CRD, Pillar 1 capital requirements address credit risk; market risk, dilution risk, position risk; operational risk; counter-party risk; foreign exchange risk; settlement risk and commodities risk as set out in Capital Adequacy (Credit Institutions) Regulation 19. The capital regime allows institutions to calculate their capital requirements for credit risk, position risk, foreign-exchange risk and/or commodities risk using their own internal risk-management models rather than following the standard methodology if they obtain permission of the competent authorities. To date the Central Bank has not approved the use of internal models for calculating capital requirements.

MiFID investment firms with a €730,000 minimum initial capital requirement must retain capital equivalent to the higher of €730,000 or 8% of their risk weighted assets (RWAs), taking into account credit, market and operational risk, in accordance with Capital Requirements Regulation 18(1), which applies the provisions of Capital Adequacy (Credit Institutions) Regulation 19.

For trading book exposures that exceed relevant large exposure limits, additional capital may also be required in accordance with Capital Requirements Regulation 29, with permission of the Central Bank.

MiFID investment firms with a €125,000 minimum initial capital requirement are required to retain capital in accordance with Capital Requirements Regulation 18(2), specifically if higher than €125,000:

- 8% of their RWAs, taking into account credit and market risk; or
- A quarter of the firm's preceding year's fixed overheads.[24]

[24] The Central Bank's guidance to firms says fixed overheads are all expenses incurred by firms in the preceding financial year as set out in that firm's financial statements with the following exceptions:

(continued)

	The Central Bank has discretion to allow investment firms with a €730,000 minimum initial capital requirement that also fulfil the criteria set out in Capital Requirements Regulation 18(3)[25], to retain own funds in accordance with Capital Requirements Regulation 18(3), specifically the **sum** of: • 8% of their RWAs, taking into account credit and market risk; and • A quarter of the firm's preceding year's fixed overheads. In addition, all MiFID investment firms subject to the CRD are required to conduct an internal assessment of capital needs (their 'Basel Pillar 2' requirements) in accordance with Capital Requirements Regulation 32. This assessment is called the firm's Internal Capital Adequacy Assessment Process (ICAAP). Under this process, investment firms are required to implement policies and processes for the measurement and management of all material sources and effects of risk, including operational risk. Technical criteria regarding the treatment of various risks is set out in Annex V of Directive 2006/48/EC. The assessment must be reviewed regularly and at least annually. The Central Bank reviews the firm's ICAAP as part of the supervisory review process under Pillar 2. The Central Bank also reviews all risks when a full risk assessment of the firm is done under PRISM. MiFID investment firms that are not performing investment activities subject to the full rigours of the CRD (those subject to initial capital requirements of EUR 50,000 and above) are captured by the initial capital requirement of the CRD only and are not subject to the rest of the requirements. Investment business firms authorised under the IIA are not subject to the capital requirements set out by the CRD. The only requirement for ongoing capital is that the amount of initial capital specified by the Central Bank must be maintained at all times. Very general standards are set out in the Prudential Handbook for Investment Firms that say non-retail firms must "maintain, on a continuous basis, adequate financial resources to meet its investment business objectives and to reflect the risks to which its business is subject" and must have in place "policies and systems to identify, monitor and control risk arising in respect of the firm's activities, including, for example, market risk, foreign exchange rate risk, credit risk, operational risk and the risk of fraud" (s. 2.2 and 2.4). No equivalent standards apply to retail IIA firms. There are no specific amounts of capital required to address liquidity in the relevant capital formulae that apply to MiFID or IIA firms. MiFID firms subject to the CRD are

- Exceptional and extraordinary non-recurring expenses as noted in the financial statements;
- Shared commissions paid, other than to officers and staff of the firm;
- Fully discretionary profit shares and bonuses;
- Losses arising on the translation of foreign currency balances;
- Depreciation;
- Amortization of intangible assets; and
- Losses on disposal of fixed assets where these are not incurred in the regular course of business.

[25] (a) Investment firms that deal on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognized exchange when acting in an agency capacity or executing a client order, and
(b) investment firms -
(i)that do not hold client money or securities,
(ii)that undertake only dealing on own account,
(iii)that have no external customers,
(iv) the execution and settlement of transactions of which take place under the responsibility of a clearing institution and are guaranteed by that clearing institution.

	required by Pillar 2 to monitor and address liquidity risks (Capital Requirements Regulation 32). Firms must have robust strategies, policies, processes and systems, proportionate to the complexity, risk profile and scope of operation of the firm, for the identification, measurement, management and monitoring of liquidity risk over an appropriate set of time horizons to ensure that they maintain adequate levels of liquidity buffers (Directive 2006/48/EC, Annex V, Part 10). Under the Central Bank's supervisory engagement model (PRISM), all MiFID investment firms' liquidity risk is assessed on an on-going basis. All MiFID investment firms are required to submit a monthly report that provides data in respect of the firm's liquid assets. For supervisory purposes there is a liquidity ratio that is monitored for firms and inquiries are made if the liquidity cover of the firm declines. The level of any further supervisory engagement is determined by the firm's impact category under PRISM. There is no specific requirement for all firms to maintain a given level of liquidity or a general requirement to keep 'sufficient' liquidity beyond what applies only to MiFID firms subject to the CRD. *Record Keeping, Reporting and Audit* *Records.* The MiFID Regulations set high level obligations on MiFID firms with respect to recordkeeping. They are obliged to have sound administrative, accounting and internal control mechanisms (Reg. 33(1)(f)(i)). MiFID investment firms are also required to maintain adequate and orderly records of their business and internal organisation. The Central Bank has published more detailed books and records requirements for these firms, which are published on its website. Further, Capital Requirements Regulation 33 (1) requires MiFID investment firms subject to the CRD to provide the Central Bank with all information necessary for the assessment of compliance with the CRD. Capital Requirements Regulation 33 (2) extends this to require firms' internal control mechanisms and administrative and accounting procedures be capable of proving verification of compliance at all times. IIA Non-Retail investment business firms are required to "keep at an office or offices within the State such books and records (including books of accounts) or other documents as may be specified from time to time by a supervisory authority." The Prudential Handbook sets out minimum content for records for these firms. An IIA Non-Retail investment business firm is also required to satisfy the Central Bank, on a continuing basis, that it has adequate control systems and accounting procedures to facilitate effective management of the firm and to ensure that it is in a position to satisfy the Central Bank's supervisory and reporting requirements and compliance with the IIA as appropriate. The Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries requires that IIA Retail Intermediaries maintain, on a continuing basis, adequate control systems and accounting procedures to facilitate effective management of the IIA Retail Intermediary and to ensure that it is in a position to satisfy the Central Bank's supervisory and reporting requirements. The Handbook also requires these firms maintain, at a minimum, a record of all income and expenditure, a record of all assets and liabilities and off balance sheet items, including any commitments or contingent liabilities and any working papers necessary to show the preparation of any return submitted to the

	Central Bank. Further, all IIA firms are required to meet the record keeping requirements set out in Chapter 11 of the Consumer Protection Code. *Reporting*. There are extensive reporting requirements that impose monthly, quarterly and annual reporting requirements on firms. The frequency and extensiveness of the reporting increases with the size and complexity of the firm. Filing is done on-line in standard formats that facilitate automated pre-screening and most of the reports (other than annual ones) are required to be filed within 20 days of the reporting period end. MiFID investment firms subject to the CRD with a €730,000 minimum initial capital requirement must provide information to the Central Bank on their capital adequacy position on a monthly basis in accordance with Capital Requirements Regulation 33 (3), in line with their higher impact on the financial system. This provides regular information to supervisors that would reveal any significant deterioration in the MiFID investment firm's position. These firms also submit quarterly large exposures reports. MiFID investment firms subject to the CRD with a €125,000 minimum initial capital requirement must provide information to the Central Bank on their capital adequacy position on a quarterly basis in accordance with Capital Requirements Regulation 33 (3). Both types of firms are required to report information on capital adequacy on a consolidated basis to the Central Bank once every six months in accordance with Capital Requirements Regulation 33(4). In all cases, the reports must be filed within 20 working days of the end of the relevant period. Under these requirements, MiFID investment firms not subject to the CRD are required by the Central Bank to complete a bi-annual capital adequacy statement. These requirements are non-statutory and therefore not enforceable under the ASP regime. However in practice, such MiFID investment firms comply within the specified timeframes with few exceptions. Section 6.4 of the Prudential Handbook for Investment Firms requires IIA Non-Retail Intermediaries to submit to the Central Bank details of their capital adequacy position within 20 business days of the reporting period end. All IIA Retail Intermediaries must submit an annual on-line reporting return (ONR) to the Central Bank that contains information on the firm, its financial positions, its number of customers and other information. The Central Bank requires all MiFID investment firms and IIA non-retail firms to submit audited accounts on an annual basis. Audited accounts should be provided 6 months after the firm's accounting year-end. The audited accounts are required to be sufficiently detailed to demonstrate the firm's ability to meet capital requirements on an on-going basis. The audited accounts must be prepared using IFRS or U.K. and Irish GAAP. IIA Retail firms are required to prepare audited accounts but must only submit these reports when requested. MiFID Regulation 144 (1) specifically requires that investment firms ensure that their external auditors report at least annually to the Central Bank on the adequacy of the investment firm's arrangements regarding the safeguarding of client financial instruments and client funds and the firm's arrangements to prevent the use of clients' instruments or funds for the firm's own account. In practice, semi-annual reports are prepared and

submitted to the Central Bank.

The Central Bank Act 1997 places duties on auditors to report to the Central Bank both routinely and in specified circumstances. Auditors must:

- make an annual written report to the Central Bank within one month after the date of the auditor's report on the MiFID investment firm's financial statements (as in, 7 months after the year end) stating that there is no matter, not already reported in writing to the Central Bank by the auditor, that has come to the attention of the auditor during the ordinary course of the audit that gives rise to a duty to report to the Central Bank. Where matters have already been reported, these are also included in the report (s. 27B);
- must provide the Central Bank with a copy of any report the auditor makes to the MiFID investment firm, or those concerned with its management, on any matter that has come to the auditor's notice during the course of the financial statement audit (or while carrying out any work for the entity of a kind specified by the Central Bank) (s. 27C)
- make a written report to the Central Bank stating whether or not circumstances have arisen that require the auditor to report a matter to the Central Bank under the IIA.

Regulatory Activities and Authority

Supervisory analysis of the reports submitted by firms is carried out on a regular basis. The frequency of analysis is dependent on the impact rating of MiFID investment firms under the Central Bank's supervisory engagement model, PRISM. For example, MiFID investment firms with a Medium-Low or Medium-High impact rating have their COREP reports subject to analysis by the Central Bank on, a monthly basis for firms with a EUR 730,000 MICR and quarterly basis for firms with a EUR 125,000 MICR.

All MiFID investment firms and IIA Non-Retail Intermediaries are required to submit a Monthly Metrics Report (MMR). The MMR is uploaded by MiFID and IIA Non-Retail Intermediaries to ONR and contains data relating to client assets held (where applicable), AUM, IIA Non-Retail Intermediaries' financial positions, liquidity, services and other material items. For IIA Non-Retail Intermediaries assigned a PRISM impact rating of Medium-Low Impact and above, the MMR would be reviewed by the relevant Central Bank supervisor on a monthly basis. The MMR, while not specifically highlighting capital position and requirements, does allow supervisors to monitor profit and loss/balance sheet movements and the impact they may have on a firm's capital adequacy.

For MiFID investment firms and IIA Non-Retail Intermediaries designated as Low Impact under PRISM, a trigger is built into the report for the purpose of identifying potential issues with such firms' capital/financial position.

IIA Retail Intermediaries use the Central Bank's on-line reporting return (ONR) to submit Annual Returns to the Central Bank six months after each IIA Retail Intermediary's financial year-end. The Central Bank pursues non-compliant IIA Retail Intermediaries with the aim of improving compliance levels. Internal reports provide alerts on 2 Key Risk Indicators for Low Impact IIA Retail Intermediaries – negative financial positions and Professional Indemnity Insurance details. Procedures are in place to engage with IIA Retail Intermediaries where these 2 KRIs are reported.

	The Central Bank may impose conditions, requirements or both, in respect of the level of capital to be maintained by all intermediaries under the MiFID Regulations (Reg. 16(1) and the IIA (s. 10(7)). If a MiFID investment firm or IIA Non-Retail Intermediary is undercapitalized, the Central Bank may take a variety of actions. It may give a direction in writing to the firm to suspend specific activities or to cease carrying on business in a particular manner. It may suspend the firm's authorization to do business or may revoke that authorization. (See the discussion of these powers under Principle 29.) The Central Bank has legislative powers in relation to the placing of conditions and restrictions on the activities of MiFID investment firms. The Central Bank requires any MiFID investment firms subject to the CRD that are not meeting those requirements to take the necessary actions to address the situation. Among other actions, the Central Bank can impose the following on MiFID investment firms: • more frequent reporting requirements; • a direction on a MiFID investment firm to suspend certain activities; • a requirement to hold additional own funds (Capital Adequacy (Credit Institutions) Regulation 70(2)(a)); • restrictions on business activities (Capital Adequacy (Credit Institutions) Regulation 70(2)(d)); and • conditions, requirements or both, in respect of the level of capital to be maintained (MiFID Reg. 16(1)). Where an IIA Retail Intermediary is in breach of a regulatory requirement as a consequence of its financial position (such as a solvency requirement), the IIA Retail Intermediary will be directed to prepare and implement a credible capital plan to resolve its financial position in a timely manner. Failure to do so may lead to revocation of the IIA Retail Intermediary's authorisation. There is evidence that these powers have been exercised in practise. Also, the Central Bank has conducted a thematic review of the solvency of IIA retail firms, focusing on those firms that self-identified as having solvency issues. *Outside Risks* Capital Adequacy (Credit Institutions) Regulation 15 applies requirements (i.e., capital requirements, ICAAP requirements, qualifying holdings provisions and large exposures requirements) on a consolidated basis to credit institutions. The Central Bank applies consolidated supervision to MiFID investment firms and it receives consolidated returns from these firms. For firms that are part of a group and are subject to the CRD, group risks are required to be addressed during the ICAAP process. In addition, for firms assigned an impact rating of medium/low or higher, group risks are examined under PRISM's Full Risk Assessment process.
Assessment	Fully implemented
Comments	
Principle 31.	Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim

	of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.
Description	*Management and Supervision* MiFID Firms *Organizational Structure*. As discussed under Principle 29, in order to be authorized a MiFID investment firm must satisfy the Central Bank: • as to the adequacy of the organisational structure and management skills within the firm. The firm is required to have appropriate levels of staff and expertise in place to ensure the orderly functioning of its business relative to the activities it carries out; and • that individuals who effectively direct the business and the operations of the firm are of sufficiently good repute and sufficiently experienced so as to ensure the sound and prudent management of the operation of the firm. The MiFID Application Form requires firms to submit details on any individual within the firm who will be carrying out a Pre-Approved Control Function (PCF) or Control Function (CF) within the MiFID investment firm. An Individual Questionnaire is required to be submitted to the Central Bank for assessment for each individual who is or will be carrying out a PCF role within the firm. The Central Bank's MiFID Guidance Note states that the direction of a MiFID investment firm must be undertaken by at least two pre-approved personnel who are of sufficiently good repute and are sufficiently experienced to do so. MiFID Regulations set out the high level organisational requirements for MiFID investment firms. A firm is required to establish appropriate policies and procedures that will ensure its compliance with applicable legislation, as well as implementing and carrying out appropriate and proportionate systems, resources and procedures which will ensure continuity of business, prevent conflicts of interests and ensure for the protection of the firm's clients. The investment firm must establish, implement and maintain decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities (MiFID Reg. 34). The MiFID Application Form outlines the requirements that need to be satisfied in terms of the internal structuring/organisation of the MiFID investment firm. The Central Bank requires MiFID investment firms to demonstrate that they have sufficient resources and policies/procedures in place regarding the areas of: staffing; outsourcing; compliance; risk management; internal audit; administration and accounting; conflicts of interest; business continuity; security, integrity and confidentiality of information; and complaints procedures. *Outsourcing*. Under MiFID Regulation 33, if the firm proposes to outsource any of its critical or important operational functions, the outsourcing must not impair the quality of the firm's internal controls or the ability of the Central Bank to monitor the firm's compliance with all obligations. A written agreement must be entered into by the investment firm and the service provider. Among other requirements, the MiFID firm must do due diligence to ensure the service provider is suitable and capable of carrying out the

	activities. The firm must retain resources to be able to supervise the outsourced activities. The firm may not delegate management responsibility to the outsourced entity (MiFID Reg. 105). *Internal Controls*. MiFID Regulation 33 requires the investment firm to establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the investment firm. Before an authorization is granted, the applicant must show it has fulfilled this requirement. These internal control mechanisms must be available to the Central Bank upon request, either during or post authorisation. The internal controls system is also strengthened by the requirement that all firms have in place an independent Compliance function. Larger or more complex firms will also be required to put in place independent Risk Management and Internal Audit functions. Under the MiFID Regulations, when allocating functions internally, senior management must be responsible for ensuring that the firm complies with its obligations under the Regulations. Senior management, and any persons within the firm performing a supervisory function, must periodically review the effectiveness of the policies, arrangements and procedures put in place within the firm to comply with the firm's obligations under the MiFID Regulations (Reg. 37). Further, the Central Bank's MiFID Guidance Note states that the responsibility for the proper management and control of the investment firm, and the integrity of its systems, rests with the board of directors and its senior management. *Reporting and Monitoring*. The regulatory framework requires an investment firm to establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the investment firm and to maintain adequate and orderly records of its business and internal organisation. A MiFID investment firm is also required to establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information at all times, taking into account the nature of the information in question (MiFID Reg. 34). The firm is required to monitor its systems and internal control mechanisms and evaluate the adequacy and effectiveness of such systems and mechanisms on a regular basis and take appropriate measures to address any deficiencies it discovers (MiFID Reg. 35). The firm's senior management must receive written reports on the adequacy of its policies and procedures to detect risks of failure to comply with legislation. The report should also contain details regarding the functioning of the firm's monitoring and evaluating systems and control mechanisms and report on the adequacy of the firm's risk management function and procedures. The report should be provided to senior management on a regular basis and no less than annually (MiFID Reg. 37). If the firm has an internal audit department, the assessment of internal controls is to be conducted by that department (MiFID Reg. 37(2)). There are general independence requirements for the internal audit department. There is no requirement that this review be conducted by an external independent party, such as an external auditor. As part of the application process, the Central Bank requires investment firms to be able to demonstrate how internal reporting will be used by directors of the firm as a tool for oversight of the entire firm, by senior management as a tool for oversight of business

areas and by staff to carry out the responsibilities they have been assigned.

Firms that hold client assets are subject to the Client Asset Requirements (CAR). The external auditors of these firms must:

- examine the books and records of the firm in relation to client assets;
- review the systems and procedures employed by the firm in relation to the safe-keeping and accounting for client assets;
- examine compliance by the firm with the CAR; and
- report in a format acceptable to the Central Bank on a semi-annual basis stating whether, in their opinion, the requirements have been complied with.

Further, the Central Bank Act 1997 places duties on auditors of MiFID firms to report to the Central Bank both routinely and in specified circumstances. (See discussion under Principle 30).

IIA Firms

The Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries issued under Section 14 of the IIA requires Retail Intermediaries to maintain, on a continuing basis, adequate control systems and accounting procedures to facilitate effective management of the investment intermediary and to ensure that it is in a position to satisfy the Central Bank's supervisory and reporting requirements and to comply with the IIA. This requirement equally applies in instances where activities are outsourced to another party and are required to be maintained on a continuous basis. These firms are also required to appoint a member of management with primary responsibility for ensuring the maintenance of appropriate standards of conduct, adherence to proper procedures by the whole firm, and compliance with the investment intermediary's obligations under the Handbook and the IIA.

The Application form for Retail Brokers/Intermediaries under the IIA requires applicants to provide information on:

- procedures and back-up facilities for maintaining client files;
- IT/software systems to be used in the provision of services to clients;
- who will be responsible for corporate governance, and how the firm will be managed and controlled;
- the Compliance officer, Finance Officer, Internal Auditor (if appropriate) and Money Laundering Reporting Officer;
- how the applicant firm's compliance function will work; and
- the procedures and controls regarding suitability, complaints, staff resources and fitness, etc.

The Prudential Handbook for Investment Firms requires IIA Non-Retail Intermediaries to satisfy the Central Bank, on a continuing basis, that it has adequate control systems and accounting procedures to facilitate effective management of the firm and to ensure that the firm is in a position to satisfy the Central Bank's supervisory and reporting requirements and compliance with the IIA, as appropriate. They must also satisfy the Central Bank, on a continuing basis, that they have adequate management resources to conduct their activities effectively. The firm must identify a Compliance officer at management level to be responsible for compliance with all legal and regulatory requirements and for co-operation and liaison with regulatory authorities.

The IIA Non-Retail Authorisation Application Form sets out high level requirements that

	the organisational structure requirements that applicant firms must meet and covers areas such as staff and business profile, outsourcing, compliance function, risk management, internal audit, internal reporting and communication of information, business activity record keeping, management of client assets and administration / accounting. Firms must provide details to establish the appropriate standards are met before they are authorized and are required to maintain compliance with these requirements on a continuous basis. Other than for IIA firms subject to CAR, there are no express requirements for a periodic review of internal controls and risk management processes at IIA firms. *Organizational Requirements* (see also the discussion above and under Principles 29 & 30) *Compliance*. The MiFID Regulations require an investment firm to maintain a permanent and effective compliance function which operates independently and is responsible for monitoring the adequacy and effectiveness of measures put in place to minimize the risks faced by the firm and to advise and assist employees of the firm carrying out investment services and activities to comply with its obligations under the MiFID Regulations. The Central Bank assesses a firm's compliance function as part of the firm's initial application for application under the MiFID Regulations. This assessment of the firm's compliance function looks for confirmation that the firm has compliance policies and procedures in place and that a Compliance Officer has been appointed by the firm. The Compliance Officer is assessed under the Central Bank's Fitness and Probity regime. No member of the compliance function may have any revenue generating responsibility, so as not to impair the performance of the compliance function. Any issue found with the firm's compliance function in the Central Bank's assessment, either by way of its initial application, the on-going supervision of the firm or in an inspection carried out by the Central Bank, would require the firm to improve the compliance function as specified by the Central Bank. The Central Bank has done a thematic review of the compliance function of some firms in the past two years. The proposed structure of the compliance function at IIA intermediaries is assessed at the time of authorization. In addition the person taking up the Head of Compliance role requires pre-approval of the Central Bank before they commence in their role. Where the Central Bank becomes aware of deficiencies, the Central Bank may request the intermediary to appoint a new individual to the role of Head of Compliance. The Compliance Officer is assessed under the Central Bank's Fitness and Probity regime. *Conflicts of Interest*. (See also the discussion under Principle 8 and 23.) Under the MiFID Regulations, investment firms are required to maintain and operate effective administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of the firm's clients (MiFID Reg. 33). Investment firms are required to identify conflicts of interest as they arise in the course of providing investment services whether they occur within the firm or between or among a firm or its organization and any third parties, for example their managers; employees and tied agents; one or more persons linked directly or indirectly to a firm by control; the firm and clients of a firm or between a client of a firm and one or more other clients of a firm (MiFID Reg. 74). The firm must have a documented conflicts of interest policy in place and this policy must specify procedures to be followed, and measures to be adopted, in order to manage such conflicts (MiFID Reg. 75).

	Chapter 2, General Principle 2.7 of the Consumer Protection Code states that "[a] regulated entity must ensure that in all its dealings with customers and within the context of its authorization it seeks to avoid conflicts of interest." In addition, Chapter 3 of the Consumer Protection Code 2012 sets out a number of requirements in respect of conflicts of interest that IIA firms must meet. • A regulated entity must have a written conflicts of interest policy in place appropriate to the nature, scale and complexity of the regulated activities carried out by the firm that must identify the circumstances that constitute or may give rise to a conflict of interest and specify measures to be adopted to manage such conflicts. • Any conflict that arises must be communicated by the firm to the consumer and the firm must ensure that the conflict does not result in damage to the interests of the consumer. • The firm's remuneration policy does not have the potential to impair the regulated entity's obligations to act in the best interests of consumers. Chinese walls, as defined in the Consumer Protection Code 2012, must be in place within the entity to ensure that sensitive information is not open to abuse or give rise to a conflict and written procedures must be in place regarding the maintenance and consequences of breaches of Chinese walls. If conflicts cannot be managed to ensure no consumer detriment will result, disclosure to the client is required of the general nature and sources of the conflicts of interest before undertaking business on the client's behalf. (MiFID Regulation 74(2)) The Consumer Protection Code 2012 requires that where conflicts of interest cannot be avoided, these must be disclosed to customers. *Direct Electronic Access Controls*. ESMA has issued detailed *Guidelines on systems and controls in an automated trading environment for trading platforms, investment firms and competent authorities*. This document requires investment firms have policies and procedures to ensure that their automated trading activities on trading platforms comply with their regulatory requirements under MiFID and that they manage the risks relating to those trading activities. Under these Guidelines, investment firms should be able automatically to block or cancel orders: • that do not meet set price or size parameters (differentiated as necessary for different financial instruments), either or both on an order-by-order basis or over a specified period of time; • from a trader if they are aware of a financial instrument that a trader does not have permission to trade; and • where they risk compromising the firm's own risk management thresholds. Controls are to be applied to exposures: • from individual clients or financial instruments or from groups of clients or financial instruments; or • of individual traders, trading desks or the investment firm as a whole. Also, the firm should have procedures to deal with orders which have been automatically blocked by the firm's pre-trade controls but which the investment firm wishes to submit. The Central Bank notified ESMA that will comply with the ESMA Guidelines and firms have been given notice that compliance is expected.

	Protection of Clients *Client Asset Protection.* There are requirements in MiFID designed to provide appropriate protection for client assets. These include safekeeping arrangements, limitation on use of client assets and custody requirements with third parties. Further, the MiFID Regulations set out a number of requirements in the areas of record keeping, accounting, reconciliation, segregation/ring-fencing, and risk management with the aim of safeguarding clients' rights to assets belonging to them (MiFID Reg. 160-162). In addition to these legislative provisions, the Central Bank published the CAR that establishes in more detail the rights, duties and responsibilities of investment firms in relation to client money and client financial instruments held by the firm. The CAR is imposed on all MiFID firms and IIA Non-retail intermediaries that have been specifically authorized by the Central Bank to hold assets belonging to their clients. An authorized firm must have its external auditors assess, at least every six months, its compliance with the requirements. *Complaints*. Firms must have formal processes in place to address errors and client complaints promptly and effectively (MiFID Reg. 38, Consumer Protection Code 2012, 10.7-10.12). Where a firm's internal resolution process fails to address the complaint of a personal customer of financial services or a limited company with turnover of less than €3 million within the time frames specified in the legislation, the client has recourse to the services of the Financial Services Ombudsman (FSO). The FSO is an independent statutory office that deals with complaints from consumers about their individual dealings with all financial services providers that have not been resolved by the providers. The FSO's findings are legally binding, appealable to the High Court and it can order direct rectification or compensation of up to EUR 250,000. It is a free service to the complainant. *Client Identification.* The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 transposes the Third Money Laundering Directive (2005/60/EC) and its Implementing Directive (2006/70/EC) into Irish Law, bringing Ireland into line with EU requirements and the recommendations of the Financial Action Task Force. Designated persons under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (which includes all market intermediaries) are required to identify and verify the client's identity on the basis of documentation or information that the designated person has reasonable grounds to believe can be relied upon to confirm the identity of the client. The firm is also required to identify any beneficial owner connected with the customer or service provided, and take reasonable measures to verify that person's identity. If the person is a legal entity, the firm must understand the ownership and control structure of the entity. *Know the Client and Suitability*. The level and detail of information that a firm must obtain from a client with respect to investment knowledge, objectives, etc. under MiFID depends on the MiFID service being provided. Where the services are portfolio management and investment advice, the suitability requirements set out in MiFID Regulation 76 and 94 must be met. For other services (i.e. execution only, receiving and transmitting orders etc.), the appropriateness provisions set out in MiFID Regulations 76 and 94 apply.

	Suitability tests are required to be conducted by an investment firm to ensure that its service is suitable for a potential client. Firms are required to inform clients that the reason for assessing suitability is to enable the firm to act in the best interest of the client. Firms must collect the necessary information in order to understand the essential facts about the client so that they can assess whether the specific transaction to be recommended or entered into is suitable for the client. The information that the firm is required to obtain includes information on the clients' knowledge and experience, their financial situation and their investment objectives. Under the appropriateness rules, the firm is required to obtain information about the client's knowledge and experience in the investment field relevant to the specific type of product or service offered. Using this information the firm is required to assess whether the investment service or product is appropriate for the client. Unlike the requirements for suitability, there are no specific requirements to assess the client's financial situation or investment objectives. If the firm considers on the basis of such information provided, that the investment service or instrument is not appropriate for the client or potential client, or the information provided is insufficient to make that determination, the investment firm must warn the client or potential client of this fact (MiFID Regulation 76). ESMA has issued guidelines to investment firms entitled "Guidelines on certain aspects of these MiFID Suitability Requirements – 6th July 2012." Guidance has also been provided to National Competent Authorities through a "MiFID Supervisory Briefing – Suitability – 19 December 2012" and "MiFID Supervisory Briefing – Appropriateness and Execution Only – 19 December 2012." The Central Bank notified ESMA that will comply with the ESMA Guidelines and firms have been given notice that compliance is expected. Chapter 5 of the Consumer Protection Code 2012 sets out the requirements in respect of knowing the consumer and suitability that IIA firms must adhere to in respect of each client. These are: • Knowing the Consumer - Regulated entities must gather and record sufficient information from consumers prior to offering, recommending, arranging or providing a product or service appropriate to that consumer. The Consumer Protection Code 2012 sets out the level of information required to be collected in order to assess the suitability of consumers for the appropriate products or services. • Assessing Suitability - Regulated entities must, at a minimum, consider and document, whether, on the basis of the information gathered, products and services meet consumers' needs and whether consumers will be able to meet their financial commitment going forward. • Statement of Suitability - Regulated entities must, prior to arranging a product or service, prepare a written statement outlining the suitability of the service or product for the consumer. *Books and Records*. The MiFID Regulations require an investment firm to keep a record of all relevant data relating to each transaction in financial instruments that is executed by the firm, whether on own account or on behalf of the client, for a period of at least 5 years. This information must be made available to the Central Bank for inspection at any time upon request from the Central Bank (MiFID Reg. 33(1)(g), 40 and 112). The records must be retained in a durable medium and in a form so that:

	• the Central Bank is able to access the records readily and to reconstitute each key stage of the processing of each transaction; • any corrections or other amendments, and the contents of the records prior to such corrections or amendments, to be easily ascertained; and • the records may not be manipulated or altered (MiFID Reg. 40(4)). The Central Bank has published a list of the minimum records investment firms are required to keep under these Regulations and this is published on its website. For IIA intermediaries, Chapter 11 of the Consumer Protection Code 2012 sets out the requirements in respect of records and compliance regarding client information: • Regulated entities must o record all client instructions, discretionary decisions and conditions of client instruction relating to investment activities; o maintain lists of customers who are consumers as defined by the Consumer Protection Code 2012; and o maintain detailed records relating to consumer profiles. • Information relating to individual transactions must be retained for 6 years. • Records must be maintained for six years from the date on which regulated entities cease to provide products or services to any consumer. • Records must be complete and accessible. *Information to Clients.* The MiFID Regulations contain a number of provisions concerning the provision of information to clients. An investment firm, before the earlier of when a retail client is bound by any agreement for the provision of investment services or ancillary services or the provision of those services, is required to provide the client with: • the terms of the agreement; and • additional information including: • name/address/authorization status of the firm etc.; • reporting frequency; • portfolio management account operations and scope; • the nature and risks of financial instruments generally and those subject to public offering or with guarantees by a third party; • the holding of assets belonging to retail clients; • accounts subject to/held in another jurisdiction; • accounts subject to a security interest by the firm; and • costs and charges (MiFID Reg. 82-92). Sufficient information is to be provided so that clients are reasonably able to understand the nature and the risk of the services and instruments being offered and, as a result, are able to make decisions on an informed basis (MiFID Reg. 76). For IIA firms, Chapter 4 of the Consumer Protection Code 2012 describes the requirements for firms to follow when providing information to clients. A regulated entity must draw up its terms of business and to provide each customer with a copy of these prior to the provision of the service to the customer. This document must be provided to the consumer as a stand-alone document. The requirements for information to be provided on the relevant products (risks, warnings etc.), charges and remuneration are also specified. Prior to offering, recommending, arranging or providing a product, a

	regulated entity must provide information about the main features and restrictions of the product to assist the consumer in understanding the product. *Statements of Account*. Reporting obligations to clients are set out in MiFID Reg. 96 and 101. These obligations vary according to client category (retail or professional) and the type of service provided. If the firm holds client assets, a statement of account must be provided at least annually (MiFID Reg. 96(20), CAR 4.8). If the client is receiving portfolio management services, they must receive a report semi-annually, although more frequent reporting may be requested by the client (MiFID Reg. 96(9)). Contract notes for trades executed for retail clients are to be sent immediately following the execution of the trade. For IIA firms, Chapter 6 of the Consumer Protection Code 2012 sets out the requirements for statements of account per product/service. For investment products, the firm must provide (at least annually) a statement in respect of the previous 12 month period to the consumer. In all cases, the commissions and other expenses charged must be detailed. *Due Care*. The MiFID framework requires an investment firm to act honestly, fairly and professionally in accordance with the best interests of its clients. An investment firm is required to ensure all information addressed to its clients or potential clients is fair, clear and not misleading (MiFID Reg. 76(2)). The firm must provide appropriate information in a clear and understandable format concerning the firm and its services, guidance/warnings of the risks associated with investing in certain financial instruments, details on execution venues and costs and associated charges in order that the client or potential client is reasonably able to understand the nature and risk of the investment service and of the specific type of investment instrument that is being offered so as to make investment decisions on an informed basis. In addition, the MiFID Regulations specify certain circumstances in which investment firms would be deemed to be acting in the best interests of clients in respect of the receipt of fees, commissions and non-monetary benefits and identifies those situations relating to the receipt of fees, commissions and non-monetary benefits where investment firms would be said not to be acting in the best interests of clients. The MiFID Regulations also contain requirements imposing an obligation on investment firms to provide best execution to their clients (Reg. 97, 98 and 106). Chapter 2 of the Consumer Protection Code 2012 requires that an IIA firm act with due care and diligence in the best interests of its customers in respect of all dealings with clients and in doing so help preserve the integrity of the market. See the discussion of the inspection activities for market intermediaries in Principle 12.
Assessment	Broadly implemented.
Comments	While most of the requirements set out in the Assessment Methodology's Key Questions are met by the Irish regime, the obligation under KQ 3 that a market intermediary "be subject to an objective, periodic evaluation of its internal controls and risk management processes" may only be fulfilled for the largest intermediaries that are required to have risk management and internal control functions that are independent. It would be a question of fact whether any given internal department of a firm could truly be considered to be objective. For the rest of the firms, no such objective analysis is required. Ideally, this

	review should be performed by someone objective and independent of the firm. The Central Bank should introduce a general requirement that applies to all firms for an annual review of risk management and controls to be performed to objective standards and by a function or entity that is independent of the business of the firm. Any concerns about the inspection activities with respect to market intermediaries are taken into account in Principle 12 and not separately assessed here.
Principle 32	There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.
Description	The Central Bank has developed an Emergency Firm Response Procedure and Checklist for Business Survival Crisis to be used as part of an immediate response mechanism. It outlines the actions that would be taken in the first 24 – 48 hours of a firm exhibiting evidence that its survival is at risk. The Central Bank's senior management, including Directors, and relevant Heads and Deputy Heads, will be notified of a firm's business crisis situation following confirmation of the pertinent facts. This includes communication to management in the central banking and financial regulation divisions of the problems at the firm or actions that might have to be taken may have effects on the Central Bank's operations and/or payment systems. Following evaluation of the firm's circumstances and nature of the particular crisis, the Central Bank will consider when and whether notification is required to external bodies. The Central Bank does not have authority to appoint an administrator or monitor to step in and run a firm that is in crisis, nor does it have authority to take possession/control of assets held by a firm that is in financial difficulty. The Central Bank may apply to the High Court to have an investment firm wound up after which a liquidator will be appointed to replace the management and wind down the company. However this process entails some significant delays and may put client assets at risk in the meantime. Also, the Central Bank has limited ability to participate actively in the management of the wind down to ensure the interests of clients and other stakeholders are appropriately protected. The Central Bank has formalized measures in place in order to minimize client risk in the event of intermediary failure. In the event that a low impact firm fails, such as an IIA retail intermediary, the Central Bank would work to ensure that, as far as possible, the wind down is orderly and that the rights of customers are appropriately protected according to the law, supported by the retail consumer protection framework in Ireland. The Central Bank has the power to issue directions to suspend investment activities and make summary information available so that relevant stakeholders are made aware of the circumstances involved. *Notices to Central Bank.* Regulatory requirements relating to MiFID/IIA Non-Retail Intermediaries require the firm to notify the Central Bank as soon as it becomes aware of any situations or events that impact or potentially impact on the firm to a significant extent (s. 1.2(iv) of Supplementary Supervisory Requirements and s. 1.2(iv) of Prudential Handbook for Investment Firms, respectively). IIA Retail Intermediaries are required to notify the Central Bank as soon as they become aware of any breach of the IIA or of any breach of the Central Bank's requirements (s. 1.3 of the Handbook of Prudential Requirements for Authorized Advisors and Restricted

	Intermediaries). The Central Bank monitors the financial condition of authorized firms. It does this by means of the on-going analysis of financial returns that are uploaded to the Central Bank's Online Reporting System. Firms are required to submit reports regularly that are then analyzed by Central Bank supervisors to acquire a picture of the firm's financial health and capital strength. This financial reporting system generates alerts if it detects adverse trends in a firm's financial position. See also the discussion under Principles 12 and 30. The MiFID regulatory framework provides the Central Bank with the power to: • Impose a condition or requirement on an investment firm or the market operator of a regulated market in relation to any matter as the Central Bank may consider appropriate, in the interests of the proper and orderly regulation and supervision of investment firms, the market operators of regulated markets, regulated markets and the protection of investors; • Instruct the firm to take corrective actions by either imposing a condition on the firm or by issuing the firm with a particular direction as deemed necessary by the Central Bank in order to address any potential default or minimize damage or loss to the firm's clients; • Apply to the High Court in a summary manner for an order confirming a direction given by the Central Bank if the firm is not complying with the direction; • Give a direction to an investment firm in order to minimize damage or loss to investors, including requiring an investment firm to suspend the provision of investment services for a period of up to 12 months; and • Impose conditions on authorization which might require permanent restrictions on activities or require certain arrangements to be put in place, including ceasing certain activities or requiring the firm to take certain actions. Where there is an immediate threat to client assets, the Central Bank can consider a direction to cease trading and possibly to freeze accounts if necessary (MiFID Reg. 145-149). Under the IIA, the Central Bank may: • Give directions to an IIA intermediary to act or cease to act in a certain way with a view to minimizing damage and loss to investors (s. 21); or • Impose a condition or requirement on the firm in the interests of the proper and orderly regulation and supervision of these intermediaries (s. 14). The Central Bank can issue a direction to move client accounts but this is only likely to be done once the client positions are verified as being correct. There is evidence that the Central Bank's authority to take action against troubled firms has been exercised in practice. *Compensation Scheme*. The EU Investor Compensation Directive laid down basic requirements for investor compensation schemes. This was done to provide a harmonized minimum level of investor protection across the European Union. The Investor Compensation Company Limited (ICCL) is an independent body established under the Investor Compensation Act, 1998 (the Investor Compensation Act). The ICCL is Ireland's statutory 'fund of last resort' for retail customers of authorized investment firms – the scheme does not cover institutions or professional clients.

	The principal objectives of the ICCL are to: • Operate a financially sound scheme so it can provide statutory levels of compensation to eligible investors of failed investment firms; • Set up and maintain funds out of which it can pay compensation and its costs, under the Investor Compensation Act; • Set up and maintain a structure that it can use to pay compensation to investors of failed investment firms, under the Investor Compensation Act; and • Make sure it pays compensation without unnecessary delay. The Chairperson and Deputy Chairperson of the ICCL are appointed by the Governor of the Central Bank. In accordance with Section 20 of the Investor Compensation Act, staff from the Central Bank perform the administrative functions of the ICCL. Funding of the compensation scheme is by contributions from firms that are authorized to conduct investment and/or insurance services. The contribution rate varies depending on the nature of the services provided and in certain situations, on the number of clients being provided with services by the firm. Claims for compensation can only be paid by ICCL once the Central Bank has made a determination that an investment firm is unable to meet its obligations arising from claims by clients and is not likely to be able to do so in the near future. Compensation cannot be claimed for: • Losses arising from bad investment advice, poor investment management or misrepresentation; • Losses caused by a fall in the value of an investment because of market or other economic forces; or • For dealings with a firm that is not a member of the Investor Compensation Scheme. ICCL does not cover institutions and professional clients. Compensation can only be paid in cases where an authorized firm: • Cannot meet its obligations to meet its investors' claims; or • Has been the subject of a Court ruling that prevents it from returning money or investment instruments to investors. The ICCL can pay only 90% of the amount lost, subject to a maximum of EUR 20,000, to each investor and only transactions carried out after 1 August 1998 are covered by the scheme. In certain limited circumstances, transactions before that date may also be eligible for compensation. Certain other bodies have investor compensation plans in place. For example, CARB has a fund that pays up to GBP 50,000 (or the EUR equivalent) per client of ICAI firms that are authorized to carry on investment business (see Principle 9). This fund is available to compensate clients for losses caused by firm failure or bad investment advice. Further, if the authorized firm holds client assets worth more than GBP 50,000, it must have insurance cover for the full value of assets held. *External Notices*. In the event that the failure or near failure of a firm poses a possible disruption to the financial system, the established process in the 'Emergency Firm Response Procedure and Checklist for Business Survival Crisis' includes relevant regulators being notified as per the circumstances of each individual case.

	Further, MiFID places an obligation on competent authorities of different Member States to cooperate with each other whenever necessary for the purpose of carrying out their duties under MiFID. The relevant article has been transposed into Irish law and places an obligation on the Central Bank to cooperate with other Member States whenever necessary for the purpose of carrying out its duties under the MiFID Regulations (Directive 2004/39/EC, art. 56 and MiFID Reg. 132).
Assessment	Broadly implemented
Comments	The Central Bank should be given the authority to appoint an administrator or monitor to step in and run a firm that is in crisis, without having to apply to the High Court to have a liquidator appointed. Having to apply for liquidation and the process that follows entails some significant delays and may put client assets at risk in the meantime. To ensure the interests of clients and other stakeholders are appropriately protected, the Central Bank needs to have the ability to participate actively in the management of the wind down, as would be possible in the administrator situation. The costs of the administrator/ monitor would be paid out of the estate of the firm. Other regulators, such as the Swiss Financial Market Supervisory Authority, have this power.
Principles for the Secondary Markets	
Principle 33.	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.
Description	The Central Bank is responsible for the regulation and supervision of RMs and market operators authorised in Ireland. An RM is an authorised regulated market pursuant to MiFID and the MiFID Regulations. The ISE is authorised under the MiFID Regulations to operate an RM and two multilateral trading facilities (MTFs). The regulated market is the Main Securities Market (MSM) of the ISE. The MTFs are the: • Enterprise Securities Market (ESM), which is an equity market designed for small to medium sized growth companies. It is specifically designed to cater to the funding needs of companies at earlier stages of development; and • Global Exchange Market (GEM) is a specialist debt market aimed at investors who are particularly knowledgeable in investment matters. As MTFs (as defined under MiFID), the requirements of the Transparency Directive and the Market Abuse Directive (2003/6/EC)(MAD) do not apply to issuers with instruments traded solely on these markets. Given the nature of issues and investors in the GEM, the Prospectus Directive also does not apply. Instead, the initial and on-going disclosure requirements are prescribed by the Rules of the ISE. POSIT is the third MTF in Ireland. It is an electronic crossing system operated by Investment Technology Group Limited (ITGL). ITGL is an authorized investment firm under MiFID. Only eligible counterparties and professional clients as defined in MiFID may become participants in POSIT. POSIT operates as a dark order book and, as in the case of RMs and other MTFs, the orders are (subject to the relevant MiFID transparency requirements) crossed with total pre-trade anonymity regarding trading. Each participant settles the orders it crosses in POSIT as principal. Participants that route orders to POSIT must at all times have sufficient order management systems, procedures and controls designed to prevent the entry of erroneous orders to POSIT. ITGL as the operator of POSIT reserves the right to require participants to demonstrate that these conditions are met. If

	at any time a participant does not comply with the Rules, the operator may suspend, restrict or terminate the participant's access. Some, but not all, of the instruments crossed through POSIT are admitted to trading on an RM in the EEA. *Authorization* Parts 6 (Regulated Markets) and 4 (Authorisation of Investment Firms) of the MiFID Regulations provide the basis for authorization of RMs and MTFs (collectively referred to below as trading venues). The definitions of RM and MTF under MiFID and the MiFID Regulations only catch trading venues for bringing together trading interests in financial instruments in accordance with non-discretionary rules. Other types of trading systems – such as broker crossing networks – that entail some trade matching discretion, are not caught in the RM/MTF authorization regime. A firm cannot provide investment services (including the operation of an MTF) unless the firm is authorized to do so by the Central Bank (MiFID Reg. 20). The Central Bank may grant or refuse to grant an authorization to any person applying to it under the MiFID Regulations to operate an investment firm and does not grant the authorization unless satisfied that the applicant complies with the MiFID Regulations (Reg. 11). MiFID Regulation 47 gives the Central Bank the equivalent powers and duties with respect to applicants seeking to be market operators of an RM to those set out in MiFID Regulation 11 with respect to applicants seeking to be MiFID investment firms. However, the MiFID regulation does not contain an express statement that operating an RM is prohibited unless a person is authorized to do so by the Central Bank (equivalent to the prohibition set out in Regulation 20 for MTFs). Under the MiFID Regulations, the Central Bank is required to seek and be provided with the necessary information to enable it to properly evaluate the applicant prior to authorization (MiFID Reg. 13 & 48). The Central Bank may not authorize an applicant unless that firm satisfies the Central Bank as to legal status, the probity and competence of its directors and management, the suitability of its shareholders, the organizational structure and management skills and expertise of its staff (MiFID Reg. 13 & 48). The organizational arrangements an investment firm must comply with to be authorized are also set out (MiFID Reg. 33 and 63). The Central Bank will require evidence that the applicant is in a position to comply with the provisions of MiFID as part of the authorization process. RMs and MTFs must: • have transparent and non-discretionary rules and procedures that provide for fair and orderly trading and establish objective criteria for the efficient execution of orders (MiFID Reg. 63 & 41); • have transparent and non-discriminatory rules based on objective criteria governing access to or membership of the trading venue (MiFID Reg. 66 & 41); • establish effective arrangements and procedures for the regular monitoring of the compliance of their members and participants with the rules of the market, and monitor transactions undertaken by its members and participants in order to identify, in relation to those transactions and breaches of the rules

	of the trading venue, disorderly trading conditions or conduct that might involve market abuse (MiFID Reg. 67 & 113); and • report market abuse to the Central Bank and provide mandatory assistance to the Central Bank in investigations and prosecution of market abuse occurring on their markets (MiFID Reg. 67 & 113). The Central Bank has standard application forms and related guidance notes for firms seeking authorization as an (i) investment firm operating an MTF; (ii) operator of an MTF; or (iii) operator of an RM. These forms set out the evidence and information required by the Central Bank in assessing an application for authorization. For example, the relevant Guidance Note issued by the Central Bank on the authorization of an investment firm to operate an MTF notes that a firm must, *inter alia,* submit a detailed business plan, a proposed rule book for the operation of the MTF and a detailed description of the organizational arrangements regarding the operation of the proposed MTF. If not already incorporated into these documents, the application must be accompanied by all relevant information, evidence and explanatory material (including supporting documentation) necessary to reference clearly, on a requirement-by-requirement basis, its compliance with each of the trading requirements. Specifically in relation to the operation of the proposed MTF, the firm must: • demonstrate that its rules are fair, non-discriminatory and transparent; • explain how conflicts of interest and complaints are dealt with; • set out why its finalization and clearing and settlement procedures are robust; • describe how any central counterparty, dark pool of liquidity and price formation will operate; • describe the arrangements it proposes to put in place for compliance, internal audit and market integrity supervision; • describe its systems for record keeping and business continuity planning (contingency planning and systems disruption); and • describe any outsourcing arrangements to be put in place regarding the operation of the MTF. The applicant firm must also provide information to the Central Bank on such issues as dispute resolution and appeal procedures, its technical systems standards and procedures related to operational failure, arrangements for holding client funds and securities, if applicable, and information on how trades are to be cleared and settled. The Central Bank will assess the applicant's responses as part of the application process. The process involves a detailed assessment of all aspects of the trading venue's proposed instruments, business plan and operational arrangements before the entity would be granted authorization. For example, as part of the evidence that appropriate risk management systems and controls are in place, the applicant is required to conduct an ICAAP assessment. The results of that analysis must be provided to the Central Bank. The team of people who are engaged in reviewing an application for authorization include experienced personnel from several relevant departments. The Central Bank assesses, at a granular level, those proposed operating and trading rules/procedures submitted by the applicant firm with regard to such issues as the trading halts, other trading limitations and assistance available to the Central Bank in circumstances of potential trading disruptions. This granular review of the application

	documentation will aid the Central Bank to form its view as to whether the applicant had satisfied MiFID Reg. 67 or 113. Only after the Central Bank deems the proposed operating and trading rules/procedures to be satisfactory will the applicant firm be authorised. An on-site inspection (either before authorization or shortly thereafter) to ensure all systems operate satisfactorily is not a routine step in the authorization process. The Central Bank has the authority to conduct this sort of examination and it might be carried out if seen to be prudent in the particular circumstances. In 2012, ESMA issued *Guidelines: Systems and Controls in an automated trading environment for trading platforms, investment firms and competent authorities* (the Guidelines). The Guidelines expand on the organizational requirements for trading venues set out in the MiFID Regulations and in particular provide for such issues as the organizational arrangements that trading venues must have in place to promote fair and orderly trading including such matters as measures to constrain or halt trading, market monitoring etc. Since the issuance of the Guidelines, the Central Bank monitors compliance of the Guidelines of the trading venues by: (i) reviewing of the rules of the trading venue to ensure compliance with the Guidelines and (ii) requiring a self-assessment of compliance with the Guidelines to be completed by the trading venues and submitted to the Central Bank. The Central Bank performed a desk-top review of the self-assessments and sought clarification in instances where the self-assessments were unclear. The Central Bank further intends to undertake an on-site inspection of the trading venues for compliance with the Guidelines early in 2014. *Other Matters*. The Central Bank examines the corporate governance of the firm or exchange as part of the authorization process. The ISE's governance processes are based on the U.K. Corporate Governance Code and its board consists of a balance of members and non-members. There are confidentiality requirements in place that limit disclosure of information except in specified circumstances (court order) or to specified parties, such as the Central Bank (Rules of the ISE, Rule 1.9). There is an MOU in place between the ISE and the Central Bank. Misuse of confidential information might also be a breach of insider trading and/or market abuse rules. *Outsourcing*. The MiFID Regulations set out the responsibilities regarding outsourcing to a service provider by an investment firm including the provision that the investment firm, its auditors and the Central Bank must have effective access to data related to the outsourced function as well as the business premises of the service provider (Reg. 105). The Investment firm application form sets out the specific provisions and requires the applicant firm to provide confirmation as to each mandated element. There is no corresponding regulation with regard to market operators of regulated markets. However, the application form for firms seeking such authorisation also provides a section on outsourcing. Within that section, the applicant firm must confirm that the service provider will, for example, cooperate with the Central Bank, provide effective access to relevant data and to the premises, protect confidential information and make available to the Central Bank all information necessary to enable the Central Bank to assess the service provider's compliance with MiFID Regulations. None of the current Irish trading venues assume principal, settlement, guarantee or

	performance risk. Investment firms operating MTFs are expected to meet the capital requirements for investment firms discussed under Principle 30. There is a bespoke capital requirement imposed on the ISE that dictates both the level of capital required and the value of eligible assets that may be available to meet that requirement. Essentially the capital required reflects the aggregate of the ISE's obligations plus significant extra buffers. Eligible assets include cash, marketable securities and other fairly liquid assets. Note that the ISE is undergoing a change in its legal corporate structure: from a company limited by guarantee to a public limited company. This reorganization is being treated as giving rise to a requirement for the ISE to be reauthorized by the Central Bank under the MiFID requirements. *Securities and Market Participants* The ISE is the competent authority for listing in Ireland and, consequently, the Central Bank has no role in regard to admission to listing on the trading venues.[26] However, as part of the RM/MTF authorisation application process, the applicant must set out the securities to be traded on the venue. As part of the authorisation application process, the firm must provide the rules governing admission to trading for the Central Bank's consideration; where the firm wishes subsequently to amend those rules, it must submit such amendments to the Central Bank for consideration. The Central Bank has the right to veto the introduction of admission to trading rules that in its opinion would not be compliant with the requirements for transparent rules (MiFID Reg. 64). For the MSM and GEM the ISE serves as the competent authority for listing under the European Communities (Admission to Listing and Miscellaneous Provisions) Regulations 2007. There are separate listing rules for equities on the MSM, securities listed on GEM, and investment funds on the MSM. The ISE enforces these rules on the issuers, including the requirements to fulfil continuing disclosure obligations. The ISE Xetra® market model sets out the sequence of order matching established by the ISE and its MTFs. This information was disclosed to the Central Bank at the time of authorisation and is available to market participants through the ISE's website. Under the fundamental principles of the ISE market model, all orders (with the exception of midpoint) are executed according to price/time priority. If, at a given price, both visible and invisible orders (hidden orders) exist, the visible orders are always executed with priority. Midpoint orders are executed according to volume/time priority taking into account the Minimum Acceptable Quantity. The Central Bank does not review the actual trade matching or execution algorithms of automated trading systems. However, it does examine the process followed and the outputs produced to ensure the algorithms function as intended. If the Central Bank became aware of any issues with regard to these processes, it would investigate the

[26] However, the ISE is required to submit listing rules relating to continuing obligations to the Central Bank to ensure that the Listing Rules do not encroach on any areas that the Central Bank is competent authority for under the Transparency Regulations and associated rules (S.I. No. 286 of 2007: European Communities (Admissions to Listing and Miscellaneous Provisions) Regulations 2007).

	matter as there is an obligation under MiFID on trading venues to have fair and non-discriminatory rules and procedures that provide for fair and orderly trading and establish objective criteria for the efficient execution of orders (MiFID Reg. 41 & 66). The ISE's Xetra® is the electronic trading system of the ISE. ISE Xetra® is the product of a technology partnership between the ISE and the Deutsche Börse Group which operates the Xetra® platform. Co-location is provided directly by Deutsche Börse Group, which has entered into a technology partnership with the ISE to deliver Xetra via Deutsche Börse Group's proximity hosting service in Frankfurt and offers member firms a faster connection time to the Xetra platform by enabling them to reduce the line distance to the back-end as they can set up their trading engine at the Frankfurt site. ISE member firms wishing to make use of co-location services must apply to Deutsche Börse Group via the ISE. Deutsche Börse Group is authorised and supervised by Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) in Germany and as such does not come under the regulatory remit of the Central Bank. POSIT does not offer co-location services. In relation to exchange system controls at the ISE on a firm's trading exposure, ISE Xetra® has a facility to enable a member firm to set a maximum value per order for each trader, thereby limiting the exposure for each trader and, therefore, the overall firm. This fixed maximum value is identical for all instruments the trader is allowed to trade and enables a member firm to set different limits for different traders based on experience, etc. There is no separate limit at an overall member level. This must be managed by the firm itself though its own systems. While POSIT has the facility to limit its exposure to individual participants in terms of quantity and/or value of orders, there is no facility for participants to self-impose trading limits on POSIT. The *ESMA Guidelines: Systems and Controls in an Automated Trading environment for trading platforms, investment firms and competent authorities* require pre-trade controls to be in place. Guideline 4 of the ESMA Guidelines requires that MiFID investment firms must have policies and procedures in place to ensure that automated trading activities inter alia manage the risks related to their trading activities. In particular, Guideline 4.2(c) provides that MiFID investment firms should be able to block or cancel orders where they risk compromising the firm's own risk management thresholds. Controls should be applied as necessary to individual/groups of clients or individual/groups of financial instruments, exposures of individual traders, trading desks or the investment firm as a whole. In accordance with Article 16(3) of the ESMA Regulation (EU) No 1095/2010, national competent authorities must make every effort to comply with Guidelines and Recommendations. *Trading Information* All relevant documents such as rules of the trading venues, market models and market parameters are available to market participants and the public as they are published on their websites. All records are maintained by trading venues for a period of 6 years and would be available to reconstruct trading activities. Investment firms are required to keep at least 5

	years of all relevant data relating to each transaction in financial instruments that is executed by the firm, whether on its own account or on behalf of a client (MiFID Reg. 112). In addition all trading venues must adhere to the *ESMA Guidelines: Systems and Controls in an Automated Trading environment for trading platforms, investment firms and competent authorities* that provide detailed guidance as to the information and records to be kept by trading venues. The MiFID Regulations set pre- and post-trade disclosure requirements that must be complied with by the trading venues. Specified pre-trade information must be made public on reasonable commercial terms and on a continuous basis during normal trading hours. Specified post trade information must be provided as soon as possible and on reasonable commercial basis and in a manner accessible to other market participants. (See the discussion in Principle 35.) With respect to pre trade transparency, the information disclosed in the order book of the ISE conforms with MiFID requirements (i.e., prices and depth of the order book is publically disclosed). However, the member placing the order is not disclosed to the public, thus preserving such member's anonymity to other members. (The name of the member placing the order on the order book is visible to the Central Bank on Xetra® Observer). Xetra® has a central counterparty that facilitates a confidential system, whereby the CCP is in effect the buyer to every seller and the seller to every buyer thus ensuring anonymity between the two parties to the transaction. POSIT operates as a dark order book with total pre-trade anonymity. All other information that is required to be available under MiFID regulation is made available by both trading venues. These requirements currently only extend to shares admitted to trading on an RM. The trading venues have voluntarily extended similar disclosure regimes to the other instruments traded on their markets that are not admitted to trading on an RM as applicable. These disclosure requirements are set out in the trading venues' rules and market parameters.
Assessment	Fully implemented
Comments	The review conducted by the Central Bank before a new trading venue is authorized does not routinely include an on-site visit to confirm systems work as described. It would be prudent to conduct such an inspection either immediately before the venue is given authorization or very shortly thereafter. The clearance and settlement processes for the Irish trading venues all take place outside the jurisdiction. The Central Bank should have in place a clear understanding of how all these arrangements work, what would happen on an insolvency of a member firm or the operator of the clearance or settlement system, and have in place arrangements to ensure the Bank would have prompt access to all necessary information from the operators of those systems and/or their regulators. (See also the discussion and comments in Principle 37. The downgrade for these gaps is given there.) The conditions that are imposed on the ISE and the oversight arrangements that are in place at the Central Bank as described under this Principle and Principle 34 generally meet the standards under the SRO Principle (Principle 9). (See the discussion and comments on this point in Principle 9)

Principle 34.	There should be ongoing regulatory supervision of exchanges and trading systems that should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.
Description	Monitoring day to day trading activity is conducted by both the ISE and the Central Bank. *ISE*. The ISE monitors trading by its member firms on ISE Xetra® on a real time and post trade basis. Real time monitoring of the market is performed by the ISE's Market Services Department between 8 a.m. and 17.15 p.m. each day. Unusual order book and off-order book transactions/prices (e.g., a price which deviates to a significant level from other prices reported in the particular stock) are noted and passed to the ISE's Regulation Department for follow up. The ISE's Regulation Department reviews these trades to determine whether there are any factors that would have led to the unusual price (e.g., the trade was in an illiquid stock and there was not a large enough volume on the order book to meet at the best bid or offer price). Issues identified are queried with the trader concerned and/or the member firm's compliance team. Additionally, the ISE's Regulation Department monitors intra-day price movements or volumes in ISE stocks throughout the day using Reuters. Where a significant price and/or volume movement is identified, the ISE examines this in the context of any announcements by, or media coverage about, the listed company. Where there is no apparent driver for the price / volume movement, the ISE contacts the company's sponsor or ESM Advisor without delay to determine whether the company needs to make an announcement to the market, particularly where it appears that the smooth operation of the market may be temporarily jeopardized (e.g. has inside information leaked which is causing the price to move and requires an announcement from the company). On a post trade basis, the ISE's Regulation Department reviews trading that has taken place on ISE Xetra® to identify possible (a) breaches of the Rules of the ISE; (b) disorderly trading that may have occurred; and (c) conduct that may involve market abuse. The ISE runs a number of internally generated reports for the purposes of its post-trade review and, in particular, examines: • significant price movements; • large number of order modifications/deletions by a member firm in the opening/closing auction; • deviations of the official closing price, which was the high or low of the day, from the prevailing spread; and • a price which deviated significantly from the reference price or last price determination and/or triggered a volatility interruption. Where a possible breach of the Rules of the ISE is identified, the ISE commences an investigation. There are two regimes for monitoring market abuse on the ISE. One covers the prohibition and investigation of market abuse on the MSM, which is covered by the MAD Regulations. The Central Bank is the competent authority under the MAD Regulations. The ISE must

	refer the investigation of possible market abuse to the Central Bank for further consideration. The ESM and GEM, as MTFs, do not fall under the scope of the MAD Regulations. The ESM and GEM are covered by the Insider Dealing Provisions of Part V of the Companies Act 1990. Under Part V, the ISE is a Recognized Exchange thus responsible for the reporting of possible insider dealing on its two MTFs to the ODCE. The Central Bank does not have a role. (See the discussion under Principle 36.) POSIT falls under the scope of the MAD Regulations to the extent that securities admitted to trading on an RM elsewhere in the EEA are traded on its platform. The ISE also monitors the conduct of its member firms. At present, it does not have a program of routine, regular examinations of business conduct its members; that responsibility moved to the Central Bank with the advent of MiFID. They do conduct some inspections, but these are limited to thematic inspections across several firms. Issues that come to light at one or more firms often trigger these thematic reviews. The exchange then selects a range of firms to assess compliance in the area more generally. For example, the ISE recently conducted a review relating to end-of-day reporting of trading in Irish government bonds. About 40% of the member firms were reviewed and their systems and controls examined. Possible breaches of the Rules of the ISE emerging from the review were investigated and where breaches were determined to have occurred, the ISE imposed sanctions on the firms concerned. The ISE is planning to introduce a program of regular on-site visits to member firms in the near future. This will assess conduct issues such as trading practices and on-going compliance with suitability and other requirements under the Rules of the ISE. *Market monitoring by the Central Bank*. The Central Bank carries out daily post-trade market monitoring through an in-house system. Trading reviews are carried out for all price sensitive announcements to search for potential market abuse by the Central Bank's TRMU. Any suspicious transactions are escalated to the Central Bank's MIU for further investigation. Depending on the outcome of these investigations, the cases may be referred on to the Central Bank's Enforcement department that can seek to prosecute under the MAD Regulations. The Central Bank runs a number of Xetra® alerts that are used to carry out post-trade reviews including trade modifications, trade reversals, deviation from last price determination, volatility, interruption in continuous trading, manipulation of indicative price, deviation of order limit and marking the close. The Central Bank's capacity to view and interrogate order book and trade data allows it to perform various analyses, when required. These may include but are not limited to, analyzing member firm's or trader's order and trade patterns, member firm's trading activities, trading activity in Irish equities, high frequency trading trends, direct market access activity and order to execution ratios. *Monitoring of Trading Venues*. Trading venues must have systems and policies in place to mitigate risk and monitor compliance with their internal policies. The on-going supervisory role of the Central Bank includes oversight of the quality of each trading venue's corporate governance, risk management and internal control systems. The Central Bank must be satisfied that the conditions of authorization remain satisfied at all times and any changes to the business of the trading venue conform to at all relevant regulatory standards. The on-going supervisory regime encompasses the specific MiFID Regulations

	requirements with regard to the systems and controls governing its trading platform, its transparency regime, market monitoring capabilities, its market model and the standards applied through its ISE Rules. The Central Bank's supervisory process is carried out by way of: • analysis of reports and financial returns submitted to the Central Bank;[27] • review of proposals (e.g., amendments to authorization, changes in senior management, changes in ownership, proposed engagement in new activities etc.) submitted to the Central Bank; • review of on-going business activities; • market monitoring activities; • inspections; • regular review meetings; and • regular correspondence and engagement. If trading venues do not or cannot comply with on-going conditions of authorization or the requisite provisions applying under MiFID, there are a range of remedial measures and sanctions that can be taken by the Central Bank to address this situation. These include: • imposing conditions or requirements on the operator of an authorized exchange or regulated trading system over a broad range of issues including any matter that the Central Bank might consider appropriate in the interests of the proper regulation of the market and protection of investors (MiFID Regulation 145); • give directions to the trading venue, including directions to carry on business in a specified manner or otherwise as directed (MiFID Regulation 148); • withdraw an authorisation if the trading venue no longer meets the conditions under which the authorisation was granted or the prerequisites to authorisation listed in the relevant MiFID Regulations (Reg. 53); and • apply to the Court for an order revoking an authorisation to operate an RM if the revocation is expedient in the interests of properly and orderly regulation and supervision of the market including circumstances such as the trading platform has failed to comply to a material degree with a condition or requirement or no longer fulfils one or more conditions of authorisation or conditions subsequently imposed (MiFID Reg. 54). It also has the powers set out under the Central Bank Act 1942, such as the power to impose fines of up to EUR 10 million, order the removal of a director or officer under Section 33AQ(5), etc. See also the discussion in Principle 12 of sanctions which include the power to withdraw the authorization of a trading venue if the entity fails to meet its

[27] The ISE must submit:
- monthly financial statements and returns including a detailed profit and loss account and a balance sheet within 20 business days of month end;
- monthly capital requirement report no later than the 20th day of the month which follows the relevant end-month report date; and
- annual audited financial statements within six months of its financial year-end.

ITGL as the operator of POSIT must also submit monthly financial and capital information. However, the information is presented in a different way. As ITG is a MiFID investment firm, rather than an operator of an RM, it must follow the standard FINREP and COREP reporting templates for MiFID investment firms as prescribed by the Central Bank for monthly financial and capital reporting respectively. The audited accounts requirements and the timeframe for submission are the same.

	authorization conditions (MiFID Reg. 53). These powers have not yet been exercised by the Central Bank. *Access to information*. The Central Bank has access to ISE Xetra® Order book to enable viewing of all ISE trading. This includes added orders, amended orders, deleted orders and executed orders, as well as hidden and iceberg orders. The Central Bank is also able to see which market participant carried out the entry. In addition, the Central Bank has full access to transaction reporting by all competent authorities in Irish securities admitted to trading on an RM through ESMA's Transaction Reporting Exchange Mechanism (TREM). TREM facilitates the exchange of transactions each day between competent authorities so that each will receive details of all transactions executed within the EEA in instruments where they are deemed to be the relevant competent authority for the instrument. Further, any firm authorized under MiFID that executes a transaction in financial instruments: • that are admitted to trading on an RM; • that are admitted to trading on a multilateral trading facility (MTF); • the value of which are derived from, or which are otherwise dependent upon, debt or equity instruments admitted to trading on an RM or an MTF; or • the value of which are derived from, or which are otherwise dependent upon, indices of financial instruments admitted to trading on an RM or an MTF; must report details of the transaction to the Central Bank, whether or not executed on an RM or an MTF. This obligation applies not only to transactions executed in financial instruments admitted to trading on the MSM, ESM or GEM, but also to transactions executed in financial instruments admitted to trading on any other EEA RM or MTF. The transaction reporting obligation applies to trades whether executed on or off the market. MiFID investment firms are required to file transaction reports electronically using the Central Bank's online reporting system by the close of the day following the day on which the transaction was executed (MiFID Reg. 112). *Rule review*. As part of the authorization process, an RM or MTF provides its proposed rules to the Central Bank for review prior to any authorization. Any subsequent proposed amendments to such rules must be provided to the Central Bank for consideration in advance of their implementation. In practice, when trading venues propose to introduce new or amend existing rules, the trading venue will submit a copy of the proposed rules to the Central Bank for consideration. The Central Bank will advise the trading venue that the rules cannot be introduced until the Central Bank's review is complete. The Central Bank will assess the rule changes' compliance with the relevant provisions of the MiFID Regulations and will revert with questions if required. Only when the Central Bank is satisfied that the rules meet with the requirements of the MiFID Regulations will the trading venue be notified accordingly. The Central Bank has the right to veto or impose conditions under MiFID Regulation 145 to add, amend or revoke the rules of the trading venue regarding the introduction of Rules that in its opinion would not be compliant with the relevant MiFID Regulations. The Central Bank has not yet exercised such veto.
Assessment	Fully implemented
Comments	

Principle 35.	Regulation should promote transparency of trading.
Description	*Pre-trade*. MiFID Regulations provide for specific pre-trade transparency obligations. These requirements currently only relate to shares admitted to trading on an RM when the trade takes place on an RM or MTF. Trading venues must make public on reasonable commercial terms and on a continuous basis during normal trading hours (a) current bid and offer prices for shares admitted to trading and (b) the depth of trading interest at those prices which are advertised through the venue's systems (MiFID Reg. 68 & 120). Article 17 of Pre-trade transparency obligations of Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC (Commission Regulation 1287/2006) sets out the specific pre-trade information that must be disclosed. Where a trading venue operates a: • continuous auction order book trading system, it shall, for each share admitted to trading, make public continuously throughout its normal trading hours the aggregate number of orders and of the shares those orders represent at each price level, for the five best bid and offer price levels; • quote-driven trading system, it shall, for each share admitted to trading , make public continuously throughout its normal trading hours the best bid and offer price of each market maker in that share, together with the volumes attaching to those prices; or • periodic auction trading system, it shall, for each share admitted to trading , make public continuously throughout its normal trading hours the price that would best satisfy the system's trading algorithm and the volume that would potentially be executable at that price by participants in that system. Commission Regulation 1287/2006 provides that pre-trade information is considered to be published on a continuous basis if that information is published as soon as it becomes available during normal trading hours and remains available until it is updated (Art. 29). Information is to be made available as close to real time as possible (Art. 29). *Post-trade*. Order book trades are automatically reported through ISE Xetra® to the ISE and disseminated to the market. Order book trading is conducted between 07.50 and 16.30 Irish time. Off order book trades in equities admitted to ISE Xetra® may be reported using the over-the-counter (OTC) functionality of ISE Xetra® or equivalent third party software. These trades can be reported between 06.30 and 17.15 Irish time. Trades must be reported as close to real time as possible (within 3 minutes) and after hours trades can be reported before continuous trading the following day. The deferred publication of a large off order book trade is permitted when the transaction is between a member firm dealing on its own account and a client of that firm, i.e. on a principal basis, and the size of the trade is equal to or exceeds the relevant minimum qualifying size as defined by MiFID (see below). MiFID Regulations provide that trading venues shall make public on reasonable commercial terms and on a continuous basis (a) the price, volume and time of transactions executed on that market in respect of shares admitted to trading; and (b) the details of those transactions (MiFID Reg. 69 and 121). Commission Regulation 1287/2006 sets out the information to be made public in Article 27. These details include trade date and time, instrument type and identification, price, quantity, etc. Commission Regulation 1287/2006 provides that post trade information is to be made

	available as close to real time as possible and in any case within 3 minutes of the relevant transaction. It also sets out the criteria for the post trade disclosures regarding transactions taking place outside business hours and/or outside a trading venue (Art. 29). Article 32 provides that information should be made available to the public on a non-discriminatory basis at a reasonable cost. Notwithstanding that the requirements currently only extend to shares admitted to trading on a regulated market, other trading venues, such as the ESM and POSIT, have voluntarily extended similar disclosure regimes to certain other instruments (which are not subject to the post-trade information requirements contained in Commission Regulation 1287/2006) that are traded on their markets. These disclosure requirements are set out in the respective trading venue's rules. The ISE makes extensive post-trade information on prices and volumes available to the general public via its website on a short (15 minute) delay. Derogations from real time pre-trade disclosure are permitted by the MiFID Regulations if a waiver has been granted to the trading venue by the Central Bank where that waiver is deemed appropriate based on the market model or the type and size of orders (MiFID Reg. 68 and 120). The waivers cover specific order types such as 'Large in Scale' orders or orders held in an order management system, or on specific market models. Commission Regulation 1287/2006 sets out the criteria for such pre-trade waivers (Art. 18-20). Under MiFID Regulations, the Central Bank may also authorize the deferred publication by trading venues of completed transactions that are large in scale compared with transactions of normal market size for that share or that class of shares (Reg. 69 and 121). The exemptions primarily relate to large transactions that meet the size criteria set out in Commission Regulation 1287/2006. The permitted delay varies by the size of the trade and the average daily turnover of the shares. Upon application for a waiver by a trading venue to the Central Bank, waivers are granted based on the functionality of an order type (e.g., an iceberg order) or market model. The waiver request process is as follows: • The trading venue submits a detailed description of the functionalities of the waiver requested; • The Central Bank considers whether the proposed waiver is compliant with MiFID and the MiFID Regulations; • The Central Bank submits the proposed waiver and the Central Bank's opinion as to whether it is MiFID compliant pursuant to an agreed ESMA protocol; • ESMA issues an opinion to the Central Bank on whether the proposed waiver is MiFID compliant; and • The Central Bank notifies the venue whether it approves or refuses the proposed waiver. *Access to dark order information*. POSIT operates its entire order book under a pre-trade transparency waiver: a so-called "dark" order book. All trades executed on this trading venue are reported to the Central Bank within one business day of execution, as required by MiFID Regulation 112. The trading venue operates full post-trade transparency in relation to trades conducted on its platform. No price formation takes place on this venue; all prices come from the primary trading market for the relevant listed security.

	While ISE operates a transparent order book with visibility by the Central Bank, it also offers a number of specific order types on the order book for which there is no pre-trade transparency (i.e., "hidden orders"). All orders entered onto the ISE's platform are available for Central Bank review on a real time basis through its connection to ISE Xetra. The Central Bank has visibility of all orders entered onto the Irish order book on a T+1 basis as well, including; additions, amendments, deletions as well as trade conditions such as hidden and iceberg orders. Participant details are also available. Where both dark and transparent orders are on the same order book then transparent orders have priority over dark orders. Rule 2.7 of the ISE's Market Parameter Rules provides that if both visible and invisible orders (hidden orders) exist at the same price, the visible orders are always executed with priority. The applicable trading rules, including order matching and priority rules, of each trading venue – transparent or dark – are published on the respective trading venue's website and thus publicly available to all interested parties.
Assessment	Fully implemented
Comments	
Principle 36.	Regulation should be designed to detect and deter manipulation and other unfair trading practices.
Description	The MAD was transposed into Irish law by Part IV of the Investment Funds, Companies and Miscellaneous Provisions Act 2005. The MAD Regulations came into effect in 2005. Further, the Central Bank, as the competent authority, has produced the Market Abuse Rules which provide additional detail and guidance in relation to the Market Abuse regime in Ireland. Regulation 2 of the MAD Regulations defines "market abuse" as: • insider dealing, or • market manipulation. "market manipulation" is defined as - • transactions or orders to trade - ○ which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, or ○ which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level, • transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance, or • dissemination of information which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumors and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading. The MAD Regulations prohibit both insider dealing and market manipulation (Reg. 5 and 6). The MiFID Regulations prohibit the "misuse" of client information by MiFID investment firms, which could capture front-running client trades (MiFID Reg. 107).In addition, the

general market integrity rules contained in the Rules of the Irish Stock Exchange Limited might be viewed as having been breached by an ISE member engaging in this sort of trading activity. For example, Rule 4.9(a) provides that "member firm shall not undertake any act or engage in any course of conduct in relation to its on-Exchange business which damages or is likely to damage the fairness, reputation or integrity of the ISE, its markets or its systems."
The MAD Regulations only apply to actions taken with respect to financial instruments admitted to trading on an RM in a member state of the EU. They do not apply to activities that may take place with respect to any financial instruments only traded through an MTF or off an organized market.

In the case of MTFs or off-market trading, Part V of the Companies Act 1990 prohibits insider dealing (s. 108). This legislation pre-dates the definition of and specific prohibition on market manipulation, as provided for in the MAD Regulations. The provisions only extend to insider dealing and do not capture other transactions that might be abusive to the market. The Companies Act provisions would not catch front running.

Detection and deterrence. Both the Central Bank and the ISE conduct direct surveillance on the ISE order book and off order book transactions through a combination of automated alerts and order book and trading analysis. The Central Bank's TRMU also monitors for insider trading and identifies and refers suspicious transactions executed on the market to the Central Bank's Markets Integrity Unit in accordance with a set of criteria and process operated by the unit. Referral criteria are established and set with the aim of identifying, by reference to a number of parameters and alerts, those transactions which appear suspicious in character and which would appear to justify the commitment of the Central Bank's resources to follow up. The Market Integrity Unit also coordinates international cooperation with overseas regulators pursuant to the ESMA MMOU and the IOSCO MMOU in the area of Market Abuse.

Further, MAD Regulations also require that any person professionally arranging transactions in financial instruments must notify the Central Bank of any transaction suspected of constituting market abuse (Reg. 13). Also, persons having a suspicion that market abuse may have occurred, should submit a Suspicious Transaction Report (STR), accessible on the Central Bank's website. Suspicious transactions may be flagged by telephone prior to submission of a written STR.

Suspicious Transaction Reports Submitted

	2010	2011	2012	2013*
STRs submitted by market professionals	8	3	19	13
STRs submitted by other EU competent authorities	4	6	5	8

* as at 30 September 2013
Source: Central Bank.

There are three members of the TRMU involved in identifying suspicious transactions and five staff members, from MIU, involved in investigating suspicious transactions identified by TRMU and investigating STRs submitted.

	ISE monitoring. See the discussion of the ISE's pre- and post-trade surveillance activities under Principle 34. *Central Bank monitoring.* The Central Bank conducts direct surveillance on a post trade basis for both insider trading and market manipulation on all of the trading venues. The Central Bank has a direct view into the ISE's Xetra® electronic trading system and monitors the main equities and ETFs (MSM) and the ESM securities books. The Central Bank has the capacity to examine and interrogate order book and trade data for the securities it monitors in its Market Monitoring Portfolio. There are built-in alerts that have been designed to monitor for potential market abuse within ISE Xetra®, which the market monitoring team examine for potential market abuse. In order to tailor alerts, the Central Bank also uses the order book and trade data to custom build alerts and monitor trends and behaviours on the ISE Xetra® order book. This generates internal reports on: • significant price movements; • large number of order modifications/ deletions by a member firm in the opening/closing auction; • deviations of the official closing price, which was the high or low of the day, from the prevailing spread; and • a price that deviated significantly from the reference price or last price determination and/or triggered a volatility interruption. The Central Bank has developed an in-house surveillance/monitoring and case management system that is employed to detect insider trading cases. This is a rule-based system with customised in-built parameters that were developed to query TREM data for unusual patterns of behaviour prior to price sensitive announcements. The case management system is employed to monitor for: • The release of regulatory announcements; • Price movements at the time of a regulatory announcements; and • Trading prior to a price sensitive regulatory announcement. Media and other published content are also monitored to detect for the possible dissemination of misleading or false information. Should the Central Bank see transactions that raise concerns of market manipulation or insider trading on one of the MTFs, it will flag the issue with the relevant market operator. *Reporting.* There are various reporting requirements in relation to the Irish stock market. These include: • reports by investment firms to the Central Bank of executed transactions in financial instruments regardless of whether the transactions were carried out on a regulated market (MiFID Reg. 112); • trade reporting obligations under the rules of the trading venues; • STRs (as noted above); and • reports by "persons discharging managerial responsibilities" (PDMRs) with respect to an issuer. PDMRs and their close associates must notify the Central Bank when they carry out transactions in that issuer's financial instruments (Market Abuse Rules 7.2 and 7.3). Investment firms are required to submit transaction reports electronically on the Central Bank's online reporting system as soon as possible and no later than the close of the day following the day on which the transaction was executed. Investment firms can enter data

	into the Central Bank's online reporting system either by online entry or by uploading an XML file in the specified format. The XML formats used for transaction reporting to the Central Bank are available on their website. On receipt of transaction reports the Central Bank stores the data in a data warehouse (MiFID Cube), where it is used for market monitoring purposes. Under MiFID, the Central Bank is required to exchange certain transaction reports with other EEA Competent Authorities through ESMA's TREM. Arrangements are in place to ensure that the competent authority of the most relevant market in terms of liquidity for those financial instruments also receives this information. For the Central Bank's Irish Market Monitoring Portfolio (consisting of all ISE listings on the MSM and ESM), the United Kingdom is the biggest TREM exchange partner.. The Central Bank's in-house case management system also acts as a repository that collects price data for Irish securities in the Market Monitoring Portfolio and regulatory announcements that are used to monitor for potential insider trading. This data is obtained from Bloomberg and the ISE. The case management system also has a media content function that is used to record and store relevant information for securities in the Market Monitoring Portfolio. The sources include broker reports, media sources, Bloomberg, industry publications and academic journals and papers. The information allows the team to monitor for the possible dissemination of false or misleading information that may occur through media sources. *Investigations*. In addition to direct surveillance and reporting requirements, the Central Bank also has the power to appoint authorised officers for the purposes of enforcing compliance with the MAD Regulations, including conducting investigations. (See the discussion under Principles 11, 12 and 36.) *Sanctions*. Sanction provisions include those set out in Regulation 41-52 of the MAD Regulations. For example, under MAD Reg. 41, the Central Bank may impose the following sanctions: • a private caution or reprimand; • a public caution or reprimand, • subject to MAD Regulation 46(2), a direction to pay to the Central Bank a monetary penalty of up to EUR 2,500,000; • a direction disqualifying the person from being concerned in the management of, or having a qualifying holding in, any regulated financial service provider for such time as is specified in the order; • if the person continues to commit a prescribed contravention, a direction to cease and desist; or • a direction to pay to the Bank all or a specified part of the costs incurred by the Bank in investigating the matter to which the assessment relates and in holding the assessment (including any costs incurred by authorised officers). The Central Bank also has the Administrative Sanctions Procedure (ASP) under the Central Bank Act 1942 and the Central Bank and Financial Services Authority of Ireland Act 2004 that applies to breaches of MiFID. It also has the Fitness and Probity Regime, under Part 3 of the Central Bank Reform Act 2010, whereby it can disqualify key personnel of firms from carrying out controlled functions. The Central Bank has not imposed administrative, civil or criminal sanctions for major

	offences, such as insider trading and market manipulation. However, it has entered into settlement agreements with six entities since 2005 imposing fines ranging from EUR 5,000 to EUR 90,000. These violations included failures to: • disclose an interest in a security; • maintain an insider list; • make timely disclosure by PDMRs; and • identify the producer of a recommendation. Market abuse under the MAD Regulations and insider trading under the Companies Act 1990 are also criminal offences. *Foreign links*. As above, the Central Bank is required to exchange certain transaction reports with other EEA competent authorities through TREM. The Central Bank utilises transaction reports to monitor for insider trading and if a case is detected that emanates from a foreign competent authority's reporting firm, the Central Bank has the capacity to seek information on the transaction/s that have generated the alert through the various memorandums of understanding that the Central Bank has in place with other competent authorities. A significant percentage of the Irish instruments in the Market Monitoring Portfolio are dual listed in the United Kingdom[28] and co-operation with the Financial Conduct Authority (FCA) at an order book level is considered important for market surveillance. The Central Bank's TRMU, in accordance with the multilateral memorandum of understanding, entered into by the members of CESR on 26th January 1999 and under Article 16 of MAD on insider dealing and market abuse has the powers to request information from other competent authorities. Information provided by the FCA and other competent authorities is of significant benefit in helping to detect cross market, asset and venue activity if the Central Bank becomes aware that possible instances of market abuse on an Irish instrument in the market monitoring portfolio has taken place in another jurisdiction. There is no commodity futures market in Ireland.
Assessment	Partly implemented
Comments	There should be rules in place to prohibit the full scope of activities that are abusive to the market that do not depend on the security having been admitted to trading on an RM. Trading in any public securities whether conducted on MFTs or off organized markets should be subject to equivalent rules. In September 2013, the European Parliament announced it had reached an agreement on proposed new Market Abuse Regulations (MAR), which would address the gap in coverage under MAD for securities not admitted to trading on an RM (http://europa.eu/rapid/press-release_MEMO-13-774_en.htm). MAR extends the scope of the market abuse framework to apply to any financial instrument admitted to trading on an MTF or organized trading facility, as well as to any related financial instruments traded OTC which can have an effect on the covered underlying market. This is intended to avoid regulatory arbitrage among trading venues, to ensure that the protection of investors and

[28] All but one of the 26 equities listed on the MSM and all but four of the 23 equities on the ESM are dual listed companies. Most of these companies are listed on the London Stock Exchange and the ISE.

	the integrity of markets are preserved on a level playing field in the whole EU, and to ensure that market manipulation of such financial instruments through derivatives traded OTC, such as credit default swaps (CDS), is clearly prohibited. It is part of a collection of legislative proposals consisting of amendments to MiFID (MiFID II) and the Criminal Sanctions Directive on Market Abuse, none of which are final. MAR is not expected to be completely in force in the near term.
Principle 37.	Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.
Description	*Mechanisms to Monitor Large Exposures* Identification *and* monitoring of large exposures. Trading on the Irish market consists predominantly of equity and sovereign debt transactions. Trading in equity securities takes place on ISE Xetra. Trading in Irish government bonds takes place on non-ISE trading systems with the executed trades being reported to the ISE at the end of the trading day. Debt securities and derivatives listed on the ISE typically do not trade on exchange. Trades in Irish securities are settled on systems physically located outside Ireland. None of the ISE clearing members is established in Ireland. The function of monitoring exposure to risk of open positions or credit exposures that are sufficiently large to create a substantial risk to the market or to a clearing firm is performed by entities outside of the Central Bank's jurisdiction. • Irish sovereign debt is settled in Euroclear Bank in Belgium, which is subject to oversight by the National Bank of Belgium. • Equities and other securities are settled in the Euroclear U.K. and Ireland 'CREST' system in the United Kingdom, which is subject to supervision by the Bank of England (BoE). • Wholesale debt securities traded on GEM are settled in Clearstream Banking Luxembourg, Euroclear Bank in Belgium or Depository Trust Clearing Corporation in the US. In all cases, the default rules of these systems are available to participant firms and generally are published on the organizations' websites. The Central Bank has an MOU in place with the National Bank of Belgium regarding Euroclear Bank since 2002. It also has a tri-party MOU with the U.K. FSA and the BoE regarding the oversight of the CREST system; this agreement has not been updated to reflect the BoE assumption of the regulatory role with respect to clearing and settlement systems in the U.K.. The Central Bank relies on co-operation with the relevant competent authorities in Belgium and the U.K. to ensure that, where necessary, it can be appropriately involved in the oversight of the systems concerned. To date, the focus has been on ensuring that the Central Bank has access to information on oversight activities, an opportunity to comment on proposed activities and a channel for communication in the event of a major incident. The ISE provides a central counterparty (CCP) service for ISE Xetra order book trades through its strategic partnerships with Eurex Clearing AG and Euroclear U.K. & Ireland Limited. Use of the CCP service is mandatory for all eligible ISE Xetra order book trades. Eligible trades are fed automatically to the CREST system from the ISE Xetra system.

	Eurex Clearing AG is a company incorporated in Germany and licensed as a credit institution under supervision of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) pursuant to the German Banking Act. Eurex Clearing uses risk-based margining algorithms to protect itself and its clearing members against members' defaults through its risk management procedures. The main objective of Eurex Clearing risk management is to calculate margin for the identified risk positions of eligible securities resulting from pending trades and corporate actions, as well as cash risk positions resulting from income payments. The resulting margin requirements have to be covered by appropriate collateral. BoE has recognized Eurex Clearing as a Recognized Overseas Clearing House under the relevant U.K. legislation. There is no MOU in place between the Central Bank and BaFin specifically with regard to the supervision of Eurex Clearing. However both the Central Bank and BaFin are signatories to the ESMA and IOSCO information sharing MOUs. The Central Bank will also be a member of the Eurex Clearing Supervisory College currently being established by BaFin pursuant to Article 18 of EMIR. The ISE and Euroclear U.K. & Ireland provide the Central Bank with CREST settlement statistics on ISE member firms. These statistics show the overall percentage of settled versus failed trades. They do not show specific large exposures. Large exposure limits. On an individual firm basis, MiFID investment firms subject to the CRD (those permitted to trade on their own account or hold client assets) are required to monitor and control their large exposures. The purpose of these rules is to protect the solvency of the relevant firms and to control contagion risk in the financial system. The rules in relation to the monitoring and control of large exposures are set out in Part 6 of the Capital Adequacy (Credit Institutions) Regulations and Capital Requirements Regulations 26 to 30. The rules apply to exposures arising both in a firm's trading book and non-trading book. Firms are required to monitor and control their total exposure to individual counterparties and to groups of connected counterparties (called 'clients' in the legislation). An exposure to a client or group of connected clients is considered a large exposure where its value is equal to or exceeds 10% of the firm's own funds as that term is defined in the CRD (see under Principle 30). MiFID investment firms must report every large exposure to the Central Bank. Reporting is on a quarterly basis on the COREP Large Exposures Return for Irish Investment Firms. There are also limits imposed on large exposures. A MiFID investment firm may not incur an exposure to a client or group of connected clients the value of which, after taking into account any permitted credit risk mitigation, exceeds 25% of the firm's own funds. However, if the client is a credit institution or a MiFID investment firm (an 'institution' under the rules), the large exposure limit is the higher of 25% of the firm's own funds or €150 million. In addition, the sum of exposures to all connected clients that are not institutions may not exceed 25% of the firm's own funds. Further, when the €150 million limit applies, the exposure still may not exceed a reasonable limit in terms of the firm's own funds. The firm should set that reasonable limit as part of its assessment of concentration risk under its ICAAP. In any case, the limit may not exceed 100% of the firm's own funds. The Central Bank may reduce the €150 million limit to €250,000 for investment firms on a case-by-case basis. Firms must ensure that they are in compliance with the relevant limits at all times. If a firm breaches a limit, it must immediately notify the Central Bank of the breach and the Central

	Bank may allow the firm a specified period to cure the breach, either by raising its own funds or reducing the exposure. Certain exposures are exempted from the application of the large exposure limits, although not from large exposure reporting requirements. These exposures are set out in Capital Adequacy (Credit Institutions) Regulation 59 and include claims on a central government or central bank that would be assigned a zero per cent risk-weighting under the standardized approach to credit risk. All MiFID investment firms subject to the CRD must assess their concentration risk under their Pillar 2 ICAAP and, where appropriate, mitigate and/or set aside internal capital to cover the risk. The Central Bank assesses firms' analysis of concentration risk as part of the Supervisory Review and Evaluation Process. All MiFID investment firms and IIA Non-Retail investment business firms are required to report annually on their asset concentrations via the Asset Concentration Report delivered to the Central Bank. The Central Bank considers concentration risk as part of all full risk assessments of firms. Ability to take action. Eurex Clearing can increase margins to protect itself and its clearing members against default risk from other members through its risk management procedures. In addition, it has a buy-in process. The buy-in process is used to settle outstanding trades where the securities to settle the trades have not been delivered by a Clearing Member within a specified number of days after the trade's contractual settlement date. If the ISE is of the opinion that a member firm is not conducting or may not conduct its activities in a suitable manner or is not upholding the integrity of the ISE or its markets, it may impose various sanctions on a member firm, including: • restrictions on the scope, volume or class of business, that the member firm may undertake, or • suspension of the right to conduct business on the ISE indefinitely or for a specified period (Rule 2.6.2). The Central Bank has several powers to take action against any regulated entity to compel the production of information needed to evaluate an exposure or to require them reduce their exposures or to post increased margin. (See the discussion under Principles 10, 29 and 31). However, because clients may not hold all positions through a single intermediary (or even in a single country) and the intermediaries are not obliged to have full information on their clients' complete positions, the ability of the Central Bank to obtain sufficient information may be limited. The ability to promptly limit the impact of the failure of a firm by addressing its open proprietary and customer positions and to protect customer funds and assets depends on the bankruptcy and other national laws in the jurisdiction(s) in which the parties (including the clearing member and clearing system) are located. The effect of differing bankruptcy laws and the fact that laws governing securities held in electronic format have not been enacted in all relevant jurisdictions means it is not clear that prompt isolation of problems and protection of client assets would be achieved on a cross-border default. The Central Bank has not conducted any independent due diligence on how a failure of a

	firm or a clearing system would play out and how it might affect local firms and/or customer assets. It is, in effect, relying on the oversight by regulators in the foreign jurisdictions, without any specific examination of the regime in place. In the case of Eurex Clearing AG, the Central Bank does not have an MOU in place with BaFin specifically with regard to the supervision of Eurex Clearing, however both the Central Bank and BaFin are signatories to the ESMA and IOSCO general information sharing MOUs. The Central Bank has also agreed to be a member of the Eurex Clearing Supervisory College currently being established by BaFin pursuant to Article 18 of EMIR. For CREST, the regulatory agreement predates the assumption of sole responsibility for clearing houses in the U.K. by the BoE. Under the provisions of the proposed Central Securities Depositary Regulation (CSDR), the competent authority of a CSD such as CREST must consult at the earliest stage and cooperate with other relevant authorities, which include the authorities responsible for the oversight of each securities settlement system operated by the CSD and, where applicable, the relevant central banks that act as settlement agent for each securities settlement system. This cooperation also implies immediate information of the authorities involved in case of emergency situations affecting the liquidity and stability of the financial system in any of the Member States where the CSD or its participants are established. Information sharing. See the discussion under Principles 13-15 regarding the ability to share information with other domestic and foreign regulators. Settlement and default rules. All ISE order book securities have a standard settlement of T+3 with the exception of trading in entitlements to rights on order book securities (other than GEM securities) that have a standard settlement of T+1. Off order book trades in order book securities may, by agreement of the parties, extend this settlement period up to a maximum of T+25. No specific permission from the ISE is required. These trades are to be settled by Delivery versus Payment. The ISE Rules (posted on its website) contain procedures that apply to settlement failures. Failure of a client to deliver funds or securities to settle trades does not release the firm from the obligation to settle the trade through the CCP (Rule 8.1.8). The rules also set out provisions to deal with member firms that are in default of their obligations as members, including the actions that may be taken by the ISE (Rules 8.1.16, 8.1.17 and 8.1.19). If a member firm acting as agent or principal for trades executed on the ISE order book fails to settle in accordance with standard settlement and where the disadvantaged counterparty brings the matter to the attention of the ISE a per diem penalty charge may be levied on the offending firm by the ISE. The level(s) of this charge will be as determined by the ISE and notified to member firms from time to time. If a clearing member becomes a defaulting member firm, the clearing member is required to comply with the default procedures issued by the relevant CCP from time to time. In such an event, the CCP may by written notice to the ISE request the ISE to suspend or terminate the ability of that defaulting clearing member (and its non-clearing members or affiliates where applicable) to conduct business in CCP eligible securities on the ISE. See also the discussion under Principles 30 and 31 regarding the protection of customer assets.

	Short Selling. The Short Selling Regulations[29] restrict the ability to enter into uncovered short sales and impose disclosure obligations on the holders of net short positions in shares and sovereign debt and, if certain restrictions (see below) are lifted, on holders of uncovered positions in sovereign credit default swaps. Short sales of shares or sovereign debt may only be entered into where the transacting entity has: • borrowed the share or sovereign debt; • entered into an agreement to borrow the share or sovereign debt or has another absolutely enforceable claim under contract or property law to be transferred ownership of a corresponding number of securities of the same class so that settlement can be effected when it is due; or • has an arrangement with a third party under which it has been confirmed that the share or sovereign debt has been located or otherwise has a reasonable expectation that settlement can be effected when it is due. In other words, naked short selling is generally prohibited. Net short positions in shares admitted to trading on an RM must be notified to the Central Bank where it is the relevant competent authority for the share, when the net short position of a particular holder reaches below 0.2% of the issued share capital of the issuer. Each subsequent increase of 0.1% (above the 0.2% threshold) must also be notified. Notice must be given when the net short position drops below 0.2%. Net short positions in shares must be publicly disclosed when the net short position held reaches 0.5% of the issued share capital of the issuer and each 0.1% above that or when the position held falls below 0.5%. Net short positions relating to Irish sovereign debt must be notified to the Central Bank when any position reaches or falls below specified thresholds for those instruments. The thresholds consist of an initial monetary amount and then additional incremental levels that are calculated based on a percentage of the total duration-adjusted outstanding sovereign debt at the end of each quarter. The thresholds are calculated by ESMA and published on its website. Net short positions are to be calculated as at midnight at the end of the trading day on which the person holds the position. The notification or disclosure of the net short position is to be made by 15:30 on the following trading day. The obligation to notify falls on the beneficial owner of the position, not the intermediary through which the transactions were executed. Net short positions which are required to be made public are published on the Central Bank's website. The Central Bank is required to provide ESMA with quarterly summaries of the net short positions reported to it. ESMA may also require additional information on an ad hoc basis. The Short Selling Regulations: • prohibit entering into uncovered short sales of credit default swaps in sovereign issuers; however, a competent authority may temporarily suspend this restriction where it has objective grounds for believing that the sovereign

[29] The Short Selling Regulations are made up of Regulation (EU) No 236/2012, Implementing Regulation (EU) No 827/2012, Delegated Regulation (EU) 826/2012, Delegated Regulation (EU) No 918/2012 and Delegated Regulation (EU) No. 919/2012 and SI No 340 of 2012)

	debt market is not functioning properly and that such restriction might have a negative impact on the sovereign credit default swap market; • impose requirements on central counterparties relating to buy-in procedures and fines for failed settlement of transactions in shares; • provide competent authorities (such as the Central Bank) with powers to intervene in their markets (e.g. to require further transparency or to impose temporary restrictions on short selling) in response to adverse events or developments; and • provide for coordinated action to be taken at EU level where appropriate; ESMA also has powers to take action. There are exemptions for market making activities and primary market operations under the Short Selling Regulations (see for example, Article 17 of EU Regulation 236/2012). • An entity carrying on market making activities is not required to report net short positions for shares and sovereign debt, not subject to the restrictions on uncovered short sales in shares and sovereign debt and not prohibited from entering into uncovered sovereign CDS positions to the extent these short transactions are carried out in performance of its market making activities. • An entity that is an authorized primary dealer30 is not required to notify net short positions in sovereign debt, not subject to the restriction on uncovered short sales in sovereign debt instruments and not prohibited from entering into an uncovered sovereign CDS transaction provided it is acting as principal on the short sales in the primary or secondary market and is trading in the instruments for which it is a primary dealer. In both cases the entity must notify the Central Bank that it is relying on the exemption. ESMA has issued guidance on these exemptions.31 However, the definition of 'market maker' continues to be unclear. The Central Bank can prohibit the use of the exemption by a person if it considers that the conditions for the exemption are not met. In addition, the Central Bank may decide to withdraw the exemption at any time if the notifying person no longer satisfies the conditions.
Assessment	Partly implemented
Comments	It is difficult to fit the Irish system into the Key Questions in the Assessment Methodology for this Principle, as the Assessment Methodology assumes the clearing and settlement systems are domestic. In the Irish situation, the key entities – both clearing members and the clearing and settlement systems – are located abroad. In effect, this part of the Irish securities system has been outsourced to offshore providers. Looking at the environment as an outsourcing arrangement, the key expectations and observations would be that the Central Bank: • sets limits on activities within its jurisdiction to constrain large exposures and get notice of any significant build up in positions; • conducts sufficient due diligence to obtain reasonable assurances that the risks in the offshore systems are supervised prudently and that client assets are protected

[30] As defined in Article 2(1)(n) of EU Regulation 236/2012.

[31] ESMA/2013/74, Guidelines: "Exemption for market making activities and primary market operations under Regulation (EU) 236/2012 of the European Parliament and the Council on short selling and certain aspects of Credit Default Swaps," dated 02/04/2013.

	appropriately, both on a routine basis and on failure; and • has arrangements in place with the relevant regulators in the other jurisdictions to get early notice of developing problems and full access to the information necessary to fulfill the Central Bank's responsibilities. In any event, the Central Bank remains responsible for ensuring the risks from large exposures, defaults and market disruptions are identified and managed prudently. There are large exposure limits in place, coupled with reporting requirements. The Bank has MOUs with some of the relevant regulators (although the one with the U.K. probably should be updated to reflect the change in regulatory structure and responsibility there), but there is no specific MOU in place with BaFin with regard to Eurex. However, as noted above, there are general information sharing agreements in place to which both the Central Bank and BaFin are parties. The other missing key piece of the regime is due diligence on the relevant regime, both its regulatory activities and the effects of bankruptcy/ insolvency regimes on positions (client or intermediary) held in that jurisdiction. As this should be an issue on an EU-wide basis, it could be taken up by ESMA or the European Supervisory Authorities jointly. Some of this work already may have been done in the context of the European Market Infrastructure Regulation. Alternatively, the Central Bank should investigate the issues in the key jurisdictions – the U.K., Belgium and Germany – and should consider obtaining both information on the supervision conducted by the relevant authorities and opinions from legal counsel on the treatment of assets and positions on an insolvency. Finally, the MOU with the U.K. authorities regarding CREST should be updated and one should be put in place with BaFin specifically regarding the oversight of Eurex Clearing to ensure effective gateways to information.
Principles Relating to Clearing and Settlement	
Principle 38.	Securities settlement systems and central counterparties should be subject to regulatory and supervisory requirements that are designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.
Description	No longer assessed under the IOSCO Assessment Methodology. It may be subject to separate assessment under the CPSS-IOSCO Principles for Financial Market Infrastructures, if appropriate.
Assessment	Not assessed.
Comments	