

Draft Corporate
Governance Code
for the Irish Funds
Industry

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DUBLIN HONG KONG NEW YORK TOKYO

DRAFT CORPORATE GOVERNANCE CODE FOR THE IRISH FUNDS INDUSTRY

New Draft Corporate Governance Code

On June 13, 2011, the Irish Funds Industry Association (“IFIA”) published a new draft corporate governance code (the “Code”) for the Irish funds industry. The Code, to be a voluntary code, is to apply to all Irish collective investment schemes (“CIS”) and management companies (“ManCos”). The Code will codify existing corporate governance practices applicable to Irish CIS and ManCos.

The draft Code has been developed by an IFIA steering group with input from the Central Bank. Following industry feedback on the draft Code, it is anticipated that the final Code will be published at the end of July, 2011 to be then adopted by Irish CIS and ManCos “on a comply or explain basis” from **September 2011**. The Central Bank has suggested that the Code be implemented for an initial trial period of 18 months, with the IFIA completing a review thereafter for further consideration.

Key Provisions

The key requirements contained in the draft Code applicable to the Boards of CIS and ManCos are:

-  it is recommended that the Board of Directors will have a minimum of three directors and will be required to meet at least quarterly. For non-UCITS, the Board could meet less frequently if it believes this is justified but this must be disclosed in the Directors’ Report;
-  all Directors are expected to attend and participate at meetings and an attendance schedule should form part of the annual informal Board performance review process;
-  there should be an informal annual review of the Board and a formal review every three years;
-  a non-executive Chairman should be appointed to the Board and should be reviewed at least once every 3 years;

- ▣ it is recommended that the Board comprise a majority of non-executive directors and at least one independent director, who would not be an employee of any service provider firm receiving professional fees from the CIS or ManCo;
- ▣ it is recommended that at least one director should be an employee of the promoter or investment manager;
- ▣ a minimum of two directors on the Board should have Irish residency;
- ▣ each member of the Board is required to have sufficient time to devote to the role of director and associated responsibilities. There is a rebuttable presumption that no more than eight non-fund directorships may be held;
- ▣ a CIS or ManCo which constitutes a “public interest entity” within the meaning of, and does not come within an exemption in, the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 is obliged to establish an Audit Committee in accordance with the criteria set out therein.

Dillon Eustace has submitted feedback to the consultation process in respect of the draft Code which has taken account of inputs from several asset management groups.

If you need further information on the above subject matter, please contact the Asset Management and Investment Funds team at Dillon Eustace.

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