Public Consultation on the exercise of national discretions in Directive (EU) 2019/2034

Irish Funds Response
Executive Summary

The Irish Funds Industry Association (Irish Funds) is the representative body for the international investment fund community in Ireland. Our members include fund managers, fund administrators, transfer agents, depositaries, professional advisory firms and other specialist firms involved in the international fund services industry in Ireland.

Ireland is a leading centre for the domiciliation, management and administration of collective investment vehicles, with industry companies providing services to collective investment vehicles with assets totalling in excess of €4.6 trillion. The funds industry is highly regulated and the ability to provide a well-regulated environment for investment funds and investment fund services is a substantial and proven part of Ireland’s international financial services offering. Our industry has been a consistent and growing part of the internationally traded financial services landscape in Ireland for over twenty-five years.

We welcome the opportunity to provide comment on the public consultation on the exercise of national discretions in Directive (EU) 2019/2034.
National Discretions Response

1. Do you agree with the designation of the Central Bank of Ireland as the single National Competent Authority for IFD?

   Answer:

   Yes, Irish Funds agrees with the designation of the Central Bank of Ireland as the single National Competent Authority for IFD.

2. Should Ireland exercise the discretion to raise the threshold up to a maximum of €300 million /reduce the threshold? If so, how much should the threshold be increased /reduced by?

   Answer:

   Irish Funds would support the increase of the threshold to the maximum of €300 million. This should provide the Central Bank of Ireland with the flexibility to apply different requirements to different firms based on, for example, their PRISM ratings. In addition, this will allow the principle of proportionality to be applied, as given the new rules will require additional assets to be held e.g. the one third liquidity buffer, many firms would exceed the €100m threshold.

3. Should Ireland restrict or prohibit the use of certain types or designs of instruments for the purposes of variable remuneration?

   Answer:

   No, this should be left principles-based and up to the firm to decide as part of setting their remuneration policies and practices.

4. Should the restriction or prohibition of certain types or designs of instruments for the purposes of variable remuneration be addressed by way of transposing regulations or should the Minister for Finance delegate this discretionary power to the National Competent Authority?

   Answer:

   The Directive should be directly transposed and there should not be any additional restrictions or prohibitions (per above).
5. Should Ireland exercise the discretion to prevent staff relying on the exemption set out in Article 32(4)(b)? If so, the basis should be clearly set out including the relevant national specificities and staff job profiles.

Answer:

No, Ireland should not. Staff receiving variable remuneration of less than €50,000 or a quarter of total remuneration as variable remuneration should not be prevented from availing of the exemption relating to payment in instruments and deferral obligations. This would put firms at a competitive disadvantage when it comes to recruitment and retention. Firms should, however, continue to have the flexibility to require such employees to be subject to these requirements as part of their remuneration policies and practices.

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