



STATUTORY INSTRUMENTS.

S.I. No. 302 of 2022



EUROPEAN UNION (INVESTMENT FIRMS) (AMENDMENT)
REGULATIONS 2022

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019¹, hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Investment Firms) (Amendment) Regulations 2022.

Interpretation

2. In these Regulations, “Act of 1971” means the Central Bank Act 1971 (No. 24 of 1971).

PART 2

AMENDMENT OF ACT OF 1971

Amendment of section 2 of Act of 1971

3. Section 2 of the Act of 1971 is amended by the insertion of the following definitions:

“ ‘Markets in Financial Instruments Directive’ means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014², as amended by—

- (a) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014³,
- (b) Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016⁴,

¹ OJ No. L. 314, 5.12.2019, p.1.

² OJ No. L. 173, 12.6.2014, p. 349.

³ OJ No. L. 257, 28.8.2014, p. 1.

⁴ OJ No. L. 26, 2.2.2016, p. 19.

- (c) Directive (EU) 2016/1034 of the European Parliament and of the Council of 23 June 2016⁵,
- (d) Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019⁶,
- (e) Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019⁷,
- (f) Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019⁸,
- (g) Directive (EU) 2020/1504 of the European Parliament and of the Council of 7 October 2020⁹, and
- (h) Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021¹⁰;

‘Regulations of 2017’ means the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017);”.

Authorisation and supervision of Class 1 firms

4. The Act of 1971 is amended by the insertion of the following Part after Part II:

“Part IIA

Authorisation and Supervision of Class 1 Firms

Interpretations/Definitions (Class 1 firms)

31A. In this Part—

‘ancillary services’ has the same meaning as it has in the Markets in Financial Instruments Directive;

‘associated company’, in relation to the holder of a Class 1 authorisation, means a company in respect of which—

- (a) not less than 20 per cent of the nominal value of the company’s equity share capital is held by the company, or
- (b) not less than 20 per cent of shares carrying voting rights (other than voting rights that arise only in particular circumstances) are so held;

‘Class 1 authorisation’ means an authorisation granted under the SSM Regulation on the application therefor under section 31C;

⁵ OJ No. L. 175, 30.6.2016, p. 8.

⁶ OJ No. L. 314, 5.12.2019, p. 64.

⁷ OJ No. L. 320, 11.12.2019, p. 1.

⁸ OJ No. L. 334, 27.12.2019, p. 155.

⁹ OJ No. L. 347, 20.10.2020, p. 50.

¹⁰ OJ No. L. 68, 26.2.2021, p. 14.

‘Class 1 business’ means business consisting of carrying out an activity referred to in paragraph 3 or 6 of Part 1 of Schedule 1 to the Regulations of 2017;

‘Class 1 firm’ means an undertaking (other than a commodity and emission allowance dealer, a collective investment undertaking or an insurance undertaking) which satisfies point (b)(i), (ii) or (iii) of the definition of ‘credit institution’ in Article 4(1) of the Capital Requirements Regulation;

‘collective investment undertaking’ has the same meaning as it has in the Capital Requirements Regulation;

‘client’ means a person to whom a Class 1 firm, whose Class 1 authorisation has been withdrawn, provided all or any of the following prior to such withdrawal:

- (a) investment services and activities;
- (b) ancillary services;
- (c) Class 1 business;

‘commodity and emission allowance dealer’ has the same meaning as it has in the Capital Requirements Regulation;

‘credit institution’ has the same meaning as it has in the Capital Requirements Regulation;

‘investment services and activities’ has the same meaning as it has in the Markets in Financial Instruments Directive;

‘insurance undertaking’ has the same meaning as it has in the Capital Requirements Regulation;

‘related body’, in relation to the holder of a Class 1 authorisation, means—

- (a) a subsidiary company of that holder,
- (b) if that holder is itself a subsidiary—
 - (i) its holding company, or
 - (ii) any other subsidiary of its holding company,
- (c) an associated company of that holder, or
- (d) a partnership in which that holder has an interest, and whose business is or, at any relevant time, was in the Bank's opinion materially relevant to an inspection being carried out, or proposed to be carried out, under Part 3 of the Central Bank (Supervision and Enforcement) Act 2013.

Requirement for a Class 1 authorisation (Class 1 firms)

31B. (1) Subject to—

- (a) subsections (3) and (4) of section 31R, and

- (b) Regulation 32 of the European Union (Capital Requirements) Regulations 2014,
a Class 1 firm shall not carry out Class 1 business in the State, unless it is the holder of a Class 1 authorisation or a licence.
- (2) Subsection (1) shall not apply to a person who acts on behalf of—
 - (a) the Bank, or
 - (b) the holder of a Class 1 authorisation or a licence.

Application for authorisation (Class 1 firms)

- 31C.** (1) An application for a Class 1 authorisation shall be in such form and contain such particulars as the Bank may from time to time determine.
- (2) Subject to sections 31I, 31J and 31K, the Bank shall—
- (a) where it is satisfied that the conditions referred to in sections 31D to 31G have been complied with, take a draft decision to propose to the ECB to grant to the applicant an authorisation to carry on Class 1 business, or
 - (b) where it is not so satisfied, reject the application.
- (3) The grant of a Class 1 authorisation to a person shall not constitute a warranty as to the solvency of the person to whom it is granted and the Bank shall not be liable in respect of any losses incurred through the insolvency or default of a person to whom a Class 1 authorisation is granted.

Programme of operations and structural organisation (Class 1 firms)

- 31D.** (1) An application for a Class 1 authorisation shall be accompanied by—
- (a) a programme of operations, and
 - (b) a description of the arrangements, processes and mechanisms referred to in Regulation 61(1) of the European Union (Capital Requirements) Regulations 2014 proposed to be implemented.
- (2) A programme of operations referred to in subsection (1)(a) shall—
- (a) set out the types of business envisaged by the applicant,

- (b) set out the structural organisation of the applicant, and
 - (c) where the applicant is part of a group, specify—
 - (i) the parent undertakings,
 - (ii) the financial holding companies, if any, and
 - (iii) the mixed financial holding companies, if any,within the group.
- (3) The Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation to an applicant unless it is satisfied that the arrangements, processes and mechanisms referred to in Regulation 61 of the European Union (Capital Requirements) Regulations 2014 proposed to be implemented by the applicant would, if implemented, enable sound and effective risk management by the applicant.

Initial Capital (Class 1 firms)

- 31E.** (1) Subject to subsection (3), the Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation unless the applicant holds separate own funds, or has an initial capital, of at least €5,000,000.
- (2) Initial capital shall comprise only one or more of the items referred to in Article 26(1)(a) to (e) of the Capital Requirements Regulation.
- (3) The Bank may take a draft decision to propose to the ECB to grant a Class 1 authorisation to particular categories of Class 1 firms the initial capital of which is less than €5,000,000, subject to the applicant having an initial capital of at least €1,000,000.

Effective direction of business and place of head office (Class 1 firms)

- 31F.** The Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation unless the applicant satisfies the Bank that—
- (a) it is a body corporate,
 - (b) its registered office and its head office are both located in the State,
 - (c) at least 2 persons effectively direct its business, and

- (d) the members of its management body meet the requirements of Regulation 79 of the European Union (Capital Requirements) Regulations 2014.

Shareholders and members (Class 1 firms)

- 31G.** (1) The Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation unless the application for the authorisation includes the names of—
- (a) the applicant's shareholders or members that have qualifying holdings and of the amounts of those holdings, or
 - (b) where there are no qualifying holdings, the 20 largest shareholders or members.
- (2) In determining whether the criteria for a qualifying holding are fulfilled, the voting rights referred to in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004¹¹ in relation to information about issuers whose securities are admitted to trading on a regulated market and the conditions regarding aggregation thereof set out in Article 12(4) and (5) of that Directive shall be taken into account.
- (3) Voting rights or shares which institutions hold as a result of providing the underwriting of financial instruments or placing of financial instruments on a firm commitment basis included under point 6 of Section A of Annex I to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014¹² shall not be taken into account, provided that those rights are not exercised or otherwise used to intervene in the management of the issuer and are disposed of within one year of acquisition.
- (4) The Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation if, taking into account the need to ensure the sound and prudent management of a Class 1 firm, it is not satisfied, having regard to the criteria specified in section 31H(1), as to the suitability of the shareholders or members.
- (5) Where close links exist between the applicant and other natural or legal persons, the Bank shall take a draft decision to propose to the ECB to grant a Class 1 authorisation only where those links do not prevent the effective exercise of its supervisory functions.

¹¹ OJ No. L. 390, 31.12.2004, p. 38.

¹² OJ No. L. 173, 12.6.2014, p. 349.

- (6) The Bank shall not take a draft decision to propose to the ECB to grant a Class 1 authorisation where the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the applicant has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, prevent the effective exercise of its supervisory functions.
- (7) The Bank shall require holders of a Class 1 authorisation to provide it with the information they require to monitor compliance with the conditions referred to in subsections (5) and (6) on an ongoing basis.

Assessment of suitability of shareholders and members (Class 1 firms)

- 31H.** (1) The criteria referred to in section 31G(4) are as follows:
- (a) the reputation of the shareholders or members of the applicant;
 - (b) the reputation, knowledge, skills and experience, as specified in Regulation 79 of the European Union (Capital Requirements) Regulations 2014, of any member of the management body who will direct the business of the shareholders or members of the applicant;
 - (c) the financial soundness of the applicant, in particular in relation to the type of business pursued and envisaged by the credit institution;
 - (d) whether the applicant will be able to comply and continue to comply with the prudential requirements of the European Union (Capital Requirements) Regulations 2014 and the Capital Requirements Regulation, and where applicable, other European Union law, in particular Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002¹³ and Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009¹⁴, including, where applicable, whether the group of which it is a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities of relevant Member States and determine the

¹³ OJ No. L. 35, 11.2.2003, p. 1.

¹⁴ OJ No. L. 267, 10.10.2009, p.7.

allocation of responsibilities among the competent authorities of relevant Member States;

- (e) whether there are reasonable grounds to suspect that, in connection with the proposed authorisation, money laundering or terrorist financing within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005¹⁵ on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing is being or has been committed or attempted, or that the proposed authorisation could increase the risk thereof.
- (2) In carrying out its assessment of the suitability of the shareholders or members, the Bank shall consult with the competent authorities of other relevant Member States if one or more of the shareholders or members is—
- (a) a credit institution, insurance undertaking, reinsurance undertaking, investment firm, or a management company within the meaning of Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009¹⁶ (in this subsection referred to as a ‘UCITS management company’) authorised in another Member State,
 - (b) the parent undertaking of a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State, or
 - (c) a natural or legal person controlling a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State.
- (3) The Bank shall, without undue delay, provide competent authorities in other Member States with any information that is essential or relevant for the assessment of the shareholders or members.
- (4) The Bank shall, for the purposes of subsection (3), communicate all relevant information upon request and all essential information on its own initiative.

¹⁵ OJ No. L. 309, 25.11.2005, p. 15.

¹⁶ OJ No. L. 302, 17.11.2009, p. 32.

- (5) A draft decision taken by the Bank to propose to the ECB to grant a Class 1 authorisation shall indicate any views or reservations expressed by the competent authorities responsible for the shareholder or member concerned.
- (6) In this section, ‘reinsurance undertaking’ has the meaning assigned to it in point (6) of Article 4(1) of the Capital Requirements Regulation.

Waiver for credit institutions permanently affiliated to central body (Class 1 firms)

- 31I.** (1) The Bank may waive the requirements set out in sections 31D, 31E and 31F(c) and (d) with regard to a credit institution referred to in Article 10 of the Capital Requirements Regulation in accordance with the conditions set out therein.
- (2) Where the Bank exercises a waiver referred to in paragraph (1)—
- (a) Regulation 7,
 - (b) Regulations 32 and 33,
 - (c) Regulation 35(1) to (3),
 - (d) Regulations 38 to 44,
 - (e) Regulations 61 to 84, and
 - (f) Regulations 115 to 130,
- of the European Union (Capital Requirements) Regulations 2014 shall apply to the whole as constituted by the central body together with its affiliated institutions.

Refusal of authorisation (Class 1 firms)

- 31J.** (1) Where the Bank rejects an application, it shall notify the applicant of the decision and the reasons therefor within 6 months of receipt of the application or, where the application is incomplete, within 6 months of receipt of the complete information required for the decision.
- (2) The Bank shall, in any event, take a draft decision to propose to the ECB to grant a Class 1 authorisation or reject the application within 12 months of the receipt of the application.
- (3) A decision under this section to reject an application is an appealable decision for the purposes of Part VIIA of the Act of 1942.

- (4) A failure by the Bank to notify an applicant within 6 months of receipt of an application or, where an application is incomplete, within 6 months of receipt of the complete information required, in accordance with subsection (1), is an appealable decision for the purposes of Part VIIA of the Act of 1942.
- (5) The Bank may reject an application only if—
 - (a) there are reasonable grounds for doing so on the basis of the criteria specified in section 31H(1), or
 - (b) the information provided by the applicant is incomplete.
- (6) The Bank shall not assess an application in terms of the economic needs of the market.

Prior consultation of competent authorities (Class 1 firms)

- 31K.** (1) The Bank shall consult the competent authorities of another Member State before taking a draft decision to propose to the ECB to grant a Class 1 authorisation where the applicant is—
- (a) a subsidiary of a credit institution authorised in that other Member State,
 - (b) a subsidiary of the parent undertaking of a credit institution authorised in that other Member State, or
 - (c) controlled by the same natural or legal persons as those who control a credit institution authorised in that other Member State.
- (2) The Bank shall, before taking a draft decision to propose to the ECB to grant a Class 1 authorisation, consult the competent authority that is responsible for the supervision of insurance undertakings or investment firms in the Member State concerned where the credit institution is—
- (a) a subsidiary of an insurance undertaking or investment firm authorised in the European Union,
 - (b) a subsidiary of the parent undertaking of an insurance undertaking or investment firm authorised in the European Union, or
 - (c) controlled by the same natural or legal persons as those who control an insurance undertaking or investment firm authorised in the European Union.

- (3) The Bank shall in particular—
 - (a) consult, in accordance with subsections (1) and (2), when assessing the suitability of the shareholders and the reputation and experience of members of the management body involved in the management of another entity of the same group, and
 - (b) exchange with the competent authorities of other Member States any information regarding the suitability of shareholders and the reputation and experience of members of the management body which is of relevance for the granting of an authorisation and for the ongoing assessment of compliance with operating conditions.

Conditions of authorisation (Class 1 firms)

- 31L.** (1) The Bank may propose to the ECB that the conditions of a Class 1 authorisation be amended, revoked or added to and it may propose to the ECB that conditions be imposed by the ECB in relation to a Class 1 authorisation from time to time if in the opinion of the Bank the amendment, revocation, addition or imposition is calculated to promote the orderly and proper regulation of credit institutions.
- (2) Whenever the Bank proposes that the conditions of a Class 1 authorisation be added to or amended—
 - (a) it shall notify in writing the person who holds the Class 1 authorisation or to whom the Class 1 authorisation is intended to be granted that it proposes to amend or add to the conditions of the Class 1 authorisation, and of its reasons for so proposing and that the person may, within twenty-one days after the date of the giving of the notification, make representations in writing to the Bank in relation to the proposed amendment or addition, as the case may be, and shall specify in the notification, the amendment or addition, as the case may be,
 - (b) the person may make such representations to the Bank within the time aforesaid, and
 - (c) the Bank shall, before deciding to propose to the ECB to amend or add to the conditions of the Class 1 authorisation, as the case may be, consider any representations duly made to it under this subsection in relation to the proposed amendment or addition, as the case may be, and

where, after so considering, the Bank decides to propose an amendment or addition, as the case may be, that differs from that specified in the notification concerned, it shall not be necessary to give a new notification under this subsection if the difference results in the condition concerned being no more onerous than would be the case had the Bank decided to propose to the ECB to amend or add to the conditions of the Class 1 authorisation, as the case may be, in accordance with the notification concerned.

Revocation of authorisation (Class 1 firms)

31M. (1) The Bank may—

- (a) submit a proposal to the ECB to withdraw a Class 1 authorisation if the holder of the Class 1 authorisation so requests,
- (b) submit a proposal to the ECB to withdraw a Class 1 authorisation if the holder of the authorisation—
 - (i)
 - (I) has not commenced activities within twelve months of the date on which the authorisation was granted, or
 - (II) has ceased activities and has not resumed activities during a period of more than six months immediately following the cesser,
 - (ii) being a company, is being wound up,
 - (iii) is an undertaking having its registered office and its head office both located in the State, which is being duly wound up or otherwise dissolved,
 - (iv) has obtained the authorisation through false statements or any other irregular means,
 - (v) becomes unable to meet its obligations to its creditors or suspends payments lawfully due by it or no longer possesses sufficient own funds (being own funds to which the Capital Requirements Directive relates) or can no longer be relied upon to fulfil their obligations towards their creditors, and in particular no longer

provides security for the assets entrusted to them,

- (vi) is convicted on indictment of an offence under any provision of this Act or an offence involving fraud, dishonesty or breach of trust,
 - (vii) no longer fulfils the conditions under which the Class 1 authorisation was granted,
 - (viii) no longer meets the prudential requirements—
 - (I) set out in Parts Three (other than Articles 92a and 92b), Four or Six of the Capital Requirements Regulation, or
 - (II) imposed under Regulation 92(2)(a) or 93 of the European Union (Capital Requirements) Regulations 2014,
 or can no longer be relied on to fulfil its obligations towards its creditors, and, in particular, no longer provides security for the assets entrusted to it by its depositors,
 - (ix) commits one of the breaches referred to in Regulation 55 of the European Union (Capital Requirements) Regulations 2014, or
 - (x) uses its licence exclusively to engage in the activities referred to in point (1)(b) of Article 4(1) of the Capital Requirements Regulation and has, for a period of five consecutive years, average total assets below the thresholds set out in that Article,
- (c) submit a proposal to the ECB to withdraw a Class 1 authorisation if the business of, or the corporate structure of, the holder of the authorisation has been so organised or the holder of the authorisation has come under the control of any other undertaking not supervised by the Bank, such that the holder is no longer capable of being supervised to the satisfaction of the Bank, or
 - (d) submit a proposal to the ECB to withdraw a Class 1 authorisation if, since the grant of the authorisation, the circumstances relevant to the

grant have changed and are such that, if an application for the authorisation were made in the changed circumstances, it would be refused.

- (2) Whenever the Bank proposes to submit a proposal to the ECB to withdraw a Class 1 authorisation (other than in circumstances to which paragraph (a) of subsection (1) relates)—
- (a) it shall notify the holder in writing of the reasons for the withdrawal and that the holder may, within twenty-one days after the date of the giving of the notification, make representations in writing to the Bank in relation to the proposed withdrawal,
 - (b) the holder may make such representations in writing to the Bank within the time aforesaid, and
 - (c) the Bank shall consider any representations duly made to it under this subsection in relation to the proposed withdrawal.
- (3) Where a Class 1 authorisation is withdrawn by the ECB and the person who was the holder of the authorisation is not a company which is being wound up—
- (a) that person shall, as soon as possible after the authorisation is withdrawn by the ECB—
 - (i) notify the Bank, and
 - (ii) as far as is reasonably practicable, notify every client concerned,

of the measures he is taking or proposes to take to discharge in full and without undue delay his liabilities in respect of those clients, and
 - (b) in the case where—
 - (i) that person has notified the Bank in accordance with paragraph (a) of this subsection and the Bank is of the opinion that the measures being taken or proposed to be taken for the purposes of that paragraph are not satisfactory,
 - (ii) that person has not so notified the Bank and the Bank is of the opinion that he has failed to so notify as soon as possible after the authorisation is withdrawn by the ECB, or

- (iii) the Bank is of the opinion that that person has not taken all reasonable steps to so notify every client concerned,

then the Bank may give a direction in writing to that person for such period, not exceeding six months, as may be specified therein, prohibiting him from—

- (I) dealing with or disposing of any of his assets or specified assets in any manner,
- (II) engaging in any transaction or class of transaction or specified transaction, or
- (III) making payments,

without the prior authorisation of the Bank, and the Bank may require that person to prepare and submit to it for its approval within two months of the direction, a scheme for the orderly discharge in full of his liabilities to the clients concerned.

- (4) (a) Where a Class 1 authorisation is withdrawn by the ECB and the holder of the authorisation is a company which is being wound up, the liquidator of the company shall, in addition to his duties and obligations in respect of the winding up, be subject to the duties and obligations to which the company would be subject were it a company to which subsection (3) relates and that subsection shall, for the purposes of this subsection, be construed accordingly.
- (b) Notwithstanding paragraph (a) of this subsection, the Bank may, where the ECB withdraws a Class 1 authorisation and the Bank considers it appropriate in the circumstances, remove in writing the duty and obligation imposed on the liquidator concerned to comply with paragraph (b) (as construed by this subsection) of subsection (3) and may impose in writing on that liquidator such further or other duty and obligation which corresponds to that set out in the said paragraph (b).
- (5) Where the holder of a Class 1 authorisation—
 - (a) has its head office in another Member State, or
 - (b) carries on Class 1 business through a branch established in another such state,

the Bank shall, before deciding to submit a proposal to the ECB to withdraw a Class 1 authorisation, consult with the authority in that state that exercises in that state

functions corresponding to those of the Bank under this Part, provided however that if immediate action by the Bank is called for it shall not be necessary for the Bank to consult as aforesaid but in such a case the Bank shall notify the authority concerned of the withdrawal of the Class 1 authorisation.

- (6) In this section—
- (a) an undertaking shall be treated as a fellow subsidiary of another undertaking if both are subsidiaries of the same undertaking but neither is a subsidiary of the other undertaking,
 - (b) ‘subsidiary undertaking’—
 - (i) in relation to an undertaking incorporated in, or formed under the law of the State has the same meaning as it has in Part 6 of the Companies Act 2014 (No. 38 of 2014), and
 - (ii) in relation to an undertaking incorporated in, or formed under the law of another, Member State, means any undertaking which is a subsidiary undertaking within the meaning of any rule or law in force in that State for the purposes of giving effect to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013¹⁷,
 - (c) ‘control’ has the same meaning as it has in the European Union (Capital Requirements) Regulations 2014, and
 - (d) ‘associated undertaking’ has the same meaning it has in paragraph 22 of Schedule 4 or Schedule 4A of the Companies Act 2014, as applicable.

Publication of names of holders of authorisations and notices of revocation of authorisations (Class 1 firms)

- 31N.** (1) The Bank shall publish from time to time, but not less frequently than once a year, in such manner as it thinks fit, the names of the holders of Class 1 authorisations.
- (2) The Bank shall as soon as may be after the revocation of a Class 1 authorisation, publish notice of the revocation in such manner as it thinks fit.
- (3) The Bank shall notify the revocation of a Class 1 authorisation to the European Commission, European

¹⁷ OJ No. L. 182, 29.6.2013, p. 19.

Banking Committee and to the European Banking Authority.

- (4) The Bank shall keep each of the following informed of the names of the holders of Class 1 authorisation:
- (a) the Registrar of the Supreme Court;
 - (b) the officer for the time being managing the Central Office of the High Court;
 - (c) every County Registrar;
 - (d) every District Court Clerk;
 - (e) the European Banking Committee;
 - (f) the European Banking Authority;
 - (g) the European Markets and Securities Authority;
 - (h) the Minister.

Holders of Class 1 authorisations to keep certain records

- 31O.** (1) The holder of a Class 1 authorisation and each related body shall—
- (a) keep at an office or offices within the State such records as may be specified by the Bank under subsection (2), and
 - (b) notify the Bank in writing of the address of the office or offices where those records are kept.
- (2) The Bank may specify records or classes of records for the purposes of subsection (1).
- (3) The requirement imposed by subsection (1) is additional to any other requirement imposed by law with respect to the keeping of records by the holder of a Class 1 authorisation and by related bodies.
- (4) The holder of a Class 1 authorisation and each related body shall keep the records referred to in subsection (1) for such period as the Bank notifies in writing to that holder.
- (5) The holder of a Class 1 authorisation may keep its documents wholly or partly in a non-legible form so long as they are capable of being reproduced in a legible form.

Holders of Class 1 authorisations and others to provide Bank with required information and returns

- 31P.** (1) The holder of a Class 1 authorisation shall provide the Bank, at such times, or within such periods, as the Bank

specifies from time to time, with such information and returns concerning the relevant business carried on by the holder as the Bank specifies from time to time.

- (2) The holder of a Class 1 authorisation shall, at such time or within such period as the Bank specifies, provide the Bank with such information or return (not being information or a return specified under subsection (3)) as it requests in writing concerning the relevant business carried on by the holder.
- (3) The Bank may specify information or a return for the purposes of this section only if it considers it necessary to have that information or return for the proper performance of the functions imposed, or the proper exercise of the powers conferred, on it by law.
- (4) A person shall not provide for the purpose of this section information or a return that the person knows to be false or misleading in a material respect.
- (5) This section applies to the business of an associated company or a related body only in so far as the information and returns sought by the Bank are, in its opinion, materially relevant to the proper appraisal of the business of the holder of the Class 1 authorisation concerned.
- (6) In this section—

‘information and returns’ and ‘information or return’ include audited accounts and audited group accounts, and any other documents that are equivalent or correspond to audited accounts or audited group accounts;

‘relevant business’ means the business to which the Class 1 authorisation concerned relates.

Publication of business statements by holders of Class 1 authorisations

- 31Q.** A holder of a Class 1 authorisation shall publish statements in respect of the business to which the authorisation relates in such form and manner and at such times as may be specified by the Bank from time to time for the purpose of the performance of its statutory functions.”.

PART 3
CONSEQUENTIAL AMENDMENTS

Amendment of European Union (Capital Requirements) Regulations 2014

5. The European Union (Capital Requirements) Regulations 2014 are amended—

(a) in Regulation 9I(3)(a), by the substitution of “section 9 or Part IIA” for “section 9”, and

(b) in Regulation 24(4)—

(i) by the substitution of the following subparagraph for subparagraph (a):

“(a) issue a direction to the credit institution concerned under—

(i) section 21 of the Act of 1971, as modified in accordance with paragraph (6), or

(ii) section 45 of the Act of 2013;” and

(ii) by the insertion of the following paragraphs after paragraph (5):

“(6) For the purposes of paragraph (4)(a), section 21 of the Act of 1971 is modified as follows:

(a) a reference in that section to ‘holder of a licence’ or ‘holder’ shall be read as a reference to a credit institution, and

(b) a reference in that section to ‘banking business’ or ‘banking’ shall be read—

(i) in the case of a non-Class 1 firm, as a reference to the taking of deposits or granting of credit by the non-Class 1 firm, and

(ii) in the case of a Class 1 firm, as a reference to business consisting of carrying out an activity referred to in paragraph 3 or 6 of Part 1 of Schedule 1 to the European Union (Markets in Financial Instruments) Regulations 2017.

(7) In paragraph (6)—

‘Class 1 firm’ means an undertaking (other than a commodity and emission allowance dealer, a collective investment undertaking or an insurance undertaking) which satisfies point (b)(i), (ii) or (iii) of the definition of ‘credit

institution’ in Article 4(1) of the Capital Requirements Regulation;

‘non-Class 1 firm’ means an undertaking which satisfies point (a) of the definition of ‘credit institution’ in Article 4(1) of the Capital Requirements Regulation.”.



GIVEN under my Official Seal,
27 June, 2022.

PASCHAL DONOHOE,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the Central Bank Act 1971 (No. 24 of 1971) to provide for the prohibition of certain investment services and activities ('Class 1 business') in the State by certain investment firms (Class 1 firms) operating without the requisite permission ('Class 1 authorisation' or banking licence), the application process for a Class 1 authorisation and the associated conditions of authorisation and sets out the process and grounds for the withdrawal of a Class 1 authorisation.

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