

Establishing a Regulated Fintech Firm in Ireland

On 10 December 2021, the Central Bank of Ireland ("CBI") issued a communication to firms seeking authorisation as a payment institution ("PI") or electronic money institution ("EMI"). The communication reminds PI and EMI applicants ("Applicants") of the CBI's authorisation principles, approach and core elements which will be assessed including having to demonstrate their capabilities to manage risk and robust governance, risk and compliance frameworks.

The Second Payment Services Directive 2015/2366/EU¹ ("PSD2"), transposed into Irish law by the Payment Services Regulation², established uniform rules for the provision of payment services across the European Economic Area. Providing any of the eight "payment services" in Ireland requires authorisation, unless an exemption applies. In 2017 the European Banking Authority published Authorisation / Registration Guidelines³ ("EBA Guidelines") which harmonise the PI authorisation requirements to ensure a level playing field across Europe.

An authorised EMI can issue and redeem electronic money and may also provide payment services. EMIs are authorised under the Second E-money Directive 2009/110/EC⁴,

transposed into Irish law by the E-money Regulations⁵ (and the Payment Services Regulation applies if they also provide payment services).

Application Process

- Analysis by the Applicant of its business model to ensure the proposed services require authorisation;
- Preparation of a Key Facts Document ("KFD") and submission to the CBI;
- Pre-application meeting with the CBI;
- Submission of individual questionnaires for individuals who are proposed to undertake pre-approval controlled functions ("PCFs");
- Submission of an application for authorisation / registration;
- CBI confirms information is sufficient or provides a statement of omitted information;
- CBI assessment process;
- CBI notifies Applicant of the intention to authorise or highlights areas to be addressed in a Notification of Assessment Letter; and
- Authorisation is granted with / without conditions or the applicant is notified of an authorisation refusal.

¹ <https://eur-lex.europa.eu/eli/dir/2015/2366/oj>

² European Union (Payment Services) Regulations 2018.

³ Guidelines on the information to be provided by applicants intending to obtain authorisation as payment and electronic money institutions as well as to register as account information

service providers ("AISP") under the revised Payment Service Directive.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0110-20180113>

⁵ European Communities (Electronic Money) Regulations 2011 (as amended by the Payment Services Regulation).

Application Pack

The application pack submitted to the CBI must include the following:

- A KFD (pre-application);
- Application form for authorisation with supporting materials;
- Separate documents which address each EBA Guidelines requirement;
- Anti-money Laundering, Counter Terrorist Financing, and Financial Sanctions Pre-Authorisation Risk Evaluation Questionnaire; and
- Qualifying holder forms.

Timing

The CBI will acknowledge receipt of an application within three working days and has 10 working days to assess whether the application is complete. The CBI applies a 90 working day period for the assessment of applications but this operates on a stop / start basis so the "clock" is paused each time the CBI raises queries or requests additional information or documentation.

How We Can Help

Our dedicated Financial Services Regulatory team can assist clients with all aspects of their application from the pre-application process to ongoing supervisory obligations. This includes project management, application submission and support, and regulatory advice.

Further Information

Further information on our Irish Financial Services Regulatory Group, and the services we provide is available on our website⁶ and in our brochure⁷.

For further details, please liaise with your usual Maples Group contact or:

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April 2022
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⁶ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

⁷ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group---core-services.pdf>