THE INVESTOR COMPENSATION COMPANY LIMITED

ARRANGEMENTS FOR THE FUNDING OF THE INVESTOR COMPENSATION SCHEME OPERATED BY ICCL

JUNE 2010

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1. Introduction

Following consultation with Representative Bodies and contributors in the course of 2009 as part of a review of the funding of the Investor Compensation Scheme, the Investor Compensation Company Limited (the ICCL), with the support of the Central Bank of Ireland, has now decided upon certain revisions to its current funding arrangements as set out in its document of June 2007[1].

The ICCL is making these revisions in furtherance of its principal statutory objective to maintain a financially sound Scheme which provides statutory levels of compensation to eligible investors of failed investment firms and insurance intermediaries. It is furthermore doing so in ways which seek progressively to improve the actual and perceived equity of the contribution burden on contributor firms.

The Board of the ICCL is very much aware of the impact on firms of the current uncertain economic climate and market conditions and the significant uncertainties facing financial markets and has sought to strike a balance between the requirement to have sufficient funds available to pay claims as they arise, given the economic conditions, and the increased financial pressures on firms funding the Scheme.

The ICCL has extensively explored options for developing a pragmatic and cost-effective risk-based funding model. However, despite the ICCL's considerable efforts to progress the development of such a model in time for these funding arrangements, this has not been possible.

The absence of robust, consistent and comparable risk-relevant data on member firms has proved to be a significant hurdle to this objective. Nonetheless, the Board of the ICCL has concluded that a sensible and workable approach to developing a risk-based funding model is possible in time and requires allocation of considerable resources and close co-operation between the ICCL, the Central Bank of Ireland and member firms. This is a matter which the ICCL will continue to pursue with the relevant parties. In the absence of such a model, the Board of the ICCL continues to believe that the best basis for allocating contributions for Fund A firms is the use of eligible clients and for Fund B firms is the use of turnover.

To conclude, in arriving at its decisions on the changes in the Funding Arrangements, the Board of the ICCL, on this occasion, as in the past, took particular account of the views expressed in the consultation process. However, the Board of the ICCL has had to steer a course through sometimes conflicting views on particular aspects. The Board, which is fortunate in having broad industry and consumer representation, has endeavoured, in so far as possible, to achieve a timely and workable balance on such issues.

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[1] The Investor Compensation Company Limited: Arrangements for Funding of the Investor Compensation Scheme operated by ICCL – June 2007.

The ICCL is an active participant in the review of the Investor Compensation Directive[2] which is currently being conducted by the EU Commission. At the time of publishing these Funding Arrangements, this review was at an early stage and it was unclear whether it could lead to any change in the scope of protection provided by EU investor compensation schemes or their funding arrangements. In this context, the ICCL will pay close attention to further developments arising from EU Commission's review of the Directive.

2. Legislative Background

The legislative background to the Scheme is set out in detail in Appendix 1.

The Investor Compensation Act, 1998 (the Act) provides that authorised investment firms and insurance intermediaries must become members of an investor compensation scheme[3] and contribute to its funding. Following industry consultation, the first detailed funding arrangements were published in 1999. Subsequent consultation processes were carried out in 2001, 2003 and 2006, which resulted in certain revisions to the classifications of contributors and to rates of contribution.

The Act also provides that compensation shall be paid to eligible investors (as defined in the Act) to the extent of 90% of an investor's net loss, as defined in the Act, or €20,000, whichever is the lesser. The right of eligible investors to claim compensation is triggered by

(a) a determination of the supervisory authority that an investment firm is unable, and has no reasonably foreseeable opportunity of being able, to meet its obligations arising from claims by clients, or
(b) a court ruling[4] made for reasons which are directly related to the financial circumstances of the investment firm which has the effect that clients of the firm are precluded for the time being from pursuing claims against the firm in relation to money or investment instruments owed to or belonging to them in connection with the provision of investment business services by the investment firm.

The Central Bank of Ireland is the supervisory authority for the purpose of the Act. The Central Bank of Ireland (CBI) will be established following the enactment of the Central Bank Reform Bill, 2010.

The ICCL, having consulted with the Central Bank of Ireland, sets the contributions to be paid by authorised investment firms to the fund(s) maintained by the ICCL and determines the appropriate size of the fund(s). The ICCL is required to "endeavour to ensure" that it is in a position to meet any reasonably foreseeable obligation under the Act and that it maintains a sufficient balance in the funds to enable it to meet such obligations. The ICCL is also obliged to

[2] Directive 97/9/EC
[3] Such scheme will be one operated either by the Investor Compensation Company Limited or by an approved professional body for certified persons, which is approved by the Central Bank of Ireland under the Investor Compensation Act, 1998.
[4] Other than a decision, under the Companies Acts, to appoint an examiner or provisional liquidator.

have regard to the amount standing to the credit of the funds which it maintains and the funding capacity of those authorised investment firms that are obliged to make contributions to the funds.

The Act also provides that the costs of administration and management of the ICCL shall be defrayed from the ICCL's resources including the contributions paid to the funds maintained by the ICCL.

The ICCL's obligations to eligible clients of investment firms under the Act date from 1 August 1998, i.e. the date the Investor Compensation Act came into law. However, the ICCL's obligations may extend to eligible clients who transacted business prior to this date under the provisions of the Investor Compensation Directive (the Directive). The Administrator appointed by the court or the Central Bank of Ireland to manage the failed firm decides the eligibility of clients under the Act and the Directive.

3. Funding Year

The ICCL's funding year runs from 1 August to 31 July with the twelfth funding year ending on 31 July 2010.

4. Description of Funds and Contributor Categories

At inception, the ICCL, following consultation with industry, established two funds designated as Fund A and Fund B. The categories of firms which contribute to each of these Funds are derived directly from the Central Bank of Ireland's authorisations/registrations and are adapted, as appropriate, where the Central Bank of Ireland's categories of firms change.

Fund A

Fund A is intended to meet claims from eligible investors of:

a) Investment Firms authorised under the European Communities (Markets in Financial Instruments) Regulations 2007;
b) Investment Firms authorised under Section 10 of the Investment Intermediaries Act, 1995 (IIA) that are not exempt under Section 2(5) of the Investor Compensation Act, 1998;
c) Stockbrokers authorised under the European Communities (Markets in Financial Instruments) Regulations 2007;
d) Credit Institutions authorised to provide investment business services;
e) Certain certified persons who provide investment business services, which are similar to services provided by Fund A firms, in a manner which is incidental to their main professional activities; and
f) UCITS management companies, authorised to undertake Individual Portfolio Management Services[5].

[5] Individual Portfolio Management Services refers to the management of portfolios of investments and discretionary portfolio management services as well as non-core services such as investment advice, safekeeping and administration services.

Fund B

Fund B is intended to meet the claims of eligible investors of:

a) Authorised Advisors authorised under the Investment Intermediaries Act, 1995;
b) Multi-Agency Intermediaries authorised under the Investment Intermediaries Act, 1995;
c) Insurance Intermediaries registered with the Central Bank of Ireland under the European Communities (Insurance Mediation) Regulations 2005[6];
d) Certain certified persons who provide investment business services, which are similar to services provided by Fund B firms, in a manner which is incidental to their main professional activities.

Determination of appropriate Fund for contribution purposes

(i) Fund A firms that are also registered under the Insurance Mediation Directive

Arising from the implementation of the European Communities (Insurance Mediation) Regulations 2005 (the IMD Regulations) and the European Communities (Markets in Financial Instruments) Regulations 2007 (the MIFID Regulations) and the consequential impact of these on the Investment Intermediaries Act, 1995 (the IIA), a small number of firms are required to be authorised under the IIA / MIFID Regulations in respect of their investment activities and to be separately registered under the IMD Regulations in respect of their insurance mediation activities. Therefore, under the contributor categories set out above, such firms may simultaneously fall under the definition of firms which contribute to both Fund A and Fund B.

In such circumstances, the firm will only be liable to contribute to one Fund, namely Fund A. (Guidelines for assessing Fund A contributions are outlined in Appendix 4.)

Therefore, a firm, which is authorised under the IIA / MIFID Regulations as a Fund A category firm and is also registered under the IMD Regulations, will contribute to Fund A in respect of all its authorised and registered activities.

(ii) Fund B firms which are also registered under European Communities (Insurance Mediation) Regulations 2005

A firm, which is authorised under the IIA as a Fund B category firm and is also registered under the IMD Regulations, will contribute to Fund B in respect of all its authorised and registered activities.

[6] At the time of publishing these Funding Arrangements, the ICCL understand that the Department of Finance is in the process of revising the 2005 Regulations. In that context, any reference in these Funding Arrangements to the 2005 Regulations will be superseded by the revised Regulations when they come into effect.

5. Section 2(5) - Exemption from Scheme

Certain Fund A firms may be exempt from the ICCL Scheme if they satisfy two cumulative criteria under Section 2(5)(a) and Section 2(5)(b) of the Investor Compensation Act, 1998 (the Act).

Section 2(5)(a) is satisfied where a firm *does not meet* the definition of an authorised investment business firm under the Markets in Financial Instruments Directive 2004/39/EC (MIFID) / is exempt from regulation under MIFID by virtue of Article 2 of MIFID.

Section 2(5)(b) is satisfied where the only activity that the firm is authorised to carry on is one of the following activities and no other 'investment services or activities':

- The *administration of collective investment schemes*, or
- The undertaking of *custodial responsibilities* involving the safekeeping and administration of investment instruments *of or relating to collective investment schemes.*

Firms are required to apply for exemption for each funding year.

A Guidance Note in relation to the exemption available to investment firms under Section 2(5) of the Investor Compensation Act, 1998 is available on the ICCL's website - www.investorcompensation.ie.

6. Responsibilities of Product Producers

In the event of a default by an investment product intermediary, and where the ICCL pays compensation to the eligible investors of that intermediary, a product producer from which the investment product intermediary held a valid written appointment is obliged to make payment to the ICCL. This payment is in respect of the same proportion of an eligible investor's compensatable loss as the money or investment instruments entrusted by that investor for transmission to that product producer, bears to that investor's net loss.

7. Section 25 Option for Certified Bodies

Certain approved professional bodies may apply to the Central Bank of Ireland, under Section 25 of the Act, for approval of proposals for the establishment of an investor compensation scheme for a specified category or categories of certified person. Certified persons are obliged to participate in the scheme operated by the ICCL, until such time as an investor compensation scheme is approved under Section 25 in respect of their operation. As at the date of publication of this document, no such scheme has been approved by the Central Bank of Ireland.

8. Funding Targets and Projections

Background
When the Scheme was established in 1998 an overall target funding level of €10.16 million, was set, to be achieved by the end of a five year period, which was to be divided equally between Fund A and Fund B.

Annual contributions for Fund A consisted of a combination of a flat rate contribution and a variable rate contribution. The appropriate contribution rates were based on the number of eligible clients managed by the firm with reference to the ICCL's eligible client band structure. Following the 2001 consultation process, seven eligible client bands applied. The number of bands increased to eight following the implementation of the ICCL's 2004 Funding Arrangements.

Provision was also made for additional "top up" funding in the event that any claim or claims on either Fund required it.

Annual contributions for Fund B were originally based on two flat rates depending upon the type of business undertaken (life or non-life). Following the 2001 consultation process, in order to introduce an element of progressiveness, contributions rates for certain Fund B contributors were related to income levels. Five income bands were established at that time. Following the implementation of the ICCL's 2004 Funding Arrangements, this number increased to eight in order to introduce further equity in the rates applied to contributing firms. These eight income bands will continue to be operated under the ICCL's 2010 Funding Arrangements.

Impact of Claims on Funding Targets
Since the establishment of the Investor Compensation Scheme there have been two significant determinations made under the Act resulting in claims for compensation being made. Both relate to Stockbrokers covered by Fund A. There was one determination, in relation to an Insurance Intermediary, made under the Act in relation to Fund B resulting in a relatively modest amount of money (€20,000) being paid.

The first claim on Fund A, in February 1999, arose out of the insolvency of Money Markets International Stockbrokers Limited (MMI) and has involved compensation payments, to the end of July 2009, of €774,422 out of Fund A. The ICCL has paid a further €314k to date in relation to the costs and expenses of the Administration.

The second claim on Fund A arose from the insolvency of W&R Morrogh Stockbrokers (Morrogh) and is, as yet, not fully resolved. At end-July 2009, the total estimate of compensation payable by the ICCL in this case was €8.09 million, which had been provided for in prior year accounts. A total of 2,605 claims (99%) had been dealt with, in part or in full, and compensation payments of some €7.55 million had been made.

Top-Up of Fund A

In the light of the substantial claim arising from the insolvency of Morrogh, the Board of the ICCL implemented a scheme for "top up" funding for Fund A in 2001 to ensure that, in so far as possible, it would be in a position to meet its obligations to pay compensation to claimants in accordance with the Act. Fund A firms with eligible clients were required to contribute some €5 million to the Morrogh top up. Stockbrokers contributed 50 per cent of the requirement with the other Fund A firms contributing the balance. It was determined that the "top up" payments would be phased over three years. Thus, in addition to the normal annual payments, additional "top up" payments to Fund A were invoiced in July 2002, April 2003 and April 2004.

General Adequacy of Funds

The claims history experienced by the Scheme to date has demonstrated that funds can be quickly absorbed when claims arise (both in payment of compensation and in meeting costs associated with the claims). Therefore, the Board of the ICCL continues to believe that neither Fund A nor Fund B could be regarded as adequately funded at present. As indicated in the October 2009 Consultation Paper, it is considered that the continued payment of annual contributions is the best way of building up the levels of funds available. The Board has agreed revised rates and bands of contributions which will apply with effect from the funding year commencing 1 August 2010. These are set out in appendices 2 and 3 of this document.

The following Tables set out the funding levels of Fund A and Fund B over the life of the scheme and the projected funding levels for the three-year funding cycle commencing 1 August 2010. The projected funding levels have been determined on the bases that (i) the revised contribution rates will apply during the relevant period, and (ii) no failures arise which would give rise to compensation payouts.

(i) Fund A

Year	Contributions € million	Interest Income € million	Fund Reserve € million
2009 – actual	3.105	0.40	14.754
2010 – estimated	3.622	0.071	17.947
2011 – Projected[7]	3.829	0.106	21.383
2012 – Projected[7]	4.153	0.125	25.161
2013 – Projected[7]	4.680	0.147	29.488

(ii) Fund B

Year	Contributions € million	Interest Income € million	Fund Reserve € million
2009 – actual	2.097	0.398	14.773
2010 – estimated	2.011	0.071	16.355
2011 – Projected[7]	1.942	0.089	17.886
2012 – Projected[7]	2.001	0.087	19.474
2013 – Projected[7]	2.059	0.095	21.128

[7] For the purposes of the projected figures for 2011, 2012 and 2013, interest income has been calculated at a conservative rate of 0.5% on the total reserves in the individual Funds. Administration costs have been factored in to arrive at the relevant Fund reserve figures presented in the final column of the Table.

9. Contributions by Participating Firms

Fund A - Rates of Contribution

The new annual contribution rates for Fund A firms for the three years commencing 1 August 2010 are set out in Appendix 2. The rates will increase by 1.5 per cent year-on-year for all firms with zero eligible clients (Band O) and by 5 per cent in 2010/11, 10 per cent in 2011/12 and 15 per cent in 2012/13 for all other Bands.

Fund A - Basis of Contribution

(i) Fixed rate

All authorised Fund A firms are liable to pay a fixed rate of contribution. Reduced flat rates apply to firms with no, or fewer than 2,500, eligible clients.

(ii) Variable rate

All firms with eligible clients are also liable to pay a variable rate of contribution which is determined by the band of eligible client numbers into which they fall. No changes have been made to the number of bands, which had been expanded from seven to eight in the ICCL's 2004 Funding Arrangements document. In the absence of a risk-based funding model, the Board of the ICCL continues to believe that the best method of allocating contributions for Fund A firms is the use of eligible clients.

(iii) Marginal relief

Marginal relief, which was introduced, with effect from 1 August 2004, has also been retained. The ICCL introduced this relief for participants who fall into the next highest band in circumstances where the number of their eligible clients that cause them to fall into that higher band is less than 10 per cent of the total number of eligible clients specified for the relevant band. Firms that fall within the marginal relief area of a band will not have to pay the higher contribution for the first year. However, firms that continue within the marginal relief area of a band in subsequent years must pay the higher contribution for subsequent years.

Such marginal relief must be availed of in the year in which it first arises. Firms may avail of marginal relief on more than one occasion.

These contribution rates are applicable unless unforeseen circumstances arise.

Determination of Appropriate Variable Rate Band for Fund A Firms

In determining which variable rate band applies to them, and, consequently, which contribution rate is payable by them, participating firms should make an annual assessment of the numbers of eligible clients, including execution-only clients, with whom they have done business in their previous financial year.

Guidelines for the Calculation of Eligible Client Numbers when Assessing the Appropriate Contribution Rate

The ICCL's guidelines for the assessment of eligible client numbers are available on the 'Funding the Scheme' section of the ICCL's website in the form of 'Questions & Answers' (www.investorcompensation.ie). These guidelines are also included in Appendix 4 of this document.

The ICCL will continue to be available to give guidance to participants where there is any question of doubt or uncertainty.

There are certain firms that are authorised under Section 10 of the Investment Intermediaries Act, 1995 or under the European Communities (Markets in Financial Instruments) Regulations 2007 and which are required to contribute to the Scheme even though they have no eligible clients at present – although they could have such clients in the future. The nature of the authorisation of such firms brings them within the Directive and the Act. As a result of this, the ICCL has devised arrangements where such firms pay a flat rate fee. Such firms are not subject to any "top up" arrangements unless the failure arises from a firm reporting that it has no eligible clients.

Verification of Eligible Client Numbers

All Fund A firms will be required to confirm their number of eligible clients when contributing each year. The ICCL advises the Central Bank of Ireland of the level of eligible clients as confirmed by Fund A firms. These figures may be subject to verification by the Central Bank of Ireland as part of its ongoing supervisory process.

Fund B - Rates of Contribution

The new annual contribution rates for Fund B firms are set out in Appendix 3 for each of the three funding years which commence 1 August 2010, 2011 and 2012. These contribution rates are applicable unless unforeseen circumstances arise.

Fund B - Basis of Contribution

The Board of the ICCL believes that the continued building up of reserves in Fund B must be its objective for the next three-year period.

A single contribution rate structure was introduced in 2004 which consists of the eight income bands. One amendment has been made to this income band structure. A lower introductory income band range has been introduced i.e. '€0 to €60,000' (previously '€0 to €75,000'). The revised income band structure will operate for the three Funding Years commencing on 1 August 2010, 2011 and 2012 and the Board has introduced further proportionality into the rates. The total income, from investment business and insurance business, determines the band into which an intermediary falls and, consequently, the level at which the intermediary contributes to the ICCL.

10. Invoicing of Annual Contributions

Invoices for annual contributions will be issued in August each year i.e. the first month of the ICCL's financial year. Invoices issued by the ICCL are payable within 35 days. Contributors that fail to pay in a timely manner will be reported to the Central Bank of Ireland, under the Act, for failure to comply with their obligations. Failure to pay on time will result in the firm being assessed for interest on the outstanding amounts. Under Section 21(4) of the Act, an investment firm which does not comply with its obligations to pay its contribution to the Funds maintained by the ICCL may be liable to pay interest of 1.25 per cent per month to the ICCL on all or any part of a contribution which has not been paid by the specified date(s). Interest is calculated from the date upon which the contribution becomes due.

11. Contributions by Newly Authorised Investment Firms / Registered Insurance Intermediaries

Investment firms and insurance intermediaries, which are authorised / registered during the ICCL's funding year (i.e. subsequent to the ICCL's annual billing process which takes place in August each year), will be required to pay the annual contribution calculated on a pro-rata basis for each calendar month during which they are authorised / registered.

As eligible client numbers or turnover figures will not be available at the time of raising the first invoice, the contribution rate for the first year may be agreed on a case by case basis with each firm.

12. Contributions by Firms whose Authorisation changes during the Funding Year

12.1 There will be no adjustment in contributions to reflect any changes in authorisation (excluding revocation – see 12.2 below) which occur during the funding year. The new rate of contribution will apply from the following funding year on the basis of the firm's authorisation status at that time.

12.2 Investment firms and insurance intermediaries that have paid the annual contribution in full and whose authorisation / registration is cancelled / revoked during the ICCL's funding year (i.e. subsequent to the ICCL's annual billing process which takes place in August each year), will be entitled to claim a pro-rata refund of the annual contribution they have paid the ICCL.

The refund will be calculated on a pro-rata basis for each calendar month during which they are not authorised / registered. The refund will be processed by the ICCL on the basis of a written request from the contributor. The refund request must be made within six months of the date on which the authorisation was cancelled / revoked.

13. Publication of List of Contributors

The ICCL's website contains a list of entities that fall within the scope of the Scheme as at 31 July 2009. The ICCL updates the list of contributors at the start of each Funding Year. It should be noted that this is a static list of contributors to the Scheme in a particular year and is not to be viewed as confirmation that a firm either is currently authorised or currently registered.

The ICCL's database of contributors is updated on the basis of information supplied to the ICCL by the Central Bank of Ireland and certain other bodies (e.g. Accountancy Bodies). It is not possible for the ICCL's database to be 'real-time' due to the fact that the lists, from which the ICCL's database is compiled, are maintained separately by these other bodies.

The Central Bank of Ireland maintains the Registers of Authorised Investment Firms as well as the Register of Insurance Intermediaries on its website www.centralbank.ie. In addition, the authorisation / registration status of a regulated entity may be checked by contacting the Central Bank of Ireland by phoning: (01) 224 4000.

14. Contribution Obligation on Investment Firms and Insurance Intermediaries

Section 21 of the Act provides that authorised investment firms and insurance intermediaries shall pay to the ICCL such contribution to the fund(s) as the ICCL may specify from time to time.

As set out previously, the Act also provides that, where an investment firm or insurance intermediary does not comply with its obligations under Section 21, the firm shall be liable to pay interest to the ICCL on all or any part of a contribution which has not been paid by the date or dates specified by the ICCL at a rate of 1.25 per cent per month (or part of a month) on and from the date on which the contribution becomes due or such other amount of interest as may be prescribed by the Minister for Finance.

Other consequences of failure by investment firms and insurance intermediaries to comply with their obligations under Section 21 are set out in Sections 27 and 28 of the Act. Under the Act, the Central Bank of Ireland may issue a direction requiring the firm to comply with its obligations and failure to comply with this direction could result in the firm being prohibited from engaging in investment or insurance business.

15. Funding of Compensation Payments

The ICCL has developed a 'cascade' model as the framework for funding the scheme in the event of a default situation. The 'cascade' represents a prioritised approach to be taken by the ICCL, depending on the seriousness of the failure, to access funds for the purposes of making compensation payments. The

implementation sequence of the individual elements of the cascade model will be determined by the Board of the ICCL depending on circumstances prevailing at the time of default.

The ICCL proposes, without prejudice, that in the event of a determination or ruling, as described in Appendix 1, affecting an authorised investment firm or insurance intermediary, claims would be handled through some or all of the methods outlined below.

- Payments would be made out of the reserve built up in Fund A or Fund B, as appropriate.

- Additional top-up payments collected from contributors (see section 16 below for details on how this would operate).

- Inter-fund borrowing:
  Under Section 19 of the Act, inter-fund borrowing is permitted as stipulated. The Act does not prescribe a limit or a rate of interest which shall apply to such borrowings. The ICCL will determine the appropriate rate of interest applicable at the time that such borrowing occurs and will take account of the lending Fund's potential loss in revenue in relation to amounts borrowed. As a guideline:
    - No margin rates should apply (i.e. the commercial rate referred to for the inter-fund borrowing should be no greater than the inter-bank rate).
    - The maximum amount available for borrowing should be up to a maximum of one third of the balance held in the 'lending' Fund.
    - The maximum repayment timeframe should be three years.

  As prescribed by Section 19 of the Act, any decision by the ICCL to operate inter-fund borrowing would require prior consultation with the Central Bank of Ireland.

- Utilisation may be made of other borrowing facilities arranged under the ICCL's statutory borrowing powers. As prescribed by Section 13(1) of the Act, the Central Bank of Ireland must approve any borrowing.

The Morrogh Working Group, established by the Department of Finance, while supporting the ICCL model, acknowledged the significant difficulties for the ICCL in gaining access to 'other borrowing facilities'. These difficulties are summarised as follows:

> <u>Commercial Borrowing</u>
> Under current legislation, the ICCL is permitted to borrow from commercial lending institutions (subject to the approval of the Central Bank of Ireland). Such borrowing would be required in extreme circumstances where compensation payments could not be met through a combination of reserves, top-up contributions or inter-fund borrowing.
>
> Following a comprehensive tender process in 2007, the ICCL successfully negotiated and put in place a €50 million standby credit

facility. This standby credit facility relates to both Fund A and Fund B. The annual charge for this facility, which extends to 2017, is €65,000.

State Guarantees for ICCL borrowing

The Investor Compensation Act, 1998, which governs the conduct of the ICCL, does not provide statutory authority for State guarantees. In discussions with the Department of Finance and the Central Bank of Ireland, Article 86(1) of the EC Treaty was highlighted as prohibiting the granting of State guarantees to a public undertaking to underwrite commercial borrowings.

Since 2006, the ICCL has raised with the EU Commission the problems posed for Investor Compensation Schemes of managing the open-ended liability of firms to fund the schemes, especially schemes with small numbers of contributor firms. Specifically, in January 2007, the ICCL sought clarification from the Commission on whether restrictions apply to investor compensation schemes establishing back-stop borrowing facilities[8], in extreme cases, which would allow schemes to spread the funding burden for firms over reasonable timeframes. The response of the Commission, in July 2007, indicated that State guarantees might contravene articles 87 and 88 of the EC Treaty but suggested that the specific circumstances of each case would have to be looked at before making a final determination.

The ICCL remains committed to finding workable solutions to issues relating to establishing borrowing or other facilities, which would allow the Scheme to manage the unlimited liability of the ICCL's contributors in extreme circumstances.

16. Top-Up Funding in the event of a Major Default

Contributors have expressed a wish that the Scheme's ability to meet its payment obligations be funded mainly by annual contributions, supplemented as appropriate by borrowings and that the liability burden be smoothed over time. This is a particular concern in the context of the small number of firms with eligible clients in Fund A. Contributors wished to avoid open-ended special top-up levies in the event of significant claims arising.

The Board recognises these legitimate concerns of contributors and the continued building of the Scheme's reserves is in response to this concern, together with the ICCL commitment to finding workable solutions to issues relating to establishing borrowing facilities, which would allow the Scheme to manage the unlimited liability of the ICCL's contributors in extreme circumstances (as outlined in section 15 above).

[8] Underpinned by State guarantee

If appropriate arrangements can be put in place, the ICCL will seek to introduce a cap on the amount that may be raised in any one year in the event of a top-up call on Fund A and / or Fund B contributors. Such a cap would be equal to twice the annual contribution rate.
Pending the implementation of such a cap, the existing arrangements will continue to apply. In the event of top-up funding:

- Should the default be attributable to a participating firm with declared eligible clients in Fund A, additional funding will be obtained through a special levy and/or increases in the annual contributions payable by participating firms in Fund A with eligible clients pro-rata to their annual contribution for the previous year.

- Should the default be attributable to a participating firm in Fund A, which had declared itself to have no eligible clients, additional funding will be obtained through a special levy and/or increases in the annual contributions payable by all participating firms in Fund A, including firms with no eligible clients, pro-rata to their annual contribution for the previous year.

- Should the default be attributable to a participating firm in Fund B, additional funding will be obtained through a special levy and/or increases in the annual contributions payable by participating firms in Fund B pro-rata to their annual contribution for the previous year.

Given its statutory obligations, the ICCL reserves the right to make alternative arrangements to those proposed above should the circumstances warrant it. Contributors will be consulted should such circumstances arise.

17. Procedures for making Compensation Payments to Eligible Investors

The procedures to be followed in relation to the payment of compensation are laid down in the Act. The following is a broad summary.

After the Central Bank of Ireland has made a determination, or a court has made a ruling as described in Appendix 1 of this document, the ICCL is required to inform clients of the investment firm concerned of the determination or ruling and invite applications for compensation by a date which shall not be less than five months from the date of the determination or ruling.

The ICCL is also required to publish notices to the above effect in any of the newspapers circulating in the State or elsewhere or in Iris Oifigiúil.

Subsequent to a determination, the Central Bank of Ireland may appoint an Administrator to the investment firm, or, in the case of a liquidation or bankruptcy, the liquidator or official assignee appointed by the court will be the Administrator. The Administrator shall give to the ICCL and to the Central Bank of Ireland, as soon as is practicable, the names of eligible investors and a statement of the net loss of each such client. The ICCL is then required to

make payment to those eligible investors. This has to be done as soon as practicable and, at the latest, within three months of receipt of the statement of net loss.

A client may appeal to the Courts against any refusal to make a payment or against the amount of any payment made.

With regard to the treatment of late claims, (claims which are received by the ICCL after the five month deadline), the ICCL operates within the provisions of the Directive and the Act.

> Article 9 of the Directive states:
> "*The fact that the[9] period has expired may not, however, be invoked by the scheme to deny cover to an investor who has been unable to assert his right to compensation in time*."
>
> Section 32(2) of the Investor Compensation Act, 1998 states:
> "*Where the supervisory authority is satisfied that an investor was unable for good reason to make an application for a payment under Section 34 within the period of time stipulated by the Company or compensation scheme, the supervisory authority shall direct the Company or compensation scheme to treat the application as if it were made within the period of time stipulated*."

18. Subrogation

Under Section 35 of the Act, where the ICCL has paid compensation to a claimant, the ICCL shall be subrogated to the rights of that claimant in the liquidation proceedings for the amount of the compensation paid. This means that the ICCL steps into the shoes of the claimant in the liquidation proceedings and after compensating the claimant, awaits the payment of a dividend, if any, from the liquidation.

The Board of the ICCL will take a balanced approach bearing in mind the interests of claimants and contributors when assessing whether the ICCL will take any action to realise value under its subrogated position.

The Investor Compensation Company Limited
June 2010

[9] i.e. the period fixed during which investors shall be required to submit their claims.

APPENDIX 1

LEGISLATIVE BACKGROUND[10]

In March 1997 the European Council enacted a directive in relation to the establishment of investor compensation schemes in Member States. This directive, Council Directive 97/9/EC, is known as the Investor Compensation Scheme Directive (the Directive) and was seen as an integral part of the framework for the establishment of a single market in financial services.

The Directive had its genesis in another key directive, Council Directive 93/22/EC on investment services in the securities field, known as the Investment Services Directive. The Investment Services Directive laid down certain regulatory and prudential rules governing investment firms throughout the EU. These rules were aimed at protecting investors' money and securities. The Investment Services Directive did not, however, offer any protection to investors in circumstances where fraud or insolvency resulted in the inability of an investment firm to return securities or money to investors. The purpose of the Investor Compensation Directive is to provide a minimum level of protection for investors in these circumstances.

The Investor Compensation Directive applies to all investment firms (including Credit Institutions authorised to provide investment services) and is modelled on Council Directive 94/19/EU, known as the Deposit Guarantee Scheme Directive. The latter directive aims to give depositors a minimum level of compensation where a Credit Institution becomes insolvent.

The Investor Compensation Directive lays down certain basic requirements for investor compensation schemes in order to provide a harmonised minimum level of investor protection across the community. It is left to each individual Member State to implement an appropriate scheme and it is also left to each Member State to determine the most appropriate way of organising and financing such schemes.

Thus, the manner in which Member States have interpreted and applied the Directive varies quite considerably.

In Ireland, the Directive was given effect on 1 August 1998 through the introduction of the Investor Compensation Act, 1998. Under the Act, the ICCL was established as a company limited by guarantee. The number of directors of the ICCL is prescribed by the Minister for Finance. The Chairperson and Deputy Chairperson of the Board are appointed by the Governor of the Central Bank of Ireland. The ten other directors represent either the interests of consumers (5) or the interests of the financial services industry (5) and are prescribed by the Minister for Finance.

The ICCL are actively participating in the early stages of the EU wide review of the EU Investor Compensation Directive.

[10] This is not a legal interpretation of the Act and other legislation referred to in this document.

APPENDIX 2

FUND A
ANNUAL CONTRIBUTION RATES
FOR THE PERIOD COMMENCING 1 AUGUST 2010

Firms with fewer than 2,500 eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
0	Zero	3,930	0	3,930
A	1 – 9	9,178	922	10,100
B	10 – 499	13,835	2,315	16,150
C	500 – 2,499	19,989	12,961	32,950

Firms with 2,500 or more eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
D	2,500 – 4,999	23,058	46,117	69,175
E	5,000 – 24,999	23,058	87,167	110,225
F	25,000 – 49,999	23,058	92,432	115,490
G	over 50,000	23,058	161,587	184,645

These rates apply to Fund A contributions in respect of the ICCL's funding year commencing 1 August 2010. All rates may be subject to change within the relevant three-year period ending 31 July 2013 in the event, for example, of a major default situation arising.

Marginal relief is available for participants who fall into the next highest band in circumstances where the number of their eligible clients that cause them to fall into that higher band is less than 10 per cent of the total number of eligible clients specified for the relevant band. Firms that fall within the marginal relief area of a band will not have to pay the higher contribution for the first year. However, firms that continue within the marginal relief area of a band in subsequent years must pay the higher contribution for subsequent years. Such marginal relief must be availed of in the year in which it first arises. Firms may avail of marginal relief on more than one occasion.

APPENDIX 2

FUND A
ANNUAL CONTRIBUTION RATES
FOR THE PERIOD COMMENCING 1 AUGUST 2011

Firms with fewer than 2,500 eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
0	Zero	3,990	0	3,990
A	1 – 9	10,096	1,014	11,110
B	10 – 499	15,219	2,546	17,765
C	500 – 2,499	21,988	14,252	36,240

Firms with 2,500 or more eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
D	2,500 – 4,999	25,364	50,726	76,090
E	5,000 – 24,999	25,364	95,881	121,245
F	25,000 – 49,999	25,364	101,671	127,035
G	over 50,000	25,364	177,746	203,110

These rates apply to Fund A contributions in respect of the ICCL's funding year commencing 1 August 2011. All rates may be subject to change within the relevant three-year period ending 31 July 2013 in the event, for example, of a major default situation arising.

Marginal relief is available for participants who fall into the next highest band in circumstances where the number of their eligible clients that cause them to fall into that higher band is less than 10 per cent of the total number of eligible clients specified for the relevant band. Firms that fall within the marginal relief area of a band will not have to pay the higher contribution for the first year. However, firms that continue within the marginal relief area of a band in subsequent years must pay the higher contribution for subsequent years. Such marginal relief must be availed of in the year in which it first arises. Firms may avail of marginal relief on more than one occasion.

APPENDIX 2

FUND A
ANNUAL CONTRIBUTION RATES
FOR THE PERIOD COMMENCING 1 AUGUST 2012

Firms with fewer than 2,500 eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
0	Zero	4,050	0	4,050
A	1 – 9	11,610	1,165	12,775
B	10 – 499	17,502	2,923	20,425
C	500 – 2,499	25,286	16,394	41,680

Firms with 2,500 or more eligible clients

Band	*Number of eligible clients*	*Flat Rate* €	*Variable Rate* €	*Total Rate* €
D	2,500 – 4,999	29,169	58,336	87,505
E	5,000 – 24,999	29,169	110,266	139,435
F	25,000 – 49,999	29,169	116,921	146,090
G	over 50,000	29,169	204,406	233,575

These rates apply to Fund A contributions in respect of the ICCL's funding year commencing 1 August 2012. All rates may be subject to change within the relevant three-year period ending 31 July 2013 in the event, for example, of a major default situation arising.

Marginal relief is available for participants who fall into the next highest band in circumstances where the number of their eligible clients that cause them to fall into that higher band is less than 10 per cent of the total number of eligible clients specified for the relevant band. Firms that fall within the marginal relief area of a band will not have to pay the higher contribution for the first year. However, firms that continue within the marginal relief area of a band in subsequent years must pay the higher contribution for subsequent years. Such marginal relief must be availed of in the year in which it first arises. Firms may avail of marginal relief on more than one occasion.

APPENDIX 3

FUND B
ANNUAL CONTRIBUTION RATES

FOR EACH OF THE THREE FUNDING YEARS
COMMENCING 1 AUGUST 2010, 2011 AND 2012

Level	*Income band €*	*2010/11* *Rate €*	*2011/12* *Rate €*	*2012/13* *Rate €*
1	Up to €60,000	250	250	250
2	€60,001 – €150,000	300	300	300
3	€150,001 – €700,000	550	550	550
4	€700,001 – €1.5m	950	950	950
5	€1,500,001 – €3m	1,650	1,650	1,650
6	€3,000,001 – €6m	3,000	3,000	3,000
7	€6,000,001 – €15m	8,250	9,900	11,550
8	Over €15m	13,500	16,200	18,900

APPENDIX 4

THE ASSESSMENT OF ELIGIBLE CLIENT NUMBERS FOR FUND A FIRMS

QUESTIONS & ANSWERS

The variable contribution rate for firms in Fund A has, since the establishment of the ICCL, been based on broad bands so as to minimise the need for detailed logging and verification of eligible client numbers.

The following guidelines and answers to frequently asked questions are intended to clarify certain issues in respect of which clarification has been requested by participating firms. These guidelines may be varied or added to in the future as the ICCL considers necessary or desirable.

The following fundamental principles should be used when assessing if a client should be counted as "an eligible client":

A. the assessment should be done annually
B. the 'period of assessment' should be the firm's own financial year which ends prior to the ICCL's funding year (which currently runs from 1 August to 31 July each year) i.e. the firm's previous financial year
C. the firm should count all clients who at any stage throughout the firm's financial year met the definition of eligible investor under Article 2 of the Investor Compensation Act, 1998 (the Act). This will include execution-only clients.

In effect, the ICCL's definition of "eligible client" is a person, not being an "excluded investor", who has entrusted money or investment instruments to an investment firm in connection with the provision of investment business service by the investment firm.

The answers to the frequently asked questions outlined below should be of further assistance to firms in determining if clients of the firm should be counted as "eligible clients" for the purposes of calculating the appropriate annual contribution to the ICCL. The ICCL will continue to be available to give guidance to participants where there is any question of doubt or uncertainty.

APPENDIX 4

1. **Should execution-only clients be included?**
   YES

2. **What is the timeframe for including clients?**
   You should include all clients, who at any stage throughout the firm's financial year met the definition of eligible investor under the Act. The relevant firm's financial year is the financial year which ends immediately prior to the ICCL's funding year.

   For example, when calculating the appropriate annual contribution to pay the ICCL for the funding year commencing 1 August 2010 and where the firm's financial year runs from January to December, then the correct reference period to use is the 1 January 2009 to 31 December 2009 financial year.

3. **Should a client who invests or redeems a once-off lump sum with a product producer via a firm be included?**
   This client should be included in "eligible client" numbers in the year(s) in which the lump sum is invested or redeemed.

4. **Should Business Expansion Scheme (BES) clients be included?**
   You should include eligible clients who have entered or exited the BES scheme during the year in question.

5. **Should a client who deals with more than one entity within a group be included?**
   YES. You should include clients for whom a receipt and transmission service was provided by one group entity even if the order was passed to another group entity for execution.

6. **Why should clients covered for Deposit Protection Scheme purposes also be included in eligible clients for the Investor Compensation Scheme?**
   The number of different and separate interactions which entities within a group have with an eligible investor increases the overall risk profile of the group. Therefore, firms must include all relevant interactions with clients for the purposes of calculating eligible clients for the Investor Compensation Scheme.

7. **How should clients investing in Tracker bonds be dealt with?**
   Tracker bonds are investment instruments for the purposes of the Investment Intermediaries Act, 1995 and investment services in regard to these instruments may be provided by firms authorised under that Act. Firms authorised under the European Communities (Markets in Financial Instruments) Regulations 2007 may also be authorised to provide investment services in regard to these instruments. Clients of an authorised investment firm who deal in these instruments would be eligible to claim compensation in respect of tracker bonds should that firm fail. On this basis, these clients must be included when determining the number of eligible clients of each firm.

APPENDIX 4

Tracker Deposit Investors should be included in eligible client numbers at initial investment and at maturity stages.

8. Should Professional clients be included in eligible client numbers?
Professional and institutional clients are specifically excluded under Article 2 of the Act.

A professional client has the meaning given by the European Communities (Markets in Financial Instruments) Regulations 2007 (the MIFID). Schedule 2 of MIFID states that "A professional client is a client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs."

In determining eligible client numbers for the purposes of calculating the appropriate ICCL contribution, firms should exclude professional clients as set out in Schedule 2 of MIFID.

9. Should Bed and Breakfast clients be included?
Bed and Breakfast clients must be included in eligible clients unless the firm does not at any time hold/control cash or investment instruments.

10. Should accountants be included in eligible client numbers?
YES. An accountant should be included unless:

a) the accountant is acting as a provider of investment business services, or

b) the accountant is a professional investor as referred to in section 8 above.

11. Should clients which have been referred by an accountant be included?
YES. Clients, which are referred by accountants to brokers, do qualify to be treated as eligible investors by those brokers and should be included in the assessment of eligible client numbers by those brokers.

12. Should solicitors be included in eligible client numbers?
YES. A solicitor should be included unless:

a) the solicitor is acting as a provider of investment business services, or

b) the solicitor is a professional investor as referred to in section 8 above.

13. Should clients which have been referred by a solicitor be included?
YES. Clients, which are referred by solicitors to brokers, do qualify to be treated as eligible investors by those brokers and should be included in the assessment of eligible client numbers by those brokers.

14. How should investment clubs be treated?
A club is an association or grouping without legal personality within the meaning of Section 37(3) of the Act. Therefore, each investment club should be treated as a single eligible client.

APPENDIX 4

15. Are pension funds excluded investors and therefore should they be excluded from eligible client numbers?

In general, Pension Funds meet the definition of professional and institutional clients as referred to in section 8 above.

However, for the purposes of calculating eligible client numbers, Pension Funds of individuals operating a personal retirement account should be included.

16. How should members of Employee Share Ownership Plans (ESOPs) be treated when determining eligible client numbers?

Due to the variety of ESOP arrangements which exist, firms should adopt a 'principles' based approach when deciding how to calculate eligible client numbers in relation to their ESOP arrangements. Firms should count all ESOP members who at any stage throughout the firm's financial year met the definition of eligible investor[11] under Article 2 of the Investor Compensation Act, 1998 (the Act), including execution-only clients.

In general, ESOPs comprise three elements:

1. an Employee Share Ownership Trust (ESOT - a trust),
2. an Approved Profit Sharing Scheme (APSS – a trust), and,
3. Beneficiaries.

When shares are transferred from an ESOT to an APSS, participants become beneficially entitled to the shares with immediate effect irrespective of any procedural delays which might occur in effecting the transfer of shares from the APSS to beneficiaries.

Therefore, the following bases should be used in determining the number of eligible clients a firm has in relation to an ESOP - unless the clients would otherwise fall to be 'excluded investors' under Section 2(1) of the Investor Compensation Act, 1998:

a) The Trustee(s) of the ESOT should be counted as a single eligible client.

b) The APSS Trustee(s) should be treated as a single eligible client if the Trust holds shares which are not attributable to particular beneficiaries.

c) Each beneficiary, either to whom the APSS has transferred shares or on behalf of whom the Trustee(s) of the APSS holds shares, should be counted as individual eligible clients.

A key issue with regard to whether an ESOP, or, in particular, an ESOT / APSS, constitutes one eligible client or whether some, or all, of their individual members constitute eligible clients depends on whether each such ESOP / ESOT / APSS / individual member meets the definition of

[11] In effect, the ICCL's definition of "eligible client" is a person, not being an excluded investor, who has entrusted money or investment instruments to an investment firm in connection with the provision of an investment business service by the investment firm.

eligible investor. Any such determination should be undertaken on a case by case basis for any given ESOP situation.

17. How should the firm treat insurance-only clients?

Insurance-only clients should be included in a firm's calculation of eligible client numbers except where the insurance-only client falls under the definition of an 'excluded investor' under Section 2(1) of the Investor Compensation Act, 1998.

18. How should the firm treat clients to whom the firm provides an investment business service and an insurance business service?

An eligible client whom a firm identifies as both an investment and insurance client should be counted only once for the purpose of calculating the firm's eligible client numbers.

19. Does the Markets in Financial Instruments Directive (MiFID) have an impact on the calculation of eligible clients?

MiFID offers clarification with regard to a firm's classification and treatment of its clients.

Essentially, a different standard of service can be provided to the three classifications of client (retail, professional and eligible counterparty). A firm's systems must be able to identify and classify each client and each client's transactions in order to ensure that the relevant rules are met.

For the purposes of MiFID, some clients may be classified as professional in respect of specific investment services or transactions or products and be classified as retail in respect of other investment services or transactions or products. ICCL rules in respect of professional clients are outlined under Question 8 earlier.

For the purpose of determining the appropriate contribution to the ICCL, a firm should include all eligible clients, even those who are only eligible in respect of a certain investment service, transaction or product. The fact that the client is classified as professional in respect of all other services, transactions or products would not exclude them from the calculation of eligible client numbers.

APPENDIX 5

SOME RELEVANT DEFINITIONS

Investor Compensation Act, 1998

"Authorised investment firm" means –

(a) an authorised investment business firm,

(b) an authorised investment firm, as defined in the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No 60 of 2007),

(c) a credit institution the authorisation of which by the Bank under Directive No. 77/780/EEC of 12 December 1977 and Directive No. 89/646/EEC of 15 December 1989 extends to one or more investment services listed in section A of the Annex to the Investment Services Directive,

(d) an insurance intermediary, or

(e) a management company authorised under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 (S.I. No. 211 of 2003), as amended, to undertake the services referred to in Regulation 16(3) of those Regulations;

"Client" means a person

(a) to whom an investment firm provides investment business services, or

(b) who has entrusted money or investment instruments to an investment firm in connection with the provision of investment business services by the investment firm;

"Eligible investor" means a person, not being an excluded investor, who is a client of an investment firm and has made an application for payment under section 34 of the Act.

"Excluded investor" means a client of an investment firm which has been the subject of a determination by the supervisory authority under section 31 or a ruling and, in relation to that investment firm, is -

(a) a professional or institutional client, including:

i. an investment firm;

ii. an investment firm for the purposes of the Investment Services Directive;

iii. a credit institution as defined in Article 1 of Council Directive No. 77/780/EEC;

iv. a financial institution as defined in Article 1(6) of Council Directive No. 89/646/EEC of 15 December 1989;

v. an insurance undertaking;

vi. an undertaking for collective investment; or

vii. a pension or retirement fund, or

(b) a local authority, or

(c) a director, manager or personally liable member of the investment firm, a holder of at least 5 per cent of the capital of the investment firm, a person responsible for carrying out the statutory audit of the investment firm or a client with similar status in a group undertaking, or

(d) a close relative or a third party acting on behalf of a client referred to in paragraph (c), or
(e) another firm in a group undertaking, or
(f) a client who has any responsibility for, or has taken advantage of, facts relating to the investment firm which gave rise to the firm's financial difficulties or contributed to the deterioration of its financial situation, or
(g) a company which is of such a size that it is not permitted to draw up abridged balance sheets under Article 11 of the Fourth Council Directive No. 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies, or
(h) a client specified by the supervisory authority as an excluded investor in accordance with section 35(8).

"Investment firm" means –
(a) an authorised investment business firm or a person (being a person who was an authorised investment business firm) whose authorisation has been revoked,
(b) an authorised investment firm as defined in the European Communities (Markets in Financial Instruments) Regulations 2007,
(c) a person who was formerly an authorised investment firm and whose authorisation has been revoked,
(d) a credit institution licensed in the State or a credit institution whose authorisation by the Bank under Council Directive 77/780/EEC of 12 December 1977 as amended by Council Directive 89/646/EEC of 15 December 1989 as amended and extended from time to time extends to one or more of the investment services listed in the Annex to the Investment Services Directive or a credit institution whose authorisation by the Bank under Council Directive 77/780/EEC of 12 December 1977 as amended by Council Directive 89/646/EEC of 15 December 1989 as amended and extended from time to time has been revoked or a credit institution whose authorisation by the Bank under Council Directive 77/780/EEC of 12 December 1977 as amended by Council Directive 89/646/EEC of 15 December 1989 as amended and extended from time to time no longer extends to one or more of the investment services listed in the Annex to the Investment Services Directive,
(e) an insurance intermediary or a person who was formerly an insurance intermediary, or
(f) a management company authorised under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 (S.I. No. 211 of 2003), as amended, to undertake the services referred to in Regulation 16(3) of those Regulations;

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