Banking & Payments Federation Ireland

FEDERATION OF INTERNATIONAL BANKS IN IRELAND

BPFI Response to CP170

Regulatory Impact Assessments, and the Central Bank's Approach to Consultation

September 2026

Banking & Payments Federation Ireland

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Executive Summary

BPFI welcomes CP170 and the accompanying Regulatory Impact Assessment (RIA) Statement of Approach. We support the Central Bank's objective of embedding greater transparency, consistency and discipline in regulatory policy development and welcome the move towards a more structured, evidence-based and proportionate approach to the exercise of domestic regulatory discretion.

We particularly welcome the emphasis on proportionality, consideration of alternative options, stakeholder engagement, transparency regarding regulatory decision-making, recognition of "no action" as a legitimate policy intervention option, and the integration of monitoring and review into the regulatory lifecycle.

We also believe that simplicity and proportionality should be understood as supporting better regulatory outcomes, not only as mechanisms for reducing burden. A clear, coherent and proportionate framework is easier for firms to implement, easier for supervisors to assess consistently, and more likely to achieve the policy objective in practice.

While supportive of the overall framework, we believe it could be strengthened in several areas:

- **Problem definition**: Greater emphasis should be placed on establishing a clear and evidenced problem statement before intervention is considered.
- **Evidence and intervention thresholds:** Greater clarity regarding the evidence required to justify regulatory intervention, including recognition that more intrusive, costly or far-reaching measures should be supported by a proportionately stronger evidential foundation.
- **Proportionality**: Proportionality should apply not only to the proposed intervention, but also to the underlying problem being addressed.
- **Simplicity:** Policy options should be assessed not only for effectiveness but also for simplicity, with preference given to the simplest effective intervention capable of achieving the stated objective, taking into account associated costs, implementation burdens and expected benefits.
- **Enhanced Governance:** Consideration should be given to formal governance arrangements requiring explicit review and endorsement of RIAs for material interventions by the Central Bank Commission or another appropriate oversight mechanism.
- **Regulatory simplification:** New interventions should be assessed in the context of the existing framework, including whether they render existing requirements redundant or create unnecessary overlap or complexity.
- **Cumulative impact:** Regulatory interventions should be assessed not only on a standalone basis, but also in the context of existing and forthcoming regulatory

obligations. A measure that appears proportionate in isolation may become disproportionate when viewed alongside concurrent regulatory change.

- **Differentiated impact assessment:** Where interventions apply across multiple sectors, business models or regulatory populations, RIAs should identify meaningful cohorts and assess impacts and proportionality on that basis rather than relying solely on aggregate analysis.
- **Benefits and outcomes:** RIAs should clearly articulate the expected benefits of intervention, the evidence supporting those benefits, and where possible how success will be measured. The level of evidence supporting expected benefits should be proportionate to the costs and burdens imposed.
- **Post-implementation review**: Material interventions should be subject to a defined post-implementation review point and process, including opportunities for stakeholders to provide implementation feedback and identify unintended consequences.
- **Stakeholder engagement**: There should be greater transparency regarding how stakeholders are selected and engaged during policy development, and how that engagement informs both RIAs and final policy decisions.
- **Non-binding measures**: Measures excluded from the framework because they are non-binding should not subsequently be treated as binding requirements through supervisory practice. Greater clarity regarding the status of regulatory and supervisory instruments would support legal certainty, consistency and effective stakeholder engagement.
- **Framework transparency:** Consideration should be given to periodic public reporting on the operation of the RIA framework, including RIAs undertaken, post-implementation reviews completed and lessons learned.

Finally, while outside the scope of this consultation, we note that supervisory expectations, options, discretions, guidance, thematic communications, and decisions can have impacts on firms comparable to, and in some cases greater than, formal regulatory requirements. The Central Bank should consider how similar principles of transparency, consistency, evidence-based decision-making and proportionality could be applied in those contexts, particularly where their practical impact on firms is comparable to that of formal regulatory measures.

Section A: Overall questions

Q1. What are your views on the proposal to consider RIA and Public Consultation as connected but distinct elements of the Central Bank's regulatory process?

We welcome the proposal to treat RIA and public consultation as connected but distinct elements of the Central Bank's regulatory process. A robust RIA should provide the analytical foundation for policy development, while consultation should allow stakeholders to test assumptions, provide evidence and assess the practical implications of potential interventions.

While we recognise the important interaction between the two processes, we believe greater emphasis should be placed on establishing a clear and evidenced problem statement at the outset. Stakeholder engagement can help refine understanding of an issue, but consultation should not be relied upon to identify or substantiate the underlying problem. Stakeholders can only meaningfully consider proportionality, alternatives and impacts where there is a clear articulation of the issue being addressed, the objective of any intervention and the rationale for regulatory action.

More broadly, we welcome the discipline that the proposed framework introduces to regulatory development and the increased transparency regarding how issues are identified, assessed and progressed through the policy process.

Q2. Are there additional issues or interactions, across the two elements covered by this Consultation Paper, that the Central Bank should address more explicitly?

Regulatory Lifecycle and Feedback Arrangements

We believe the interaction between problem identification, impact assessment, consultation and post-implementation review could be more explicitly reflected within the framework. These should be viewed as parts of a continuous policy cycle rather than discrete stages, with evidence gathered at each stage informing future policy development.

RIA and Consultation Sequencing

We believe the interaction between RIAs and consultation could also be more explicitly reflected within the framework. We welcome the proposal to publish RIAs alongside consultation papers, as this enables stakeholders to understand and engage with the Central Bank's preliminary assessment when formulating responses. However, where an RIA is published at the same time as a consultation paper, consultation responses cannot by definition have informed that assessment. The framework should therefore provide greater clarity regarding how consultation feedback will subsequently be reflected in the impact assessment process.

Consideration could be given to publishing an updated RIA, or a clear explanation of why the original assessment remains unchanged, alongside the consultation feedback statement. This would improve transparency regarding how stakeholder evidence and feedback have influenced the Central Bank's analysis and final policy approach. Where appropriate, consideration could also be given to publishing a final RIA alongside the final measure.

Problem Definition and Materiality

We believe greater emphasis should be placed on establishing a clear and evidenced problem statement at the outset of the process. Consultation and stakeholder engagement can help refine understanding of an issue and test assumptions, but should not be relied upon to identify or substantiate the underlying problem. Effective consultation depends on stakeholders having a clear understanding of the issue being considered, its materiality, the policy objective being pursued and the rationale for considering intervention.

Differentiated Impact Assessment

We also believe the framework could provide greater guidance on how impacts should be assessed where interventions apply across multiple sectors, business models or regulatory populations. A measure that appears proportionate or low impact at an aggregate level may have significantly different consequences across affected cohorts. The identification of meaningful cohorts and assessment of impacts on that basis would support more robust analysis and strengthen the practical application of proportionality.

Transparency of Stakeholder Engagement

We would also welcome greater transparency regarding stakeholder engagement undertaken outside formal consultation processes. While direct engagement can improve policy development and enhance the quality of evidence available to the Central Bank, there should be greater visibility regarding how stakeholders are identified, engaged and how differing views are considered, particularly where such engagement informs the development of regulatory proposals.

Post-Implementation Review

We believe the framework should also place greater emphasis on the ongoing assessment of interventions after implementation. This is particularly important in identifying unintended consequences, cumulative regulatory burden, overlap with existing requirements and areas where simplification may be possible. In our view, post-implementation review should be considered a core element of the broader regulatory lifecycle and formal consideration should be given to including structured review points for material interventions.

Application of Principles to Supervision

Finally, while outside the scope of this consultation, we note that supervisory expectations, options, discretions, decisions, Dear CEO communications and thematic findings and risk mitigation programmes can have impacts on firms comparable to, and in some cases greater than, formal regulatory requirements. The principles underpinning this framework, particularly transparency, evidence-based decision-making, consistency and proportionality, are equally relevant in that context. These principles are important not only in relation to the development of regulatory requirements, but also in their ongoing supervisory application. The effectiveness of simplification, proportionality and transparency initiatives will ultimately depend on how they are reflected in day-to-day supervisory practice. Where materially different supervisory outcomes arise, firms should be able to understand the rationale for those outcomes and have meaningful opportunities to provide relevant evidence, context and explanation in support of their position.

This gives rise to two related risks: first, that measures excluded from the framework because they are non-binding are subsequently treated, through supervisory practice, as binding requirements; and second, that new expectations of general application are introduced through supervisory channels without the analysis and engagement that would accompany an equivalent formal requirement.

Greater clarity regarding the categories of intervention to which these principles apply, and the rationale where they do not, would further support transparency and predictability for regulated firms.

The Central Bank should consider how similar disciplines could be applied to significant supervisory interventions more generally. In particular, we would encourage the Central Bank to consider appropriate safeguards, including mechanisms to ensure that measures excluded from the Impact Assessment Framework on the basis that they are non-binding are not subsequently treated as binding requirements through supervisory practice without being subject to appropriate analysis and stakeholder engagement. A clear route through which firms can establish the status and basis of a supervisory expectation, including whether it constitutes a binding requirement, would also be welcome. Overall, an extension of these principles and appropriate safeguards would help promote a more consistent approach across the broader regulatory and supervisory framework and strengthen confidence that material obligations and expectations are supported by robust and proportionate analysis.

Section B: Statement of Approach to RIA

Q3. What are your views on the proposed purpose of the Statement of Approach to RIA?

We support the proposed purpose of the Statement of Approach and welcome the Central Bank's commitment to embedding greater discipline, transparency and consistency in regulatory policy development. The framework should help strengthen confidence that interventions are evidence-based, proportionate and focused on clearly identified risks and policy objectives.

For material interventions, consideration could also be given to governance mechanisms that provide additional challenge and scrutiny of RIAs as part of the policy development process. This would help strengthen confidence in the robustness of the evidence, assumptions and analysis underpinning regulatory proposals.

In our view, the most important function of an RIA is to ensure that a clear and evidenced problem statement exists before intervention is considered. Effective policy development should begin by establishing the nature, scale and materiality of the issue being addressed, the risks arising from it, and the reasons why intervention is necessary.

A clear problem statement should also be supported by evidence proportionate to the nature and significance of the issue or risk concerned. There is an important distinction between identifying a risk, observing evidence of harm in practice, and demonstrating that existing frameworks are failing to mitigate a known and crystallised risk. The more intrusive or costly the proposed intervention, the stronger the evidential basis supporting regulatory action should be.

We would also encourage the Central Bank to explicitly recognise simplicity as a consideration within the framework. When assessing policy options, consideration should be given not only to effectiveness, but also to whether the desired outcome can be achieved through a simpler and less burdensome intervention. Complexity, duplication and overlap can themselves create costs and unintended consequences and should therefore be considered as part of the policy development process.

Q4. Do you consider the proposed scope and application of the Statement of Approach to be sufficiently clear?

The proposed scope is broadly clear.

However, additional clarity would be welcome regarding:

- the treatment of non-binding tools, guidance and supervisory communications;

- the approach to urgent or time-sensitive interventions;
- how cumulative impacts across multiple regulatory initiatives will be considered.

Non-Binding Measures

In particular, we note the proposal that the framework will not apply to certain non-binding measures. We understand the rationale for this approach. However, it is important that measures outside scope on the basis that they are non-binding are not subsequently treated as binding requirements through supervisory practice.

Taxonomy of Regulatory and Supervisory Instruments

We also believe there would be merit in establishing a clearer framework distinguishing between binding regulatory requirements, regulatory policy, supervisory interpretations or Q&As, and non-binding guidance or good practice. Such a framework would provide greater certainty regarding the legal status of different regulatory and supervisory instruments and support a more consistent understanding across supervisors, firms and external assurance providers.

The approach adopted by De Nederlandsche Bank (DNB) provides a useful example, distinguishing between binding supervisory regulations, policy rules, Q&As and Good Practices and explaining the respective status of each[1]. A similar taxonomy could provide a common reference point regarding the status and intended use of different supervisory tools.

This is also consistent with the broader direction of European regulatory policy. The European Commission has recently identified the need for a clearer distinction between requirements which require compliance and non-binding guidance intended to support the consistent application of those requirements.

This reflects broader concerns identified by the European Commission[2] regarding the increasing reliance on soft-law instruments within the regulatory framework. In its recent Communication on the Competitiveness of the Banking Sector and the Single Market in Banking, the Commission noted that "increased reliance on soft-law instruments [is] often interpreted as [creating] binding constraints by EU and national competent authorities, banks' compliance officers and external auditors"[3], with the potential to add complexity and fragmentation across the Single Market.

[1] https://www.dnb.nl/media/n5uczwsr/explanatory-guide-to-dnb-s-policy-statements.pdf
[2] Communication From the Commission to The Parliament, The Council, The European Central Bank, The European Economic and Social Committee and The Committee of The Regions on Competitiveness of the Banking Sector and the Single Market in Banking, July, 2026
[3] Ibid.

In our view, supervisory guidance can play an important role in supporting consistency, clarifying expectations and highlighting examples of good practice. However, firms must retain the ability, and be empowered, to exercise judgement and, where appropriate, demonstrate compliance with underlying legal requirements through alternative approaches. Non-binding guidance should not become a de facto compliance requirement through supervisory practice and firms should be able to explain and justify reasonable divergence where the underlying regulatory objective continues to be met. In this regard, DNB expressly notes that good practices are "not used as the basis for supervisory action" and explicitly leaves open the possibility for institutions to implement legal requirements in different ways.

Practical Effect and Materiality

More broadly, we believe the practical effect of a measure should be a key consideration when determining whether the framework applies. Measures and interventions that create binding obligations, or which materially influence the obligations, systems, controls or operations of regulated firms, should be subject to an appropriate level of analysis proportionate to their impact, irrespective of the form through which they are introduced. In this regard, firms should be able to clearly understand the status and effect of regulatory and supervisory measures, including whether they constitute binding requirements, supervisory expectations or guidance. Greater transparency in this regard would support legal certainty, accountability and more effective stakeholder engagement.

Urgent Interventions

Where urgent or time-sensitive interventions are introduced without a full assessment, we believe they should be time-bound and the Central Bank should commit to undertaking a post-implementation review or impact assessment as soon as practicable. Such reviews should not presume the continued necessity of the intervention, but should objectively assess whether it remains justified, proportionate and effective, including by considering whether a non-intervention or alternative approach would have achieved the desired outcome.

Minor Measures and Materiality Thresholds

We would also welcome further clarity on how the threshold for treating a matter as minor and therefore outside the scope of an RIA will be applied. A matter that appears non-material when assessed on an aggregate or system-wide basis may nevertheless have a material impact on particular sectors, business models or categories of firm. The impact of a given measure is rarely uniform across regulated firms, and a change that is immaterial for one cohort may be significant for another, whether by reference to size, business model, operational footprint, or the extent to which the matter interacts with existing obligations.

We would therefore encourage the Central Bank, when determining whether a matter falls below the threshold for assessment, to consider the potential for impacts to vary across sectors

and firm types rather than assessing materiality solely on an aggregate basis. Where a measure is considered immaterial overall but may have significant consequences and impact for a specific cohort of firms, this should be reflected in the depth and scope of the assessment undertaken.

Q5. What are your views on the proposed approach to proportionality?

Proportionality of the Problem and the Solution

We strongly support proportionality as a core principle of the framework. However, we believe greater emphasis should be placed on proportionality in relation to the problem being addressed, not solely the resulting intervention.

It is our view that the RIA framework should be viewed not simply as an impact assessment tool, but as a mechanism for enabling and demonstrating proportionality. This is particularly important where interventions affect diverse sectors, business models or regulated populations, as meaningful proportionality assessment requires an understanding of how impacts vary across different cohorts of firms. Aggregate assessments can mask materially different effects across affected populations and may therefore fail to capture the full proportionality implications of a proposal.

A clear explanation should be provided of why an identified issue is sufficiently material to warrant exploration or the consideration of intervention. The existence of a risk should not automatically imply the need for additional requirements where that risk is already appropriately managed, controlled or mitigated through existing frameworks, or otherwise de minimis.

Demonstrating Proportionality

We also believe each RIA should contain a specific statement explaining how proportionality has been assessed, including:

- why intervention is considered necessary;
- why alternative options were not preferred;
- how impacts on different firm types have been considered; and
- how proportionality is expected to be reflected in implementation and supervisory application.

Finally, we believe simplicity should be recognised as an important component of proportionality. The preferred option should, where possible, represent the simplest effective means of achieving the stated objective.

Regulatory Convergence and Harmonisation

We also believe that impact assessment has an important role to play in promoting regulatory convergence and reducing unnecessary fragmentation. The European Commission recently observed that "*National gold-plating and differences in the transposition of EU rules is a further source of fragmentation. These elements undermine the effectiveness of the single rulebook, making it cumbersome and costly for banking groups to operate across borders*." In our view, RIAs can provide an important discipline in this regard by ensuring that the rationale for domestic policy choices and regulatory divergence is clearly evidenced, transparently explained and assessed against alternative approaches.

Where requirements exceed applicable European minimum standards, or where domestic discretion is exercised in a manner that results in more stringent obligations, the rationale for that approach, the anticipated benefits, and the implications for regulatory convergence, competitiveness and cross-border activity should be explicitly assessed and articulated.

Where the Central Bank is exercising domestic discretion, including through the exercise of Options and National Discretions provided within European legislation, the exercise of that discretion should be explicitly supported by impact assessment. In such cases, the RIA should clearly explain the rationale for the approach adopted, the alternatives considered, and the implications of divergence from other available options where relevant. Consideration should also be given to the broader effects of policy choices on regulatory convergence and on the attractiveness, competitiveness and efficient functioning of Ireland's financial services sector, while remaining fully consistent with the achievement of regulatory, financial stability, and consumer protection objectives.

Q6. Do you consider the proposed approach to identifying and assessing options to be clear and appropriate?

The proposed approach is broadly appropriate and we welcome the emphasis on considering options, alternatives and counterfactuals. The inclusion of a baseline and the assessment of alternative approaches should support more transparent and evidence-based policy development.

Existing Framework Sufficiency

We would also encourage explicit consideration of whether the identified issue is already addressed through existing regulatory, supervisory or governance arrangements. The existence of a risk should not automatically imply the need for additional requirements. RIAs should clearly demonstrate why existing frameworks, tools and requirements are insufficient, identify the specific gap that remains, and explain why additional intervention is necessary and proportionate.

Problem Definition and Evidence

Greater emphasis should also be placed on problem definition before options are assessed. A clearly articulated and evidenced problem statement is critical to determining whether intervention is required and, if so, what form it should take. Without a clear understanding of the nature, scale and materiality of the issue being considered, it is difficult to meaningfully assess either proportionality or effectiveness.

The framework should also provide greater clarity regarding the evidential basis required before moving from problem identification to intervention design. RIAs should distinguish between theoretical risks, observed harm or loss, and demonstrated deficiencies in existing regulatory or supervisory frameworks. Without a sufficiently robust evidential foundation, there is a risk that impact assessment becomes a justification exercise rather than a genuine decision-making discipline.

We welcome the Central Bank's proposal to explicitly recognise that "no action" is a legitimate policy option. The existence of a risk does not necessarily imply the need for additional regulatory requirements, particularly where the risk is already appropriately managed or where the anticipated benefits of intervention are unlikely to justify the associated costs and burdens.

Benefits and Costs

We also believe RIAs should place equal emphasis on assessing anticipated benefits as well as costs and burdens. Where interventions are expected to impose material operational, compliance or implementation costs, the evidence supporting anticipated benefits should be clearly articulated. Where benefits are uncertain, difficult to quantify or dependent on behavioural changes, this should be transparently acknowledged.

In assessing the costs of a proposed intervention, we would caution against treating costs absorbed by firms as though they were without wider economic impact; in our view, the costs of regulation ultimately affect customers, either directly through pricing or indirectly through other channels. For example, where they do not directly result in higher prices, they may instead be borne indirectly through reduced product availability, narrower choice, lower levels of service or investment, or the withdrawal of firms from particular activities or segments. Even where a cost is absorbed in the first instance, it affects a firm's capacity, its competitiveness, and the returns available to those who ultimately fund and use financial services. We would therefore encourage the Central Bank to look beyond whether a cost is passed through directly and to

consider the full economic incidence of the costs imposed, including the effects on customers, competition and the availability and cost of financial services more generally.

Implementation and Transition Costs

We would also encourage the Central Bank, when assessing implementation costs, to distinguish between the cost of first-time compliance for new entrants and the cost for firms already operating in the market to transition to new requirements. These are distinct and transition costs for existing firms can often be significantly greater. Existing firms must modify established systems, processes, contractual arrangements, governance structures and controls while maintaining business as usual and the cost and disruption of retrofitting change to an existing operating model can materially exceed the cost of building to a requirement from the outset. A cost assessment that captures only the steady-state cost of compliance, or only the position of a new entrant, risks understating the true cost of a measure to the firms it affects.

Assessment of Alternatives

Similarly, when comparing policy options, explicit consideration should be given to simplicity, implementation burden, cumulative impacts and potential overlap with existing requirements. The preferred option should, where possible, represent the simplest effective means of achieving the stated objective. For example, where an identified issue is concentrated within a particular sector, business model or activity, the Central Bank should also consider whether a targeted intervention could achieve the desired outcome more proportionately and effectively than a cross-industry measure. The scope of an intervention should be assessed as part of the options analysis and should not be assumed from the outset.

The assessment of options should also consider sequencing and phasing. In some cases, the policy objective may be achieved more effectively through staged implementation, targeted pilots, guidance, or supervisory engagement before moving to new requirements.

International Comparators

Where relevant, options analysis should also consider comparable approaches adopted in other jurisdictions, including both European and international markets. The purpose should not be to replicate another jurisdiction's framework, but to understand how similar policy objectives have been addressed elsewhere and whether there are lessons that may inform a more proportionate or effective approach.

The framework should support informed choices between options, including circumstances where maintaining the existing position, simplifying existing requirements or adopting a less intrusive intervention represents the most proportionate outcome.

Q7. Do you consider the proposed approach to evidence gathering, consultation and stakeholder engagement to be appropriate?

We support the proposed approach and welcome the recognition of stakeholder engagement as a core component of effective policymaking.

Early Stakeholder Engagement

We would also encourage the Central Bank to place greater emphasis on the timing of stakeholder engagement. For material or technically complex initiatives, engagement should take place sufficiently early in the policy development process to allow external evidence and expertise to inform problem definition, identification of policy options and assessment of likely impacts, rather than principally occurring once a preferred intervention has been developed.

Evidence Gathering

Industry stakeholders can provide valuable evidence on implementation costs, operational impacts, governance implications and practical feasibility. While exact cost estimates may not always be available, firms are generally able to provide meaningful evidence regarding implementation effort, systems impact, resource requirements and ongoing compliance obligations.

For example, in relation to regulatory reporting requirements, the Central Bank should consider the full range of costs incurred by firms, including the review and interpretation of requirements, implementation activity, data gathering, extraction, validation, assurance, submission processes, governance arrangements and ongoing IT development and maintenance. Equally, consideration should be given to the costs incurred by the Central Bank itself in developing reporting requirements, maintaining supporting infrastructure and analysing the information collected. Such costs should be assessed against the demonstrable benefits derived from the data, including whether particular requirements continue to support active supervisory, policy or risk-monitoring objectives and whether the value obtained justifies the ongoing reporting burden imposed on firms. BPFI would be happy to support the Central Bank in engaging with members to better understand these costs and benefits, both in relation to regulatory reporting and more generally.

Transparency of Engagement

We would also welcome greater transparency regarding stakeholder engagement undertaken outside formal consultation processes, including how stakeholders are selected and how wider market perspectives are considered. Where stakeholder engagement has informed an RIA, the Central Bank should provide greater clarity on how that engagement has influenced the assessment of the problem, the options considered and the preferred policy approach.

Structured Stakeholder Input

Consideration could also be given to more structured and formalised engagement mechanisms for particularly material or cross-cutting initiatives. The formal stakeholder groups established within the European Supervisory Authorities provide useful comparators. In particular, the EBA's Banking Stakeholder Group[4] and ESMA's Securities and Markets Stakeholder Group[5] provide structured mechanisms through which a balanced range of industry, consumer, user, employee, SME and independent academic perspectives can inform regulatory policy development. ESMA also uses specialist Consultative Working Groups[6] to provide technical stakeholder expertise to its standing committees. While not necessarily requiring direct equivalents, these arrangements provide useful examples of how structured external engagement can complement public consultation and allow external expertise and differing perspectives to inform policy development at an earlier stage. Consideration could also be given to whether more formalised stakeholder advisory arrangements may be appropriate for particularly material or cross-cutting initiatives, providing a recognised mechanism through which external expertise can inform policy development on an ongoing basis.

Q8. What are your views on the proposed governance, transparency and review arrangements?

We welcome the proposed focus on governance, transparency and review. In particular, we support the recognition that regulatory interventions should be monitored and assessed after implementation, and that monitoring and learning should form part of the broader regulatory lifecycle.

Governance and Challenge

We also believe that consideration must be given to introducing additional challenge and scrutiny mechanisms for RIAs relating to material interventions. In particular, consideration should be given to formal governance arrangements requiring explicit review and endorsement of the RIA by the Central Bank Commission or another appropriate oversight mechanism. This would provide an additional layer of challenge and scrutiny in relation to the evidence, assumptions, proportionality, expected costs and anticipated benefits underpinning regulatory proposals, while maintaining full accountability for decision-making within the Central Bank. As the framework becomes embedded, consideration could also be given to whether additional mechanisms for structured external challenge or independent scrutiny may be appropriate for particularly material interventions. This would perform a distinct function from both internal

[4] https://www.eba.europa.eu/sites/default/files/2024-10/d0a840ca-e92b-435c-8867-fa5ed2a8d235/Rules%20of%20Procedure%20of%20the%20BSG.pdf
[5] https://www.esma.europa.eu/sites/default/files/2023-05/ESMA22-106-4162_SMSG_Rules_of_Procedure_2023.pdf
[6] https://www.esma.europa.eu/sites/default/files/2024-07/ESMA24-229244789-5_Procedure_on_Consultative_Working_Groups.pdf

governance and public consultation by providing independent expert challenge to the evidence, assumptions, analysis and methodology underpinning an RIA.

Independent Expert Challenge

In this regard, the FCA's Cost Benefit Analysis Panel[7] provides a useful example. The Panel does not determine whether the regulator should pursue a particular policy, nor is it responsible for the content of the regulator's analysis. Rather, its role is to provide an independent expert review of the evidence, analytical approach and methodology supporting the assessment. Consideration could be given, over time, to whether a proportionate form of similar independent challenge could further strengthen confidence in the robustness of RIAs relating to particularly material interventions, while preserving full responsibility and accountability for regulatory policy decisions within the Central Bank.

Transparency and Reporting

Consideration could also be given to periodic public reporting on the operation of the framework. Such reporting could include information on the number of RIAs undertaken, interventions excluded from scope, post-implementation reviews completed, key themes identified through stakeholder engagement and lessons learned regarding the operation of the framework. This would support transparency, accountability and continuous improvement as the framework matures.

Consideration could also be given to greater transparency regarding the circumstances in which the Central Bank departs from normal publication practices under the framework. Where a full RIA, feedback statement or other supporting document is not published, the Central Bank should, at a minimum, consider publishing a summary of the principal impacts, considerations and rationale informing the decision. This would help ensure that transparency commitments remain meaningful even where exceptions are applied.

Post-Implementation Review

We believe the framework should place greater emphasis on structured post-implementation review. While we recognise that review activity should be proportionate, material interventions should be subject to a defined post-implementation review point rather than relying solely on targeted follow-up where considered appropriate.

Such reviews should assess whether:

- the intervention achieved its intended objective;
- the anticipated benefits identified in the original RIA have materialised in practice;
- unintended consequences have emerged;
- costs and burdens are consistent with those originally anticipated;

[7] https://www.fca.org.uk/panels/cost-benefit-analysis-panel/publication/terms-of-reference.pdf

- any existing requirements have become redundant or duplicative as a result of the intervention; and
- the measure remains necessary, proportionate and justified in light of subsequent experience and changing market, regulatory and supervisory conditions.

This is particularly important given that overlap, duplication and regulatory obsolescence can become significant sources of cost and complexity over time.

Cumulative Impact Assessment

Where multiple policy initiatives affect the same firms, business activities or control and risk-management frameworks, consideration should also be given to cumulative impact assessment. While individual interventions may appear proportionate in isolation, the aggregate impact of multiple overlapping requirements can create significant operational, governance and compliance burdens that may not be apparent when initiatives are assessed independently. This also highlights the importance of establishing and evidencing at the outset that existing regulatory and supervisory frameworks and rules are insufficient to address the identified risk. Without such an assessment, there is a risk that interventions simply add further layers of requirements to existing controls, creating duplication and complexity rather than addressing a genuine regulatory gap.

Implementation Feedback Mechanisms

We also believe there should be a clear mechanism through which stakeholders can raise unintended consequences or disproportionate impacts following implementation. For material interventions, the Central Bank should consider a structured post-implementation engagement process (distinct from a retrospective impact assessment) to provide stakeholders with a formal opportunity to share implementation experience, identify unforeseen consequences and highlight areas where requirements may be operating in a manner that is more burdensome than originally envisaged.

This would support continuous improvement and help ensure that future decisions regarding the retention, amendment, simplification or removal of measures are informed by practical experience as well as original policy intent.

Section C: Consultation Approach

Q9. What are your views on the broad principles proposed for the Central Bank's consultation approach?

We support the proposed consultation principles and welcome the emphasis on transparency, accessibility, relevance and proportionality. These principles are important not only for the quality of consultation responses received, but also for building trust and confidence in the regulatory process itself.

In our view, the single most important feature of effective consultation is a clear explanation of the problem being addressed. Stakeholders can only meaningfully assess whether a proposed intervention is necessary, proportionate or likely to achieve its intended objective where there is a clear articulation of the underlying issue, the policy objective and the rationale for action.

We also believe the consultation process should support the broader objective of regulatory simplicity. It should not only test the effectiveness of proposed interventions, but also whether the same outcome could be achieved through a simpler, less burdensome or less duplicative approach. This is particularly important in identifying cumulative regulatory burden and ensuring that new requirements do not create unnecessary complexity.

Where new requirements are proposed, the Central Bank should also consider whether they render any existing requirements, expectations or processes redundant, and whether simplification, consolidation or removal of existing obligations may be appropriate. Regulatory development should not be viewed solely as the addition of new requirements, but also as an opportunity to reduce unnecessary overlap, duplication and complexity.

We welcome the Central Bank's recognition of the role of stakeholder engagement throughout the policy development process. To maximise the value of that engagement, greater transparency regarding how stakeholders are engaged during the development of proposals, how feedback informs decision-making, and how stakeholder input has influenced both the RIA and the preferred policy approach would further strengthen confidence in the consultation process and its outcomes.

Q10. In your view, what steps can the Central Bank take to ensure that consultation processes are inclusive and relevant to the stakeholders affected by its work?

Several practical measures could further support effective engagement:

- maintaining a forward consultation and RIA calendar. While we recognise that future initiatives can only be indicative and may change over time, there would be value in a

single, central source covering all live consultations, planned consultations and RIAs. This would improve transparency, provide greater forward visibility and support more effective stakeholder engagement;
- considering relevant stakeholder input already gathered through previous engagement when designing a consultation, so that consultation exercises focus on unresolved issues, evidence gaps and areas where additional stakeholder input can add the greatest value, while avoiding unnecessary duplication of effort;
- being transparent regarding stakeholder engagement undertaken during policy development, including how participants are identified and selected;
- clearly identifying the evidence and feedback being sought from stakeholders;
- providing greater visibility regarding how stakeholder input has informed both the RIA and the preferred policy approach;
- undertaking cumulative impact assessments where multiple regulatory initiatives are expected to affect the same sectors, firms or business activities;
- considering cumulative regulatory change across multiple initiatives when planning consultation activity and implementation timelines.

These measures would improve both the quality of responses received and the ability of stakeholders to participate meaningfully.

Q11. What features of consultation practice are most important in supporting transparency, predictability and meaningful stakeholder engagement?

The most important feature of any consultation process is a clear articulation of the problem being addressed and why the Central Bank considers it insufficiently addressed through existing requirements. Without a clearly defined problem statement, stakeholders cannot meaningfully assess whether intervention is necessary, proportionate or likely to achieve its intended objective.

Other important features include:
- a clearly stated policy objective;
- transparency regarding options considered, including the rationale for rejecting alternatives;
- publication of supporting analysis and impact assessments;
- clear implementation timelines;
- comprehensive feedback statements; and
- transparency regarding stakeholder engagement undertaken during policy development.

Taken together, these measures support confidence in both the consultation process and the resulting regulatory outcomes.

We note the Central Bank's proposals in section 4.6 regarding the publication of responses to consultation papers. We support the publication of consultation responses as an important element of transparency, and we recognise that transparency supports confidence in the regulatory process and its outcomes. We would, however, note one practical consideration. To provide comprehensive and useful responses to a consultation, particularly on matters such as operational impacts and the practical effects of a proposal, stakeholders may need to include information that is commercially sensitive. The prospect of such information being published may, in some cases, discourage stakeholders from providing it in full, to the detriment of the evidence base available to inform policy development.

We would therefore encourage the Central Bank to ensure that its approach to publishing consultation responses provides clearly for stakeholders to submit commercially sensitive information on a confidential basis, on the understanding that it will not be published. This would serve both transparency and a robust evidence base, by enabling stakeholders to respond as fully as possible while protecting genuinely commercially sensitive material. Setting out clearly, at the outset of each consultation, how confidential and commercially sensitive information submitted in response to a consultation should be flagged by respondents at the time of submission and how it will subsequently be treated, would further support meaningful engagement.

Q12. Do you consider that the proposed approach to proportionality in consultation design is clear and appropriate?

The proposed approach is broadly appropriate.

However, proportionality should be assessed based on the practical impact of a proposal rather than its apparent technical scope. Regulatory changes that appear narrow or technical can nevertheless have significant implications for implementation, governance, reporting, systems and compliance arrangements.

We would therefore encourage the Central Bank to consider the likely effort required for stakeholders to assess and respond to a proposal when determining consultation timelines and engagement approaches. Proposals with significant operational or implementation impacts should not be assumed to require less engagement simply because they are technical in nature.

Q13. In your view, what are the most important features of an effective feedback statement following consultation?

An effective feedback statement should:

- summarise the key themes raised by respondents;
- explain how those themes were considered;
- identify changes made as a result of consultation;
- explain why alternative suggestions or approaches were not adopted;
- set out implementation expectations and timelines;
- identify whether post-implementation review or stakeholder engagement is envisaged;
- explain how consultation responses informed both the final policy approach and, where relevant, the underlying RIA; and
- summarise the principal themes raised through stakeholder engagement undertaken during policy development, where these have materially informed the proposal or assessment.

Stakeholders should be able to clearly understand how their contributions influenced the final outcome, how competing considerations were assessed, and how the Central Bank arrived at its final decisions. Feedback statements should also provide transparency regarding the rationale for significant decisions, including where widely supported suggestions have not been adopted or where alternative approaches were considered but ultimately rejected.

Final Question

Q14. Do you have any other comments on the matters discussed in this Consultation Paper?

We welcome this consultation and the Central Bank's commitment to enhancing transparency, consistency and accountability in regulatory policymaking. The proposed framework represents a positive step and should contribute to more effective regulatory design, stakeholder engagement and regulatory outcomes.

In our view, the framework could be further strengthened through:

Evidence, Proportionality and Impact Assessment

- A stronger emphasis on clear and evidenced problem definition as the foundation for intervention;
- more explicit consideration of proportionality in relation to both the problem being addressed and the proposed solution;
- clearer articulation of the evidential standard required before intervention is considered, including recognition that more intrusive or costly interventions should be supported by a correspondingly stronger evidence base;
- recognition that the materiality of a matter may vary across sectors and firm types, and that this should be considered before a matter is treated as minor and placed outside the scope of assessment;
- clearer articulation of the expected benefits of intervention, the evidence supporting those benefits and how success will be assessed;
- fuller consideration of the economic incidence of costs, recognising that regulatory compliance and implementation costs can affect customers both directly and indirectly;
- a clear distinction in cost assessment between first-time compliance for new entrants and the transition costs faced by firms already in the market;
- clearer and systematic assessment of existing regulatory, supervisory and governance measures and requirements, including explanation of why they are insufficient to address the identified issue or risk;
- recognition of simplicity as a relevant consideration when assessing policy options;
- recognition that, where interventions apply across multiple sectors, business models or regulatory populations, impact assessment and proportionality analysis should consider relevant cohorts rather than relying solely on aggregate assessment;
- greater focus on cumulative impacts, duplication and overlap with existing requirements; and

- formalisation of consideration as to whether new interventions render existing requirements, expectations or processes redundant.

Stakeholder Engagement and Consultation

- greater transparency regarding stakeholder engagement undertaken during policy development and how that engagement has informed both RIAs and policy decisions;
- greater emphasis on early and structured stakeholder engagement during policy development, including consideration of mechanisms to support ongoing engagement for material or cross-cutting initiatives;
- formalised stakeholder engagement arrangements for material policy initiatives, drawing on practices adopted within the European Supervisory Authorities, including stakeholder groups and technical advisory mechanisms;
- clear provision, within the approach to publishing responses to consultation papers, for commercially sensitive information to be submitted on a confidential basis and withheld from publication, so that stakeholders can provide the fullest possible response without disclosing commercially sensitive material; and
- greater transparency regarding how consultation feedback is incorporated into RIAs, including consideration of updated RIAs, explanations of material changes arising from consultation responses, or confirmation where the original assessment remains unchanged.

Supervisory Application of Regulatory Principles

- consideration of how the principles of proportionality, transparency, consistency and evidence-based decision-making can be reflected not only in regulatory policy development but also in day-to-day supervisory practice. This is particularly important in the context of the evolving European supervisory architecture, where consistency, comparability and transparency of regulatory approaches across jurisdictions will become increasingly important; and
- clear safeguards to ensure that measures considered outside scope because they are non-binding are not subsequently treated as binding requirements through supervisory practice.

Governance, Transparency and Review

- consideration of formal governance arrangements to provide additional challenge and scrutiny of RIAs for material interventions, together with proportionate mechanisms for independent expert challenge of the evidence, assumptions, methodology and analysis underpinning material RIAs;
- periodic reporting on the operation and effectiveness of the RIA framework, including experience gained through implementation and post-implementation review activities;

- greater transparency regarding circumstances where RIAs, feedback statements or other supporting documentation are not published, including publication of summary rationale and key impacts where full documentation is not provided; and
- defined and time-bound post-implementation review arrangements for material interventions, including assessment of whether measures remain necessary, proportionate and justified over time.

Regulatory Convergence and Competitiveness

- explicit application of the RIA framework to the exercise of domestic discretion, including Options and National Discretions, with clear articulation of the rationale, evidence base and implications of the approach adopted;
- consideration of relevant international practice, where appropriate, as part of options assessment and evaluation of alternative approaches;
- explicit assessment of the rationale, anticipated benefits and implications of regulatory divergence where domestic requirements exceed applicable European minimum standards or where national discretion is exercised in a manner that results in more stringent obligations; and
- consideration, where domestic discretion exists, of the wider competitiveness implications of regulatory choices, their impact on regulatory convergence, and their potential impact on Ireland's attractiveness as a location for financial services activity.

This is particularly important in the context of the evolving European supervisory architecture, where consistency, comparability and transparency of regulatory approaches across jurisdictions will become increasingly important.

Finally, while outside the scope of this consultation, we note that expectations, options, discretions, guidance, thematic communications and decisions can have impacts on firms comparable to, and in some cases greater than, formal regulatory requirements. While recognising the distinct legal and operational nature of supervision, these activities can impose material operational, governance, capital and compliance impacts on firms. The Central Bank should therefore consider how similar principles of transparency, evidence-based decision-making, consistency and proportionality can be applied to significant supervisory interventions, particularly where their practical impact on firms is comparable to that of formal regulatory measures. Doing so would support a more coherent and consistent regulatory and supervisory framework and strengthen confidence that material obligations and expectations are supported by robust and proportionate analysis.