GLI GLOBAL LEGAL INSIGHTS

Banking Regulation

2023

10th Edition

Contributing Editors: **Peter Ch. Hsu & Daniel Flühmann**

glg global legal group

CONTENTS

Preface	Peter Ch. Hsu & Daniel Flühmann, *Bär & Karrer Ltd.*	
Expert analysis chapter	*The new legal framework for collective investment undertakings* Miguel Brás da Cunha, *Bandeira, Reis Lima & Brás da Cunha – Sociedade de Advogados, SP, RL*	1
Jurisdiction chapters		
Andorra	Miguel Cases Nabau & Laura Nieto Silvente, *Cases & Lacambra*	8
Brazil	Bruno Balduccini, Veronica Rossi Marins Midega & Amanda Blum Colloca, *Pinheiro Neto Advogados*	25
Canada	Pat Forgione, Darcy Ammerman & Alex Ricchetti, *McMillan LLP*	34
Chile	Diego Peralta, Fernando Noriega & Felipe Reyes, *Carey*	49
Congo – D.R.	Liliane Mubanga Wetungani, *Thambwe-Mwamba & Associés*	58
Cyprus	Marinella Kilikitas, *Kilikitas & Co Law*	67
France	Arnaud Pince, *Almain*	82
Germany	Jens H. Kunz & Klaudyna Lichnowska, *Noerr PartG mbB*	92
Ireland	Josh Hogan & Joanne O'Rourke, *McCann FitzGerald LLP*	108
Japan	Koji Kanazawa & Katsuya Hongyo, *Chuo Sogo Law Office, P.C.*	118
Korea	Joo Hyoung Jang, Hyuk Jun Jung & Si Yoon Lee, *Barun Law LLC*	129
Liechtenstein	Daniel Damjanovic & Sonja Schwaighofer, *Marxer & Partner, attorneys-at-law*	139
Luxembourg	Andreas Heinzmann, Hawa Mahamoud & Marina Daniel, *GSK Stockmann*	149
Netherlands	Jelmer Kruijt & Constant van Tuyll, *VESPER Advocaten LLP*	165
Serbia	Petar Stojanović & Goran Vučić, *Joksović, Stojanović & Partners*	175
Singapore	Ting Chi-Yen & Lim Wei-Qi, *Oon & Bazul LLP*	185
South Africa	Mirellê Vallie, *Asafo & Co.*	201
Switzerland	Peter Ch. Hsu & Daniel Flühmann, *Bär & Karrer Ltd.*	213
United Kingdom	Alastair Holt & Simon Treacy, *Linklaters LLP*	232

Ireland

Josh Hogan & Joanne O'Rourke
McCann FitzGerald LLP

Introduction

The banking sector in Ireland benefits from an open economy with direct access to the EU labour market, EU regulatory passporting and a skilled, English-speaking talent pool. The Irish banking ecosystem consists of retail banks that primarily offer services to the domestic economy, and international banks that operate on a wider multi-jurisdictional basis.

The banking sector has evolved significantly over the past few years. As a result of Brexit, certain international banks have expanded their operations in Ireland with a view to establishing European hubs. The Central Bank of Ireland (the "**Central Bank**") has noted that cross-border assets held by third-country subsidiaries is a factor in the growth of banks' aggregate balance sheets in Ireland.

The domestic retail banking sector is reducing in size with the planned exit of two of the five main retail banks, KBC and Ulster Bank, from the Irish market. The reduction in the domestic retail banking market led to the Government carrying out a retail banking review in 2022 to identify and address key issues for the banking sector. The outcome of the retail banking review was 34 separate recommendations across the themes of access to cash, consumer protection, lending to small and medium-sized enterprises ("**SMEs**") and relaxing remuneration restrictions on the three remaining retail banks – Bank of Ireland, AIB and PTSB.

A further key trend that accelerated during COVID and continues apace is the adoption by the Irish public of digital and mobile banking. Challenger banks, such as Bunq and Revolut, provide digital-only offerings and operate with low cost bases and have increased in popularity. Incumbent Irish banks are now required to substantially invest in technology to keep pace with these challenger banks and meet customer expectations.

A key factor in anticipating future developments for the banking sector in Ireland in 2023, and beyond, will be the trajectory of the economic environment in Europe. In February 2023, the European Banking Authority (the "**EBA**") issued its EU-wide stress test, which, the EBA stated, contained the most severe adverse scenario it has used up until now. The Central Bank, in its recent communication on financial regulation priorities for 2023, noted that the economic context will be central to its regulatory focus. The Central Bank stated that it would be focused both on ensuring that firms operate in the interests of consumers as they cope with the challenges that arise and on ensuring the stability of the financial system.

Regulatory architecture: Overview of banking regulators and key regulations

Ireland is a member of the EU; therefore, the regulation of banking in Ireland is fundamentally interlinked with the EU regulatory architecture.

The European Single Supervisory Mechanism ("**SSM**") established in 2014 designated the European Central Bank (the "**ECB**") as the competent authority for banking supervision in the EU. Banks are divided into two categories: significant institutions ("**SIs**"); and less significant institutions ("**LSIs**").

The ECB supervises SIs based in Ireland and the Central Bank supervises LSIs (in close cooperation and with oversight from the ECB). The Central Bank uses a risk-based supervision approach entitled "PRISM". The Central Bank states that this approach focuses on delivering value by focusing the regulator's energies on the firms that are most significant and on the risks that pose the greatest threat to financial stability and consumers. The Central Bank states that "PRISM" reflects the fact that a regulator's resources are finite and that an unlimited pool of public or industry funding does not exist.

The Central Bank remains the competent authority for anti-money laundering for all banks. The Central Bank also continues to be solely responsible for conduct of business supervision for banks.

The Financial Services and Pensions Ombudsman (the "**FSPO**") is responsible for the resolution of individual complaints about banks. The Competition and Consumer Protection Commission ("**CCPC**") enforces competition and consumer protection laws, enhances consumer welfare, and promotes competition and financial education.

The key regulations applying to banks in Ireland are as follows:

The SSM Framework Regulation and the SSM Regulation

Regulation (EU) 468/2014 (the "**SSM Framework Regulation**") and Regulation (EU) 1024/2013 (the "**SSM Regulation**") establish the framework for banking supervision in the EU. These Regulations confer the task of banking supervision on the ECB and allocate responsibilities between the ECB and the Central Bank.

Capital requirements

Regulation (EU) 575/2013 (the "**CRR**") and Directive 2013/36/EU ("**CRD IV**") apply to banks in Ireland. The CRR is directly effective in Ireland and CRD IV was transposed into Irish law in the European Union (Capital Requirements) Regulations 2014 and the European Union (Capital Requirements) (No. 2) Regulations 2014. The CRR and CRD IV govern authorisation requirements, the supervisory framework, prudential rules, governance and reporting requirements, amongst other provisions.

Pursuant to Part 5 of the European Union (Capital Requirements) Regulations 2014, a bank may passport into Ireland by establishing a branch in Ireland (subject to notifying the Central Bank or the ECB, as applicable) or providing services in Ireland (subject to notifying the Central Bank or the ECB, as applicable).

The Central Bank Acts

The Central Bank Acts 1942 to 2018 also apply to banks. Key provisions of these Acts are (a) Section 9 of the Central Bank Act 1971, which applies to the granting of bank licences, (b) Part IIIC of the Central Bank Act 1942, which provides the Central Bank with enforcement powers in respect of regulated firms, and (c) the Central Bank Reform Act 2010 (the "**2010 Act**"), which sets out a fitness and probity regime (described in further detail below).

Anti-money laundering

The Central Bank is the competent authority in Ireland for the monitoring and supervision of financial and banks' compliance with their anti-money laundering and countering the financing of terrorism ("**AML/CFT**") obligations under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the "**CJA 2010**").

Conduct of business

The Central Bank is the competent authority in Ireland for the development, implementation and supervision of financial conduct of business regulation for regulated firms and supervises such conduct through primary legislation and codes of conduct, including the Consumer Protection Code 2012, the Code of Conduct on Mortgage Arrears 2013 and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015.

Credit reporting

The Central Bank administers a statutory credit register known as the Central Credit Register pursuant to the Credit Reporting Act 2013 (the "**CRA**"). The purpose of the Central Credit Register is to enable better quality lending by providing a "single borrower view" of all loans, deferred payments and other forms of financial accommodation provided by creditors to the borrower. The creditors who are in-scope of the CRA are known as "credit information providers" and register with the Central Bank. Regulated entities who provide credit are within scope, including banks (domestic and EEA passporting), retail credit firms, credit unions, payment institutions, investment firms and certain investment funds. In addition, unregulated providers of credit, such as corporate lenders, special purpose vehicles and purchasers of loan portfolios are within scope of the CRA. In-scope firms need to register as a "credit information provider", categorise customers (consumers *vs* non-consumers) and guarantors, submit detailed data about existing and new credit agreements of €500 or more in a prescribed format to the Central Credit Register, check with the Register before advancing new credit of €2,000 or more, and ensure processes and procedures are compliant with the CRA.

Recovery planning

Directive 2014/59/EU (the "**BRRD**") has been transposed into Irish law in the European Union (Bank Recovery and Resolution) Regulations 2015. The BRRD was introduced to provide resolution authorities with effective powers to address failing banks. The BRRD is intended to enhance the resilience of banks to ensure that they are better prepared for and able to recover in the event of a significant financial deterioration of banks. The Regulations that transpose the BRRD in Ireland include, amongst other requirements, that banks must prepare recovery plans that identify appropriate options to be taken in the event of a significant financial deterioration of a bank to reduce the likelihood of a bank failure. In addition, the Central Bank is provided with early intervention powers to execute recovery options, remove management and change the structure of the institution.

EMIR

Regulation (EU) 648/2012 on OTC Derivatives, Central Counterparties and Trade Repositories ("**EMIR**") implements increased transparency in respect of derivatives by imposing requirements concerning reporting of derivative contracts (including exchange-traded derivatives ("**OTCs**")), clearing derivatives subject to the mandatory clearing obligation, risk mitigation techniques for non-centrally cleared derivatives and setting out requirements for central counterparties and trade repositories. The Central Bank is the designated competent authority for the purposes of EMIR.

Outsourcing and operational resilience

Due to the increased use of technology and outsourcing in the financial services sector, regulators are increasingly focused on the risks related to outsourcing activity and on promoting operational resilience within banks.

Banks are subject to the Central Bank's cross-industry guidance on outsourcing and cross-industry guidance on operational resilience. The cross-industry guidance on operational resilience was issued by the Central Bank in December 2021 and aims to communicate to industry how to prepare for, respond to, recover and learn from an operational disruption that affects the delivery of critical or important business services.

Detailed cross-industry guidance on outsourcing was issued by the Central Bank in December 2021 and highlights the potential of outsourcing, if not effectively managed, to threaten the operational resilience of regulated firms and the Irish financial system. The Central Bank states that it expects all regulated firms to be in a position to demonstrate that they have appropriate measures in place to effectively govern and manage outsourcing risk and to ensure compliance with the sectoral legislation, regulations and guidance applicable to their business.

In December 2022, Regulation (EU) 2022/2554 (the Digital Operational Resilience Act, or "**DORA**") was published in the Official Journal. DORA will apply to banks and apply requirements in relation to information and communications technology ("**ICT**") risk management frameworks, relationships with third-party providers, digital operational resilience testing and ICT-incident reporting. DORA will apply from 17 January 2025.

Other guidance

Banks in Ireland are also subject to the guidelines, codes and other regulatory measures issued by the EBA, the ECB and the Central Bank from time to time.

Recent regulatory themes and key regulatory developments in Ireland

Individual accountability framework

The Central Bank (Individual Accountability Framework) Bill was published on 28 July 2022. This Bill aims to strengthen and enhance individual responsibility and accountability in regulated firms, including banks, by:

- introducing a Senior Executive Accountability Regime ("**SEAR**"), a framework of individual responsibility, governance and sanctions for senior executives who are managing and operating regulated financial service providers. SEAR is expected to be implemented on a phased-in basis, with banks included in the first phase;
- setting out codes of conduct for both businesses and individuals;
- enhancing the Central Bank fitness and probity regime; and
- expanding the Central Bank's enforcement processes.

This Bill is expected to be enacted in the first half of 2023. The Central Bank will develop draft guidance that will develop further detail on the individual accountability framework. The Central Bank has confirmed that it plans to hold a public consultation seeking stakeholder feedback on this guidance upon enactment of the Bill.

Lending to consumers

A significant trend in 2022 was the introduction of domestic legislation focused on lending to consumers and the expansion of the regulatory perimeter for lending to include "buy now pay later" loans ("**BNPL**").

On 29 June 2022, the President signed the Consumer Credit (Amendment) Act 2022 into law. The focus of this Act is high-cost credit loans. This Act includes provisions, including allowing the Minister for Finance to set the maximum interest rate at which a high-cost credit loan can be provided, changing the term "moneylenders" to "high-cost credit providers" and providing that the Central Bank will examine the effectiveness of the interest rate caps and that the Government will consider any future Central Bank recommendations.

The Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022 came into operation on 16 May 2022. This Act represents one of the most significant expansions to financial services authorisation requirements in recent years. Amongst other matters, the Act provides for the extension of authorisation requirements for hire-purchase and consumer-hire business, provides for the extension of authorisation requirements to the provision of a broader scope of "credit" (no longer only cash loans) and imposes a 23 per cent APR cap on credit agreements (other than moneylending agreements) and hire-purchase agreements.

The Consumer Rights Act 2022 was commenced (with the exception of Section 161) by statutory instrument on 29 November 2022. Under this Act, financial service providers have obligations to consumers, with offences stipulated for breaches. These obligations include that a service be fit for purpose and that the trader has the necessary skill to provide a service with reasonable skill and care.

ESG/sustainable finance

Environmental, social and governance ("**ESG**") considerations continued to be a key focus for banks in Ireland and Europe in 2022. Reporting obligations for in-scope banks under Article 8 of Regulation (EU) 2020/852 (the "**Taxonomy Regulation**") and prudential disclosures of ESG risk under the CRR applied in 2022. In addition, the ECB carried out its first climate stress test on banks, which, according to the ECB, showed that banks have made considerable progress with respect to their climate stress-testing capabilities. However, the ECB warned that the results of the stress test revealed many deficiencies, data gaps and inconsistencies across banks. The ECB highlighted its expectation that banks should make further substantial progress in the coming years. The ECB also noted that for banks to be in a position to gauge their exposure to climate risks, it will be important for them to enhance their customer engagement to gain insights into their customers' transition plans.

The Corporate Sustainability Reporting Directive (the "**CSRD**"), which will amend Directive 2014/95/EU (the Non-Financial Reporting Directive) to introduce more detailed reporting requirements in respect of sustainability issues, such as environmental rights, social rights, human rights and governance factors, was published in the Official Journal in December 2022. The CSRD will oblige in-scope companies, including banks, to disclose information on their societal and environmental impact connected with their own operations and with their value chain. The CSRD will apply on a phased basis beginning with reporting in 2025 for the financial year 2024.

New mortgage rules

Reflecting the imbalance between supply and demand in the Irish property market leading to growing affordability pressures, the Central Bank announced targeted amendments to its mortgage measures framework, which took effect on 1 January 2023. These targeted amendments included the relaxation of loan-to-income ("**LTI**") for first-time buyers and loan-to-value ("**LTV**") rules for second or subsequent buyers.

Withdrawal of retail banks from the Irish market

The Central Bank has focused on consumer protection issues in connection with the withdrawal of KBC and Ulster Bank from the domestic banking market. In April 2022, the Central Bank issued a "Dear CEO" letter to each of the five main retail banks setting out its consumer protection expectations in light of this development. The Central Bank also held a roundtable meeting of the five main retail banks in May 2022, which covered the following topics: notice periods; application of the switching process; new provider

commercial decisions; direct debit originators and other service providers; and vulnerable customers. A second "Dear CEO" letter was issued in April 2022 to direct debit originators regulated by the Central Bank. This letter was intended to highlight the duty to take action to ensure account switching exercises operated smoothly and the Central Bank requested that direct debit originators provide detail on their plans to support customers in the switching process to the Central Bank.

Client asset requirements

In January 2023, the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2023 were published, which contain the Central Bank's client asset requirements ("**CAR**"). CAR will apply to banks carrying out MiFID investment business and includes provisions in respect of reconciliation and calculation, transfer of business, reporting requirements to the Central Bank, client disclosures and development of a client asset management plan. CAR will apply to in-scope banks from 1 January 2024.

Bank governance and internal controls

Fitness and probity

The fitness and probity regime was introduced by the Central Bank under the 2010 Act. A key focus of the Central Bank is the fitness and probity of individuals carrying out key and customer-facing positions in banks. Those key and customer-facing positions are categorised as controlled functions ("**CFs**") and/or pre-approval controlled functions ("**PCFs**"). The Central Bank expects individuals carrying out those functions to be competent and capable, honest, ethical and of integrity and also financially sound.

The fitness and probity regime consists of three pillars:

- firstly, regulated firms are subject to ongoing obligations in relation to the application of the fitness and probity standards;
- secondly, the Central Bank has a "Gatekeeper" role whereby it pre-approves individuals nominated for PCF functions; and
- thirdly, the Central Bank has investigative and enforcement powers in the event that queries arise as to an individual's fitness and probity.

In addition to the 2010 Act, the Central Bank's fitness and probity regime is set out in the Central Bank (Supervision and Enforcement) Act 2013 (Section 48 (1)) Minimum Competency Regulations 2017 and statutory codes, specifically the Fitness and Probity Standards and the Minimum Competency Code 2017. The Central Bank also publishes frequently asked questions and guidance in respect of the fitness and probity regime.

In line with the allocation of responsibilities between the Central Bank and the ECB in respect of SIs and LSIs, the ECB is responsible for the fitness and probity assessments of the management board of SIs and "Key Function Holders" in SIs.

Corporate Governance Requirements for Credit Institutions 2015

The Corporate Governance Requirements for Credit Institutions 2015 impose minimum core standards upon all banks and additional requirements upon banks that are designated as "High Impact" by the Central Bank so as to ensure that appropriate and robust corporate governance frameworks are in place. These requirements state that they are minimum requirements that a bank shall meet in the interests of promoting strong and effective governance. Provisions include requirements in respect of (a) responsibility, composition and role of the board, (b) the role of the Chairman, (c) the role of the Chief Executive Officer, (d) the role of the Chief Risk Officer, (e) independent non-executive directors and executive directors, and (f) requirements and roles of committees.

Banks are required to submit a compliance statement specifying whether the bank has complied with the corporate governance requirements during the period to which that statement relates. This compliance statement must be submitted to the Central Bank on an annual basis or with such other frequency as the Central Bank may notify to a bank from time to time.

Remuneration

Banks in Ireland are subject to governance and internal control requirements contained in the CRR, CRD IV, as transposed into Irish law, and EBA Guidelines on Sound Remuneration Policies. In particular, CRD IV sets out requirements in respect of identifying those persons whose professional activities have a material impact on a bank's risk profile ("**Material Risk Takers**") who will then be subject to specific remuneration requirements. The EBA states that, for Material Risk Takers, the alignment of remuneration incentives with a bank's risk profile is crucial. The EBA Guidelines also include provision that remuneration policies must be gender neutral and respect the principle of equal pay for male and female workers for equal work or work of equal value.

Bank capital requirements

Capital requirements for Irish banks are based on the CRR and CRD IV, as transposed into Irish law.

The CRR and CRD IV set out the required capital that banks must hold. This includes a regulatory minimum for all banks, "Pillar I", and a bank-specific additional capital requirement that is decided by the relevant regulator, "Pillar II". Additionally, banks must also meet a "combined buffer requirement", which operates as additional capital to prevent banks from breaching their Pillar I and II requirements.

The CRR and CRD IV provide the Central Bank and the ECB with a range of macroprudential policy instruments to apply, including the countercyclical capital buffer (the "**CCyB**"), macroprudential measures in relation to risk weights on real estate exposures, and the systemic risk buffer (the "**SyRB**").

Both the Central Bank and the ECB have powers to impose stricter macroprudential requirements in specific scenarios. Pursuant to Article 458 of the CRR, the Central Bank has the power to implement stricter national implementing measures where it identifies changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy in Ireland. Article 5 of the SSM Regulation provides that the ECB may apply stricter requirements to macroprudential measures that are already in place at national level.

The Central Bank has stated that, in setting macroprudential requirements, it takes account of the fact that Ireland is a small, open economy and, on this basis, is more susceptible to shocks relative to larger, more diversified economies. The Central Bank has also stated that the operation of the macroprudential capital framework over the past decade, including during COVID-19 disruption, demonstrated the value of releasable capital buffers to better enable the banking system to support the economy.

In June 2022, the Central Bank published its framework for macroprudential capital, which provides further detail in respect of its strategy for deploying macroprudential tools. The Central Bank confirms that it considers the CCyB to be its primary macroprudential capital tool for safeguarding resilience to macro-financial risks. The Central Bank has confirmed

an increase in the CCyB from 0.5 per cent to 1 per cent. The Central Bank states that this is due to the fact that higher interest rates are expected to be positive for banks' profitability and the move to 1 per cent takes account of the importance of building resilience in advance of a potential materialisation of risks. The Central Bank has a target rate of 1.5 per cent for the CCyB in periods when cyclical risks are neither elevated nor subdued.

For systemically important banks, capital buffers for systemically important institutions ("**O-SII**") will continue to be used by the Central Bank and the Central Bank states that, overall, the CCyB and the O-SII buffers are the two tools that it expects to employ actively and review on a regular basis.

The Central Bank has indicated that it does not intend on introducing the SyRB at this point in time, although the Central Bank does not rule out using the SyRB in the future.

In November 2022, the Central Bank issued its "Financial Stability Review 2022:2" in which it noted that while "capital headroom" among the three remaining domestic retail banks is falling due to the planned onboarding of portfolios of the two exiting lenders, this "headroom" remains well in excess of regulatory minimum requirements. The Central Bank also noted that credit risk will rise as the effect of higher inflation and interest rates erodes borrowers' repayment capacity, but profitability is expected to grow due to gains from higher interest margins.

Rules governing banks' relationships with their customers and other third parties

Relationships with customers

Banks in Ireland are subject to EU legislative frameworks in respect of consumer protection; for example, consumer credit, payment services, mortgage credit and distance marketing.

Domestically, the Central Bank is the competent authority for conduct of business rules of banks. The Central Bank has stated that where individual consumers have issues with financial products or services, their first line of protection is the bank itself. In this respect, the Central Bank expects banks to respond to customer complaints speedily, efficiently and fairly. Where individual complaints are not resolved by a bank to the satisfaction of the consumer, those individuals may refer them to the FSPO who is responsible for the resolution of individual complaints about banks.

Consumer protection is a key focus of the Central Bank. The Central Bank has issued codes of conduct that apply to banks in respect of consumer protection, including the Consumer Protection Code 2012, the Code of Conduct on Mortgage Arrears 2013 and the Code of Conduct on the Switching of Payment Accounts with Payment Service Providers. In addition, the Central Bank issues "Dear CEO" letters, publishes speeches, holds industry roundtables and issues discussion papers in relation to consumer issues. The Central Bank has also issued the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015, which set out the processes that regulated entities are required to adopt in facilitating access to lending for SMEs.

In November 2022, the Central Bank published a "Dear CEO" letter on protecting consumers in a changing economic landscape. This letter specifies the actions that the Central Bank expects regulated firms to take to ensure that consumers are protected. It emphasises that regulated firms have a responsibility to navigate the rapidly changing financial services landscape in a manner that places the best interests of consumers at the centre of their commercial decision-making. In this letter, the Central Bank notes that a more challenging economic outlook characterised by energy-driven inflation and uncertainty has materialised.

This letter emphasises the importance of firms meeting expectations in this evolving context and highlights several areas for attention:

- affordability and sustainability;
- provision of relevant, clear and timely information;
- effective operational capacity; and
- sales and product governance.

Review of the Consumer Protection Code 2012

The Consumer Protection Code 2012 is a set of principles and rules that apply to banks when dealing with consumers and cover topics such as the sale of financial products and services, the provision of financial information or advice, the advertising of financial products and services, and how complaints are handled.

In October 2022, the Central Bank announced a review of the Consumer Protection Code 2012. This review will be conducted in three phases and is expected to finish with a finalisation of a revised retail conduct framework in 2024. The review is focused around certain themes, including two broad discussion themes of "Availability and Choice" and "Firms Acting in Consumers' Best Interests" and eight further, more focused themes, including, "Innovation & Disruption", "Digitalisation" and "Climate Matters". The Central Bank has issued a consultation posing questions for stakeholders to consider and requested feedback by 31 March 2023.

Lending to related parties

In July 2022, the Central Bank issued a new edition of its code of practice on lending to related parties. The Central Bank's code of practice covers requirements for banks when granting or otherwise dealing with loans to related parties, reporting to the Central Bank, and specific exemptions (for cases where a bank becomes a significant shareholder in a borrower, in respect of first home schemes and lending to natural connected persons).

Deposit Guarantee Scheme

The Deposit Guarantee Scheme ("**DGS**") established pursuant to the European Union (Deposit Guarantee Schemes) Regulations 2015 protects depositors in the event of a bank being unable to repay deposits. The DGS is administered by the Central Bank and is funded by the banks covered by the scheme. The Irish DGS protects deposits held at EU branches of authorised Irish banks. Deposits held with banks that are authorised in another EEA Member State are covered by that country's DGS.

Dormant accounts

Ireland has enacted legislation, the Dormant Accounts Act 2001, in respect of dormant accounts. Accounts are considered "dormant" where there has been no activity for 15 years. The Dormant Accounts Act 2001 provides that unclaimed money will be transferred to a fund managed by the National Treasury Management Agency and paid out by the Dormant Accounts Fund Disbursements Board. The Dormant Accounts Fund Disbursements Board will distribute the funds to programmes designed to assist the personal, educational and social development of people who are economically, educationally or socially disadvantaged. The rights of original account holders are not affected by the transfer to the fund and the original account holders retain the right to reclaim the funds (including interest).

Josh Hogan
Tel: +353 1 829 0000 / Email: josh.hogan@mccannfitzgerald.com
Josh Hogan is a Partner in McCann FitzGerald LLP's Finance Group. Josh's practice includes work relating to prudential and conduct regulation, authorisations, acquiring transactions, fitness and probity, compliance issues, transaction regulatory due diligence, regulatory investigations and remediation. He has deep experience advising clients in the areas of consumer and SME finance regulation, credit/hire purchase origination and servicing, electronic money, payment services, crowdfunding, MiFID, virtual/crypto assets, AML and market abuse.

Joanne O'Rourke
Tel: +353 1 829 0000 / Email: joanne.orourke@mccannfitzgerald.com
Joanne O'Rourke is a Senior Associate in McCann FitzGerald LLP's Knowledge Team. Joanne specialises in the area of financial services regulation and monitors, writes and speaks about topics including fintech, ESG and sustainable finance, financial sanctions, corporate governance and conduct standards and the European capital markets union.

McCann FitzGerald LLP

Riverside One, Sir John Rogerson's Quay, Dublin 2, D02 X576, Ireland
Tel: +353 1 829 0000 / URL: www.mccannfitzgerald.com

www.globallegalinsights.com

Other titles in the **Global Legal Insights** series include:

AI, Machine Learning & Big Data
Blockchain & Cryptocurrency
Bribery & Corruption
Cartels
Corporate Tax
Employment & Labour Law
Energy
Fintech
Fund Finance
Initial Public Offerings
International Arbitration
Litigation & Dispute Resolution
Merger Control
Mergers & Acquisitions
Pricing & Reimbursement

GLI GLOBAL LEGAL INSIGHTS