

WILLIAM FRY

Financial Regulation Unit / Brexit Group

April 2020

Electronic Money Institution authorisations in Ireland

Introduction

- Ireland's strong technology and financial services sectors make Ireland a natural choice for UK electronic money institutions ("**E-Money Institutions**") seeking an alternative EU base post-Brexit.
- E-Money Institutions are regulated entities which are authorised to issue electronic money and provide payment services.
- Authorisations from the Central Bank of Ireland (the "**CBI**") as an E-Money Institution are granted under the European Communities (Electronic Money) Regulations 2011 ("**E-Money Regulations**") which transposed the Second Electronic Money Directive into Irish law.
- William Fry has acted for 25% of the E-Money Institutions which have been granted authorisation in Ireland to date on their applications for authorisation as an E-Money Institution.

Types of E-Money Institution Authorisation

- Two types of authorisations are available – **E-Money Institutions** and **Small E-Money Institutions**.
- **E-Money Institutions** have the ability to passport their services across the EU and their applications must comply with the full set of authorisation requirements set out in the E-Money Regulations.
- **Small E-Money Institutions** may be exempted from many (though not all) of the authorisation requirements but their authorisation will be limited as a result. They must not execute more than €3 million in monthly payment transactions and they are not able to passport their payment services outside of Ireland.

Process and Timelines

Stage	Timeline
Initial preparation of application for authorisation	Up to 2-3 months may be required to prepare a sufficiently detailed application for submission to the CBI.
Pre-application meeting between CBI and applicant	Draft application should be at an advanced stage when this meeting takes place.
Submission of completed application to CBI	CBI will acknowledge receipt within 3 working days.
Key information check	Within a further 10 working days, the CBI assesses whether the application submission contains the key information and documentation required to progress to the assessment phase.
Assessment phase	The CBI has committed to completing the assessment phase within 90 working days of receipt of the completed application. However, if the CBI seeks further information, this 90 day 'clock' is paused until such information is received by the CBI.
Notification of assessment phase	The CBI will notify the applicant of whether its assessment of the application is favourable or not. A further round of submissions may be required from the applicant.
Notification of decision in respect of the application	The CBI's final decision in respect of the application is made (i.e. approval; approval subject to conditions; or refusal).

Main Features of the Application

- Fully completed and signed application form.
- Identification details of applicant.
- Programme of Operations.
- Business plan.
- Structural organisation.
- Evidence of initial capital (minimum initial capital of €350,000 required).
- Measures to safeguard the funds of electronic money users.
- Governance arrangements and internal control mechanisms.
- Procedures for monitoring, handling and following up on security incidents and security-related customer complaints.
- Process for filing, monitoring, tracking and restricting access to sensitive payment data.
- Business continuity arrangements.
- The principles and definitions applicable to the collection of statistical data on performance, transactions and fraud.
- Security policy document.
- Internal control mechanisms to comply with obligations in relation to money laundering and terrorist financing.
- Identity of statutory auditors and audit firms.
- Shareholder information including group structure and required supporting documentation.
- Professional indemnity insurance.
- Completed Individual Questionnaires for all proposed holders of functions requiring prior CBI approval (e.g. directors and certain senior managers).
- Detailed policies and procedures.
- Minimum standards to safeguard client funds.

Key Issues for Applicants

1

Substance in Ireland - “Mind and management” must be based in Ireland including board meetings and heads of certain senior management functions (finance, legal, compliance, risk) located in Ireland.

2

Outsourcing - Firms must demonstrate adequate supervision and oversight of outsourced functions through comprehensive outsourcing agreements which are compliant with regulatory requirements.

3

Shareholders - Detailed information will be required regarding qualifying shareholders, including direct, indirect, legal and beneficial qualifying shareholders all the way up the chain of ownership.

4

Conduct of business and safeguarding client funds - Firms must evidence compliance with Irish regulatory conduct of business rules and minimum standards for safeguarding client funds.

Why are Firms Choosing Ireland?

Attractive corporate tax rate (12.5%)

Only English speaking country in the EU after Brexit

Fastest growing economy in the EU

Pro-business environment

Strong commitment to EU membership

Flexible employment laws

Common law legal system

Highly skilled and educated workforce

R&D incentives

Guaranteed passporting rights to EU markets

Comprehensive tax treaty network

Ease of establishing a business

How can William Fry Assist You?

- William Fry’s Financial Regulation Unit has vast experience of working with applicants’ in-house teams to navigate the authorisation process efficiently and cost-effectively. We can advise you on all aspects of your application for E-Money Institution authorisation in Ireland. Please contact Shane Kelleher or any member of William Fry’s Financial Regulation Unit for legal advice.

Contact our Financial Regulation Unit



Shane Kelleher
PARTNER
Financial Regulation Unit
Banking, Payments, FinTech
+353 1 639 5148
shane.kelleher@williamfry.com



Louise McNabola
SENIOR ASSOCIATE
Financial Regulation Unit
Banking, Payments, FinTech
+353 1 639 5196
louise.mcnabola@williamfry.com



Lisa Carty
PARTNER
Financial Regulation Unit
Regulatory Enforcement & Litigation
+353 1 639 5386
lisa.carty@williamfry.com



Patricia Taylor
PARTNER
Financial Regulation Unit
Asset Management & Investment Funds
+353 1 639 5222
patricia.taylor@williamfry.com

WILLIAM FRY

DUBLIN | CORK | LONDON | NEW YORK | SAN FRANCISCO | SILICON VALLEY

T: +353 1 639 500 | **E:** info@williamfry.com

williamfry.com