

**MEMO# 30149**

August 18, 2016

## **Draft Comment Letter on CBI Consultation on Fund Management Company Effectiveness (CP86) - Comments Due August 23**

[30149]

August 18, 2016

TO: ICI GLOBAL REGULATED FUNDS COMMITTEE No. 50-16  
INTERNATIONAL COMMITTEE No. 39-16  
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 19-16 RE: DRAFT COMMENT  
LETTER ON CBI CONSULTATION ON FUND MANAGEMENT COMPANY EFFECTIVENESS (CP86) -  
COMMENTS DUE AUGUST 23

In July, the Central Bank of Ireland (“CBI”) issued its third consultation on fund management company effectiveness, which focuses on managerial functions, operational issues and procedural matters. [\[1\]](#) The substance of the consultation applies to CBI-authorized “fund management companies,” which includes UCITS management companies, AIFMs, self-managed UCITS investment companies, and internally-managed AIFs. Comments must be submitted to the CBI by August 25.

Please submit your feedback on the draft comment letter to me at [emykolenko@ici.org](mailto:emykolenko@ici.org) or 202-326-5837 by Tuesday, August 23.

The consultation includes a proposed rule on location of directors and designated persons. Under the proposed rule, a fund management company with an impact rating of medium low or above will be required to have:

1. at least three Irish resident directors or at least two Irish resident directors and one designated person based in Ireland; and
2. at least two thirds of its directors in the European Economic Area (EEA); and
3. at least two thirds of designated persons in the EEA.

A fund management company with an impact rating of low will similarly be required to have:

1. at least two Irish resident directors; and

2. at least two thirds of its directors in the EEA; and
3. at least two thirds of designated persons in the EEA.

The draft comment letter urges the CBI to refrain from adopting the location rule as proposed, and further recommends that the CBI not impose (formally or informally) any residency restrictions on designated persons. It further provides that, to ensure that the CBI has adequate access to personnel as needed, the CBI could require the management company to provide an undertaking to such effect.

The letter argues that the location rule is an ineffective tool for addressing CBI's concerns about supervisability and access to directors and designated persons, particularly in light of the current ease of communication and travel, and would ultimately be harmful to fund investors because it would constrain the selection of the best qualified candidates. It also explains that this proposed requirement is more stringent than the requirements in other leading jurisdictions, and that this requirement would hinder the continued global growth of the Irish funds industry. Lastly, it states that the location rule raises concerns under existing and future trade agreements.

Eva M. Mykolenko  
Associate Chief Counsel - Securities Regulation

#### [Attachment](#)

#### **endnotes**

[1] The Consultation is available at [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwitzdWZ5fDNAhWIHh4KHQPuABEQFggpMAI&url=https%3A%2F%2Fwww.centralbank.ie%2Fregulation%2Fmarketsupdate%2FDocuments%2F160602\\_CONSULTATION%2F520PAPER%2F520-CP86\\_THIRD%2F520CONSUL\\_FINAL%2F520VERSION.pdf&usg=AFQjCNEQVfAEaZKbs7iKrk7JxwplITVaxw&sig2=9w0EvvaPYyEtaJQCf7vGkg&bvm=bv.126993452,d.dmo](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwitzdWZ5fDNAhWIHh4KHQPuABEQFggpMAI&url=https%3A%2F%2Fwww.centralbank.ie%2Fregulation%2Fmarketsupdate%2FDocuments%2F160602_CONSULTATION%2F520PAPER%2F520-CP86_THIRD%2F520CONSUL_FINAL%2F520VERSION.pdf&usg=AFQjCNEQVfAEaZKbs7iKrk7JxwplITVaxw&sig2=9w0EvvaPYyEtaJQCf7vGkg&bvm=bv.126993452,d.dmo). This workstream began in September 2014.