

## Appendix 1

### 1) Per the Corporate Governance Requirements:

#### i) Definitions

*“Non-executive director”*: means director without executive management responsibilities for the [firm / credit institution / insurance undertaking] or, in the case of a [firm / credit institution / insurance undertaking] which is part of a group, who may have executive management responsibilities assigned to him or her within the group.

*“Independent non-executive director”*: a non-executive director who satisfies the criteria for director independence.

*“Director independence”*: independence is defined as the ability to exercise sound judgement and decision making independent of the views of management, political interests or inappropriate outside interests.

#### ii) Criteria

The following criteria shall be considered and given reasonable weight when assessing director independence:

- a) any financial or other obligation the individual may have to the [firm / credit institution / insurance undertaking] or its directors;
- b) whether the individual is or has been employed by the [firm / credit institution / insurance undertaking] or a group entity in the past and the post(s) so held;
- c) whether the individual is or has been a provider of professional services to the firm in the recent past;
- d) whether the individual represents a significant shareholder;
- e) circumstances where the individual has acted as an INED of the [firm / credit institution / insurance undertaking] for extended periods;
- f) any additional remuneration received in addition to the director's fee, related directorships or shareholdings in the [firm / credit institution / insurance undertaking]; and
- g) any close business or personal relationship with any of the [firm / credit institution / insurance undertaking]'s directors or senior employees.

#### iii) Other points to note

It is essential for INEDs to bring an independent viewpoint to the deliberations of the board that is objective and independent of the activities of the management and of the [firm / credit institution / insurance undertaking].

INEDs shall have a knowledge and understanding of the business, risks and material activities of the [firm / credit institution / insurance undertaking] to enable them to contribute effectively.

INEDs shall comprise individuals with relevant skills, experience and knowledge (such as accounting, auditing and risk management knowledge) who shall provide an independent challenge to the executive directors of the board.

### 2) Per ESMA/EBA Guidelines:

Being 'independent' means that a member of the management body in its supervisory function does not have any present or recent past relationships or links of any nature with the [CRD-institution] or its management that could influence the member's objective and balanced judgement and reduce member's ability to take decisions independently. The fact that a member is considered as 'being independent' does not mean that the member of the management body should automatically be deemed to be 'independent of mind' as the member might lack the required behavioural skills.

Institutions should assess whether or not all members of the management body have:

- i) the necessary behavioural skills, including:
    - a) courage, conviction and strength to effectively assess and challenge the proposed decisions of other members of the management body;
    - b) being able to ask questions to the members of the management body in its management function; and
    - c) being able to resist 'group-think',
  - ii) conflicts of interest to an extent that would impede their ability to perform their duties independently and objectively.
- 3) Per the Code:
- i) Definitions

*"Independence"*: is defined as the ability to exercise sound judgement and decision making independent of the views of the promoter, the service provider(s), political interests or inappropriate outside interests.
  - ii) Criteria

The following criteria shall be considered by the board, and given reasonable weight when determining if a director is independent:

    - a) any financial or other obligation the individual may have to the authorised collective investment scheme (CIS), Irish authorised management company (ManCo), its promoter, or its directors;
    - b) whether the individual is, or has been employed by the promoter, investment manager, or their affiliates in the past 3 years, and the post(s) so held;
    - c) whether the individual represents a significant shareholder of the CIS or ManCo, its promoter or its investment manager;
    - d) any remuneration received directly or indirectly by the director in the course of providing non director services to the CIS or ManCo.

For more information, please contact Katrina Smyth at [ksmyth@lkshields.ie](mailto:ksmyth@lkshields.ie) or Mina Dawood [atmdawood@lkshields.ie](mailto:atmdawood@lkshields.ie) from the Financial Services team at LK Shields Solicitors LLP.