

September 15, 2023

Funds Review,
Department of Finance,
Miesian Plaza,
50-58 Baggot Street Lower,
Dublin 2, D02XW14,
Ireland

Submitted electronically at: <https://consult.finance.gov.ie/>

Re: Funds Sector 2030: A Framework for Open, Resilient & Developing Markets

Dear Sir, Madam:

State Street's Fund Services (Ireland) Limited, State Street Custodial Services (Ireland) Limited and State Street Global Advisors (collectively, "State Street") welcome the opportunity to respond to the Consultation Paper ("CP") on "*Funds Sector 2030: A Framework for Open, Resilient & Developing Markets*".

The perspectives included in our response to the CP are broadly informed by our status as one of the world's largest asset managers and fund service providers. Ireland is a world-leading centre for fund servicing and asset management, and it is a core portfolio management and functional hub for State Street. The responses provided represent the view of our Irish-domiciled fund administration and depositary entities, State Street's Fund Services (Ireland) Limited, State Street Custodial Services (Ireland) Limited, and State Street Global Advisors Europe Limited.

In Ireland, State Street, through its two entities Funds Services and Custodial Services Ireland Limited, is also the largest provider of fund administration and custody services with \$1.7 bn in assets serviced across all asset classes for 120 clients. State Street Ireland offers an array of investment servicing solutions, including global custody, depositary services, multi-currency valuation, financial statement preparation, fund accounting and administration, global transfer agency, regulatory compliance monitoring and offshore fund services. Having operated in Ireland since 1996, State Street has offices in Dublin, Kilkenny, Louth and Kildare, employing approximately 2000 staff¹.

Our Irish-domiciled Management Company State Street Global Advisors Europe Ltd, has been operating in Ireland since 1987 and ranks as a major investment manager in Ireland, with total AuM of approximately €312.4 bn². With a diverse client base including pension funds, insurance companies, official institutions, foundations, charities, local authorities, family offices and intermediaries, State Street Global Advisors Europe Ltd has over 265 professionals³ responsible for activities including investment management, operations, legal, compliance,

¹ As of 30 April 2023.

² As of 31 July 2023. These professionals operate from Ireland and our EU branches in Netherlands, Belgium, France, Italy, Germany and Poland.

³ As of 31 July 2023.

risk management, client service and marketing. State Street Global Advisors Europe Ltd manages a broad range of products and is the European management company for our UCITS, AIFs and ETFs fund ranges. While we have an interest in the evolution of the fund structures for alternatives investments, we primarily offer index and liquid assets solutions.

We support the Department of Finance's wide ranging review of the Funds and we are convinced that Ireland can continue to maintain its leading position in the sector if it is able to adopt a holistic approach combining resiliency with competitiveness. Building on the positive lessons of recent decades, the regulatory framework should look beyond a narrow focus on rules and supervision in favour of combining this with a long-term vision of the industry based on some key outcomes: promoting the competitiveness and innovation of the sector for the benefit of investors, facilitating cross-border business and ensuring that Ireland continues to offer an attractive ecosystem for the fund industry.

In this spirit, State Street believes the Department of Finance and the Irish government, in their initiative to ensure that the Funds Sector in Ireland maintains its leading position and continues to support the Irish economy, should consider the following as a matter of priority.

Strengthening the foundation for the competitiveness and growth of the Irish Funds' sector

State Street suggests that the Department of Finance consider how to formalise the policy goal of supporting Ireland's competitiveness as a location of choice for EU and global financial firms and its domestic delivery for savers, investors and enterprises. To achieve this, the Department of Finance could conduct peer comparisons with other EU and non-EU jurisdictions with active financial centres. There are different models as how the goals of supervision and growth are balanced, how responsibilities between banking and securities regulators have been allocated, and more generally on how the industry, regulators and government can partner together.

We believe that a gap remains in Ireland in the overall institutional architecture, and this review provides an opportunity for Ireland to consider how it can be at the forefront when it comes to innovation and growth, with regulators being proactive in these areas as well as the areas of financial stability and supervision. In this context, it is proposed that the Department of Finance should lead on a competitiveness agenda with appropriate contribution from the CBI.

Recognizing the important work conducted by the International Financial Services Centre ("IFSC") Funds Group in recent years in leading this partnership with the Department of Finance and regulators, it would be important to consider how the work of the IFSC Funds Group could be further supported to ensure it continues to be the place for stakeholders to:

- contribute to the agenda to support the competitiveness of the sector, notably on the successful conception and development of new products before being brought to market and an appropriate regulatory environment conducive to international competitiveness while keeping the objective of financial stability and investor protection;
- share concerns at an early stage of the legislative process, especially when implementing EU regulation,
- inform Government and regulators of industry developments in the international market, with a view to staying abreast of peer standards in an agile and responsive way;
- support and promote talent development and ensure the Funds Sector can rely on the right skillset to drive the future evolution of the industry.

We are also very supportive of the proposal of Irish Funds to establish a Funds and Asset Management Unit within the Department of Finance, with a dedicated expert staff working to look holistically at the industry's growth and development, a proposal which State Street strongly supports.

State Street would like to engage further with the Department of Finance on this and offer its input. As we have previously done in areas such as taxation or the development of the ETF product, we could bring our global perspective across funds servicing and investment management as a value add to this partnership.

Ensuring a continued competitive product offering

Since the inception of the international financial services industry in the mid-1980s, Ireland has demonstrated a clear and definitive willingness to consider and develop vehicles to support the funds industry. The Irish Collective Asset-Management Vehicle ("ICAV") has been the chief example of the success in designing bespoke structures to meet the needs of regulated investment strategies and investors. While Ireland is strong in the classic UCITS space, driving growth through new product offerings is essential in order to maintain Ireland's leadership position in the global investment funds industry. This is an area where a gap analysis with other jurisdictions can help in identifying the right products and policies. There are two main areas for action:

- Alternative Investment Strategies: to ensure an appropriate variety of investment vehicles and legal structures in this space, in particular by supporting the development of private asset funds and the establishment of European Long Term Investment Funds ("ELTIFs"); and
- ETF Product: driving the next phase of development of the ETF product.

With regards to the first point, Ireland has experienced a delayed take up of activities in the alternative space compared to other jurisdictions, as confirmed by our interactions with clients from a fund servicing perspective. Ireland is still at an early stage notably in providing for a viable means to establish ELTIFs. According to the ESMA's register of authorised ELTIFs in the EU, out of the currently 96 ELTIFs launched, none are domiciled in Ireland⁴. In order for this type of product to achieve scale, the regulatory framework has to be structured in a way that facilitates application by asset managers who wish to launch Irish-domiciled ELTIF funds. At an EU level, the ELTIF product has recently been re-launched with the aim of making it a product of choice for a larger investor audience, especially retail, and expanding the eligible assets to allow for more a diversified and liquid portfolios. This could be the opportunity to undertake a similar exercise in Ireland and address the obstacles in launching this kind of product, starting with the ability to use the existing regulated funds vehicles for ELTIF.

Ireland's success in the ETF space could also be further solidified by looking at the future areas for growth of the ETF product, starting with the possibility of launching active ETFs without requiring for daily portfolio disclosures. One area where Ireland has pursued higher regulatory standards compared to other jurisdictions is on the interpretation of the ESMA's guidelines on ETF naming conventions. There is a growing demand from investors for ETF classes within mutual funds and share class flexibility reduces costs for ETFs providers as well, allowing the combination of listed and unlisted funds share classes within one umbrella. The interpretation given in Ireland of ESMA's guidelines, contrary to that of other jurisdictions, puts Irish funds at a disadvantage in offering ETF shares classes in non-ETF sub-funds.

Finally, State Street believes that more work can be done to make taxation of funds simpler and more efficient, both from a fund and investor perspectives. For example, one area where there are lessons to be learned is the experience with the rollout of the Investment Limited Partnership ("ILP"), where the tax application in respect of the dividend withholding tax, has hindered the success of the legislation and made the product less effective.

⁴ ESMA, [Register of authorised European long-term investment funds](#), 3 August 2023.

From an investor perspective, another consideration is the enabling of retail investors in Ireland to invest more broadly in funds in this sector. The Retail Investment Strategy currently under discussion at the European level, should offer the opportunity to discuss broader participation in capital markets in Ireland by addressing domestic barriers (primarily of a tax nature) to retail investors. We discuss open issues surrounding taxation under Question 7 below.

Ensure an innovative infrastructure across the Irish funds sector

In addition to a competitive product choice, it is proposed that the Department of Finance continue to ensure that the Irish Funds Sector keeps pace with innovation in particular in the context of digital assets, sustainable investments and fund tokenisation. This is a specific area where greater proactive engagement from regulators would be welcomed. Regulators are in a position to lead the discussion through consultation papers, policy initiatives and industry roundtables, thus demonstrating a willingness to be a thought leader in these future growth trends of the sector. We think this is another area where the IFSC Funds Group could support and further drive the discussion.

Nascent regulatory regimes recently established across the EU and in particular Luxembourg and Germany for digital assets⁵, and recent initiatives undertaken in the UK through the Regulatory Sandbox⁶ are examples of such proactive regulatory engagement.

Enable the best access to talent

A key advantage of the Irish Funds Sector remains however its mature and deep ecosystem which exists across the value chain, from asset management, fund administration and custody, Fintech companies, through to legal expertise and advisory services. The growth of this ecosystem over the years was driven by leveraging the expansion and development of the EU passporting regime, the local understanding of the workings of the UK and U.S. legal systems, the global range and extent of double taxation treaties and the use of English as an official language. A set of policies which further encourages open trade and access to talent is critical to support the industry's growth for the next decade.

State Street believes that ensuring the right skillset and educational infrastructure to deliver a dynamic and agile talent pipeline with strong expertise in key technical areas is crucial to future-proof the industry. Technological developments combined with the ever increasing pace of investor-led demands have led to a skills gap across the industry which must be met by local as well as international talent. A continuous skills development programme, particularly at tertiary level and post-graduate level, should be further developed and encouraged, through specific funds-related curricula within universities and new apprenticeship programmes. The partnership between the Department of Finance, the industry and the CBI could be the ideal forum to discuss proposals to devise a specific talent development strategy for the Funds Sector.

The impact that the difficult housing situation has on the ability to attract talent should also be the focus of further governmental action, and to this end a strategy of balanced regional development could help together with the incentives of a talent-friendly personal taxation regime where identified talent-skills gaps exist.

⁵ The Electronic Securities Act (*Gesetz für elektronische Wertpapiere*, so called "eWpG") adopted in Germany which makes it possible to issue bearer bonds, mortgage bonds and certain types of funds in a purely electronic format on blockchain. In Luxembourg the three Blockchain laws regulated the use of blockchains for the registration and transfer of securities, the dematerialization of securities, and implemented the EU DLT Pilot regime.

⁶ HM Treasury, [Consultation on the Digital Securities Sandbox](#), July 2023.

Conclusion

Thank you once again for the opportunity to comment and provide input on the important matters raised within the CP. State Street is fully committed to being an active and constructive participant in this debate, and we remain supportive of efforts to strengthen the global position of the Irish investment fund industry. We look forward to further contributing to these discussions with Irish policymakers.

Below we provide further insight on the questions where we believe State Street can add most value.

Please do not hesitate to contact either of us should you have any questions or if you would like to discuss our comments further.

Yours Sincerely,



Tadhg Young

Executive Vice President
Country Head - Ireland
State Street Corporation



Ann Prendergast

Senior Managing Director and
Head of State Street Global Advisors Europe Ltd

Responses to individual questions

Q1. What policy supports have been most impactful in attracting the funds sector to Ireland and/or the EU in recent decades?

We agree with the analysis in the “Historic Context section” of the CP, and more specifically we highlight the following measures as having been crucial in State Street’s growing presence in Ireland throughout the years:

- The establishment of the IFSC and the ecosystem created at that time to encourage companies to set up in Ireland;
- The early adoption of the UCITS Directive;
- Ireland’s pro-active, constructive approach to regulating the environment for MMFs in Ireland since its inception when cash instruments could be considered transferable securities and therefore eligible under the UCITS Directive;
- The decision not to impose taxation within the fund structure;
- The development of deep SME knowledge in the ETFs space.

We agree with the observation contained in the CP that the number of Irish-domiciled management companies has grown. We note that a key driver for this was the departure of the United Kingdom from the European Union; as UK-domiciled managers needed an EU-based management company for their collective investment schemes, and also an EU contracting entity for European clients.

Q2. What characteristics set Ireland apart from other jurisdictions when selecting a fund’s domicile?

State Street believes that a key advantage of Ireland is the well-regulated environment which has helped establish the confidence and reputation of the Funds Sector in Ireland, resulting in a mature ecosystem available to promoters in launching collective investment schemes. Significant depth of talent and expertise exists across the value chain, from fund administration and custody, through to legal expertise and advisory/consultancy services. More recently, and perhaps notably since the United Kingdom’s departure from the European Union, there is an increase in portfolio management expertise locally.

Having English as an official language is attractive to UK and U.S.-based promoters, along with some commonalities in legal system. Furthermore, Ireland has a significant number of double taxation treaties in operation (76 agreed, and 74 effective at time of writing per Irish Tax and Customs), and this has a favourable outcome for investors. Of particular note is the relationship with the U.S., which makes Irish-domiciled funds investing in U.S. securities particularly attractive, from a tax perspective.

From a service provider perspective, Ireland also maintains a comprehensive and experienced service offering of depositary, administration, audit, accounting, tax and legal service providers. One example of an area where a focus is required is on ensuring that the supervision, interpretation and oversight expectations of EU regulators of the UCITS and AIFM Regulations is conducted in a harmonised manner, and this is particularly, although not limited to, in the area of depositories. Allowing for a consistent review by depositories in each EU jurisdiction which will also ensure a better client experience.

As noted above, the absence of taxation within the fund is an attractive feature, but more attention is needed to other aspects of taxation as discussed under Question 7.

Q3. What are the most important trends evident in the sector?

We believe that the most significant key industry trends in the sector in Ireland are:

- The continued growth of ETFs: as mentioned above, active ETFs and the ability to have traded share classes of otherwise unlisted collective investment schemes are the key emerging trends on which we would urge Ireland to be more proactive in its regulatory approach;
- The need to support the continued expansion of private markets and real assets products;
- Digital assets and tokenisation will alter profoundly the way the fund industry will be delivered to investors, and this is an area where we would like to see more activism from the Irish regulator;
- Sustainable finance is a key theme among investors and fund's managers alike, and an area where regulatory divergence and fragmentation can be disruptive for the operations of global asset managers.

As mentioned above, proactive engagement from regulators in each of these areas is essential to drive the further growth of the Funds Sector in Ireland.

Q4, What are the key risks and challenges for the sector in the medium- to long-term and how can they be managed?

Whilst acknowledging the mandate of the CBI in preserving Ireland's reputation as a well-regulated fund domicile with high investor protection standards, we would urge caution against imposing higher regulatory standards locally of European or global regulatory initiatives, as this can create a competitive disadvantage for Ireland. Additional local levels of prescription may lead to over-correction of perceived weaknesses in the regulatory environment, creating additional burden for managers and leading to further costs for investors, without benefits in terms of investor protection.

As noted above, to address this risk it is crucial to fill the institutional gap in the Irish regulatory framework which does not include a competitiveness mandate. A leading role of the Department of Finance in filling this gap would help to tailor rules and legislation to the most important trends in the Funds Sector.

From a market structure perspective, whilst we acknowledge that there are already diverging settlement cycles for certain asset classes, we are now seeing major markets such as the United States initiate a move towards T+1. This poses particular challenges for portfolio managers in managing cash flows, but will also impact the optimum settlement cycle of the fund itself. Given the complexity of all of the equity markets in the EU and the associated infrastructure, we think that divergence between the UK and the EU in this area would place significant stress on the funds ecosystem, particularly in the ETF space.

Whilst the need for appropriate checks and balances on senior personnel in financial services is beyond doubt, we would like to stress a need for a predictable and timely approval process. We obviously appreciate the need for appropriate vetting, but unforeseen delays in relation to candidates with significant industry experience, might pose a risk of silent withdrawal of highly experienced leaders from the industry in Ireland.

From a fund servicing perspective clients have advised they encounter a lot of uncertainty from supervisors regarding authorisation timeframes, revisiting decisions and approaches..

Finally, another area where we see a risk of over-correction is the resiliency of open-ended funds and discussions around a macroprudential regime for the NBFIs sector. Overall, most open ended funds and asset classes have dealt with recent instances of market stress well (notably during the Covid-19 March 2020 stress event) , and except in rare circumstances all funds were able to accommodate redemptions requests. In the past year, also thanks to reforms undertaken at the European level, the necessary Liquidity Management Tools have been

deployed across the Funds Sector in Ireland and in the EU, thereby further strengthening the liquidity profile of the sector.

Q5. What are the key opportunities for the sector in the medium- to long-term and how can they be delivered?

The potential growth of retail markets is a key development as demonstrated by the European pension schemes move towards defined contribution and the growth of the post-retirement wealth management market. More locally, Ireland's transition towards auto-enrolment is an opportunity for government to engage with global asset managers based in Ireland and who have experience of universal pension provision in other jurisdictions.

From a fund ownership perspective, we continue to see a disconnect between Ireland's position as a leading funds domicile and domestic household investment into those investment funds. Securing a more direct investment from Irish investors into the broader domestic capital markets, should be a priority.

Q6. How will technological change and innovation influence the sector's future development?

In the context of the wider digitalisation of capital markets, tokenisation is likely to play an important role in how funds will be delivered in the future. We would like to draw the Department of Finance attention to other jurisdictions which are active in this space and we would like to point at the specific examples of Germany, Luxembourg and the UK as Ireland develops its thinking going forward.

There is a vibrant technology industry in Ireland and creating a connection between the technology and the financial services industries would further help and support the innovation that is required to maintain Ireland's leading global status as a fund domicile. Building these strategic partnerships and collaboration with other industry players, such as fintech firms, could also be part of the agenda of the Department of Finance and the strengthened IFSC Funds Group as mentioned above.

Q7. How best can Ireland position itself in the future as a location of choice for EU and international firms?

See our response to Q3. In addition to the comments made there, we would like to articulate here some suggested points for action for the Department of Finance and the Irish government to take forward in the area of taxation.

- **A reduced investor tax** - Consideration should be provided to a reduced exit tax rate for investors to 20% especially on fund structures in which Ireland would have an interest in promoting growth in, e.g. in the ESG space;
- **Employment tax** - employer and employee personal taxes need to be revised to continue attracting the right talent which indirectly would support the economy through greater spending;
- **Consideration to international policies and how they may have an impact on product structures** – for example the implementation of BEPS PILLAR II have an adverse impact on Irish SPVs, or how Ireland elects to implement the EU FASTER Directive may have a direct correlation to the administration burden we put on our clients and investors;
- **Expansion of Double Taxation Treaties** - currently Ireland lags behind the top 3 competitors for the number of DTTs in place.
- **Treatment of ILPs** - We do not believe there is any policy reason for excluding ILPs from the existing exemption for collective investment undertakings. An ILP as a tax transparent entity should be taxed similarly to the Common Contractual Fund ("CCF"), with a similar withholding tax treatment.

- **Consideration of ATAD on tax transparent entities** – we refer here to the Irish Funds’ response where the issue is considered in detail.
- **International treatment of Irish fund products** – Further efforts should be undertaken by the Department of Finance and the Irish Government to ensure that the CCF structure is deemed tax transparent in certain jurisdictions such as Japan. In addition, we also would like to highlight the ongoing adverse tax treatment by the Brazilian tax authorities of Brazilian securities held by Irish domiciled investment funds.

Finally, the Department of Finance and the Irish government should maintain policy efforts incentivising fund promoters and service providers to the industry to deepen investment across all regions of Ireland, in order to ensure a balanced and sustainable growth of the Funds Sector.

Q8. How can Ireland best support the growth and development of the market for ESG products and the transition to carbon neutrality?

With respect to regulatory requirements seeking to address not only greenwashing, but also the further objective of directing capital towards a more sustainable economy, the asset management industry has faced significant implementation challenges as a result of overall incoherency in EU and national approaches. This results in a fragmentation of products available and a lack of scale. In particular, at an EU level, there have been sequential issues with the implementation of SFDR, which has been extremely disruptive for the asset management industry. Numerous updates to documentation arising from the different Level 1 and Level 2 implementation timeframes undoubtedly caused confusion to financial market participants as well as investors, and has meant additional implementation costs. We expect this could be further exacerbated as a result of additional changes foreseen should the European Supervisory Authorities’ and ESMA pursue recent proposals regarding the SFDR review, as well as fund naming conventions. It is essential that the planned EU Commission review, expected to kick-off in the coming weeks, addresses all issues in the Level 1 text and the impact of any further modifications are thoroughly evaluated, to avoid impeding the development of new strategies that integrate the current SFDR principles into their objectives.

In addition, regulation in this area does not always take account of the broader types of institutions involved in the investment chain, such as ESG data providers and benchmark administrators. It should be noted that firms rely heavily on ESG data providers and benchmark administrators to meet their regulatory obligations and investors’ ESG sustainability preferences. For index tracking mandates, there is a need to understand the SFDR characteristics of the underlying benchmark, but there is no obligation on benchmark administrators to provide that information. Legislation should be designed with a more holistic view, and leverage the broader suite of regulations to ensure that hand-offs between different industry participants and consistency across data can take place.

Moreover, we do not believe that the current ESG regulatory regime fully accounts for systematic investment strategies, including index-tracking. Such strategies can play a key role in meeting investors ESG needs, and we recommend further engagement on this matter to facilitate that.

Q9. For the NBFIs sector, those investment funds providing credit intermediation, what are the key opportunities for the sector in the medium- to long-term and how can they be delivered?

For asset classes such as bank loans, the infrastructure surrounding these funds could benefit from an improvement of the settlement system for loans via an enhanced use of technology. This, together with the obvious efficiencies in relation to shortened settlement, will reduce systemic risk associated with the liquidity mismatch between the assets and the fund.

Q10. How important is an effective regulatory framework for Ireland to maintain its status as a leading funds domicile?

To date, the regulatory framework is a key part of Ireland plc's brand. It is key that the regulatory framework meets, and continues to support, the needs of managers and investors alike. In this regard, the Department of Finance could consider the following factors:

- Continue to offer a broad range of fund structures and be receptive to the evolution of fund structures and regimes based on changing needs of the market and investors' requirements;
- Avoid higher local regulatory requirements regarding EU regulation as far as possible and be willing to be proactive, clear and transparent about how to interpret ambiguities in the EU legislative text rather than waiting for ESMA or the EU Commission to opine. Indeed we would encourage Ireland to take the opportunity to drive the direction of regulation at the EU level;
- Speed of authorisations, and consistency of principles applied in those authorisations. From a fund servicing perspective, we have experienced conflicting comments raised by different reviewers – it is critical that that suite of reviewers “speak with one voice”. In addition, we argue that in light of the maturity of the UCITS frameworks, there is an opportunity for the authorisation of “standard” or non-complex UCITS to be streamlined further. We are supportive of the changes made a number of years ago to streamline AIFs and would be keen for the Central Bank to explore this opportunity.
- As mentioned in our response to Question 4 above, a consistent approach in checks and balances on senior personnel, without short term reversals of applications procedures, is of primary importance to give industry the necessary predictability.

Q11. Taking account of the European and international aspect of the Irish framework and key EU files such as Capital Markets Union (CMU) and the Retail Investment Strategy, what improvements could be made to the legislative, regulatory and supervisory framework?

We would like to invite the Irish government to continue playing an active role in the development of a strong Capital Markets Union in the EU, starting with the support of initiatives such as the development of a Consolidated Tape and a better inclusion of retail investors in capital markets.

More generally, we urge the Government to ensure that the EU Commission and the European Supervisory Authorities learn from past mistakes (notably on SFDR as explained above under Q8) and organize the rollout of future regulations in an orderly fashion before industry is required to embark on implementation projects. Similarly, we note an overall shortening of implementation timeframes. Given also the voluminous pipeline of regulatory change, we urge caution in setting overly aggressive implementation timeframes.

Q12. What elements of EU policy, including CMU policy, are most relevant to the growth and development of the funds and asset management sector in Ireland and why?

From an EU regulatory perspective, we would urge the Irish government to consider the following elements as crucial for the further development of the Irish Funds Sector:

- The continuation of the delegation model across the EU, which provides investors with access to the best in class and most experienced asset managers globally to manage their selected investment funds;

- The safeguard of the commercial viability of MMF structures notably the LVNAV structure, which holds a core utility value for investors. We welcome the recent EU Commission Report on the functioning of the Money Market Regulation which recognized the value and strength of the LVNAV structure;
- The continuous development of the ETF product as discussed above;
- A modern market infrastructure, starting from the introduction of a consolidated tape at the EU level to act as a single source for all trading information. We invite Ireland to further support a speedy adoption of the consolidated tape, as this will enhance ETF attraction to Ireland;
- The further development of the core principles of UCITS and AIFMD, starting from the upcoming review of the UCITS Eligible Assets Rules, which should not lead to any restriction of UCITS investment strategies;
- The protection of emerging digital distribution channels to retail investors, particularly in the context of the Retail Investment Strategy where the proposed execution-only ban risks to have unintended consequences in particular for the distribution of ETFs through digital retail platforms.

Q13. What peer jurisdictions, most notably from other EU jurisdictions are most relevant? Outline the reasons why.

We believe that in conducting the relevant peer and gap analysis, the Department of Finance should focus as a priority on Luxembourg, which is the other principal fund centre in the EU.

While the UK is now outside the EU, it remains a key market, portfolio management and trading hub for many firms established in Ireland, so developments there should also be monitored.

Q14. How does the funds framework in Ireland compare to those other jurisdictions?

We refer to the previous answers for the strengths and risks that we see in the Irish Funds sector, and here we would like to add two points, First, there are certain fundamental features that we find operationally effective in the Irish fund product administration, most notably the ability to have a hub and spoke structure for the prospectus, where common disclosures for an umbrella are set out in a core prospectus, and specific fund disclosures and/or urgent updates are made in a separate supplement.

Secondly, in terms of taxation, Ireland's access to the 15% withholding rate on US dividend income is a significant advantage, as is the absence of a subscription tax for investors. However, continued efforts should be made to improve some tax open issues as mentioned under Question 7.

Q15. Are there any updates or changes needed to the current legislation governing the legal structures used to establish investment funds?

As mentioned in the letter above, we have a concern with the way the ESMA's guidelines on naming conventions have been implemented in Ireland. The ability to have listed/traded share classes of an otherwise non-traded fund is key to the success of ETFs funds. Flexibility is important, and the insistence to have "ETF" included in the name of the fund will impact its distribution potential, depending on which share class investors want to buy. Furthermore, having unlisted share classes could impact the umbrella's eligibility for the US 15% withholding rate. We believe this is an unnecessary barrier to providing the benefits to the end investor of combining the scale of ETFs within the mutual funds wrapper.