

Legal Update

New European “Fit and Proper” Guidelines

The three European Supervisory Authorities, namely the European Banking Authority (“EBA”) the European Insurance and Occupational Pensions Authority (“EIOPA”) and the European Securities and Markets Authority (“ESMA”)(together the “ESAs”) have published new joint guidelines (the “Guidelines”) on the exchange of information relevant to fit and proper assessments for persons in key roles in regulated entities including board members and important functional roles as well as qualifying shareholders.

Background

Fitness and propriety assessments are viewed by European regulators as a key supervisory tool for conducting ongoing supervision of the authorisation and governance processes of financial institutions and financial market participants. They are conducted at national level by the local national competent authority (“NCA”) such as the Central Bank of Ireland (the “CBI”) in Ireland.

The ESAs have developed an ESAs F&P Information System to enhance information exchange between supervisory authorities both across the European Union and also across different parts of the financial sector. New provisions (Articles 31a) were added to Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010 specifically in order to facilitate this

The New Guidelines

The Guidelines aim to ensure consistent and effective supervisory practices across the EU and to

facilitate information exchange between NCAs relating to fitness and probity assessments.

The Guidelines apply to NCAs and clarify both the use of related data and how it can be exchanged.

They focus on two main areas:

1. use of the F&P Information System
2. information exchange and cooperation between the competent authorities when conducting fitness and propriety assessments.

How Clerkin Lynch Can Help

The Clerkin Lynch team can assist with all related regulatory compliance matters for financial services firms including the preparation of fitness and probity policies and procedures as well as with related training programs, including in fulfilment of related requirements such as the Individual Accountability Framework of the CBI.

Contact us for more information.



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