

Crypto-Asset Service Provider authorisations in Ireland

September 2024

INTRODUCTION

Ireland's strong technology and financial services sectors make Ireland a natural choice for establishing a Crypto-Asset Service Provider (**CASP**) to service EU/EEA customers.

CASPs are regulated entities authorised to provide crypto-asset services relating to any crypto-asset, which may include some or all of the following, depending on the terms of the authorisation:

- Providing custody and administration of crypto-assets on behalf of clients;
- Operation of a trading platform for crypto-assets;
- Exchange of crypto-assets for funds;
- Exchange of crypto-assets for other crypto-assets;
- Execution of orders for crypto-assets on behalf of clients;
- Placing of crypto-assets;
- Reception and transmission of orders for crypto-assets on behalf of clients;
- Providing advice on crypto-assets;
- Providing portfolio management on crypto-assets; and/or
- Providing transfer services for crypto-assets on behalf of clients.

Authorisations from the Central Bank of Ireland (**Central Bank**) as a CASP are granted under the EU Markets in Crypto-Assets Regulation (**MiCAR**).

William Fry's Band-1 ranked Financial Regulation team has a strong track record of securing regulatory authorisations and registrations successfully and efficiently for a wide range of regulated FinTechs including virtual asset service providers (**VASPs**), payment institutions, crowdfunding service providers and one third of the electronic money institutions authorised in Ireland to date.

PROCESS AND TIMELINES FOR SECURING AUTHORISATION AS A CASP

| Stage | Target Timeline |
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| Pre-Application Engagement Phase | |
| Initial Engagement with the Central Bank | <p>The Central Bank encourages early engagement with prospective applicants. Applicant firms already authorised or registered by the Central Bank should contact their existing Central Bank supervisory contacts to arrange an initial engagement meeting. Applicant firms not already authorised or registered by the Central Bank should make contact via the Central Bank Innovation Hub to arrange an initial engagement meeting.</p> <p>A presentation detailing the applicant's proposal must be submitted at least five working days in advance of the arranged meeting date.</p> <p>At this meeting, the applicant will have the opportunity to present a slide deck providing an overview of its business model, and the Central Bank will outline the stages of the authorisation process, its authorisation and supervisory expectations and the details and purpose of the Key Facts Document (KFD).</p> <p>Following the meeting, the Central Bank will communicate any issues identified that need to be addressed if the application is to proceed to the KFD stage.</p> |
| KFD preparation | <p>The applicant must prepare and submit a KFD. The KFD should contain a summary overview of the applicant's proposed arrangements, including organisational and shareholder charts. The Central Bank will publish a template KFD in the coming weeks.</p> |

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| <p>KFD Assessment</p> | <p>The Central Bank will assess the KFD to determine whether the application is aligned with the Central Bank’s authorisation and supervision expectations.</p> <p>There will be continuous engagement with the applicant and additional information may be required by the Central Bank at this stage.</p> <p>The Central Bank will communicate any issues identified that need to be addressed if the application is to proceed to the formal application phase.</p> <p>Following this assessment, the applicant may be invited to submit a formal CASP authorisation application.</p> |
| <p>Formal Application Stage</p> | |
| <p>Application Submission</p> | <p>The full formal application is submitted to the Central Bank. The Central Bank will publish the template CASP authorisation application form in Q4 2024.</p> |
| <p>Acknowledgement</p> | <p>The Central Bank must acknowledge receipt of the application for authorisation as a CASP within 5 working days of receipt.</p> |
| <p>Assessment stage</p> | <p>The Central Bank must decide whether an application for authorisation as a CASP is complete within 25 working days of receipt.</p> <p><u>Incomplete applications</u></p> <p>Where the application is incomplete, the Central Bank must set a deadline for the applicant to provide any missing information.</p> <p>The Central Bank may refuse to review incomplete applications after the expiry of the timeframe set by the Central Bank to submit outstanding items.</p> |

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| | <p><u>Complete applications</u></p> <p>The Central Bank will begin the 40-working-day assessment of the application. The Central Bank may request additional information from the applicant, resulting in one suspension of the assessment period (of no more than 20 working days).</p> |
| Notification of assessment stage | <p>The Central Bank must notify the applicant within five working days of deciding to grant or refuse a CASP authorisation application of whether its assessment of the application is favourable.</p> |

MAIN FEATURES OF THE APPLICATION FOR AUTHORISATION AS A CASP

The main workstreams in an application for authorisation as a CASP include:

- Programme of operations.
- Prudential requirements.
- Governance arrangements and internal control mechanisms.
- Structural organisation.
- Business continuity plans.
- Anti-money laundering (AML) and counter terrorist financing (CFT) policies and procedures.
- Measures to safeguard client assets.
- Details of ICT systems and related security arrangements.
- Procedures for monitoring, handling and following up on security incidents.
- Complaints handling procedures.
- Procedures for the segregation of client crypto assets and funds.
- Completed Individual Questionnaires for all proposed holders of functions requiring prior Central Bank approval (e.g. directors and certain senior managers).
- Information relating to those having direct and indirect qualifying holdings.
- Other policies and procedures depending on the particular types of crypto-asset services which the applicant intends to provide.

KEY ISSUES FOR THE APPLICANTS

1 GOVERNANCE

Firms are expected to be led by a local crypto-competent executive team, overseen by a board with a strong grasp of the Irish regulatory environment and to be adequately resourced. “*Mind and management*” must be based in Ireland including board meetings being held in Ireland and the heads of certain senior management functions (e.g. finance, compliance, risk) being located in Ireland. Candidates for pre-approval control function (PCF) roles (i.e. directors and certain members of the SMT) should possess the necessary qualifications, skills and experience to perform the role.

2 PROTECTING CLIENT ASSETS

Firms must demonstrate full control over client assets with robust segregation, reconciliation and prompt access to the reserve of assets to meet redemption demands.

3 CONFLICTS OF INTEREST

Firms must ensure they can identify, prevent, manage and disclose conflicts of interest. The Central Bank expects that there will be no risks to consumer interests arising from conflicts of interest.

4 BUSINESS MODEL AND FINANCIAL RESILIENCE

Firms must clearly demonstrate the viability and sustainability of their strategy, business model and financial projections. Firms should have a business model that is approved by the board of directors of the Irish applicant firm and which reflects the vulnerabilities of the firm’s product and service offering.

5 AML/CFT

Firms must demonstrate strong risk management practices and internal controls to maintain compliance with Irish AML/CFT legislation.

6 OPERATIONAL RESILIENCE AND CRISIS MANAGEMENT

Firms must ensure continuity and regularity in the performance of their services. Firms must also have documented plans to support unexpected events and to ensure orderly wind-down.

7 SHAREHOLDERS

A full, transparent and corroborated view of the identity of direct and indirect shareholders and any party that can exercise significant influence over the applicant firm must be provided. Ownership and operating structures must be designed to achieve maximum transparency and clarity regarding the firm’s ownership.

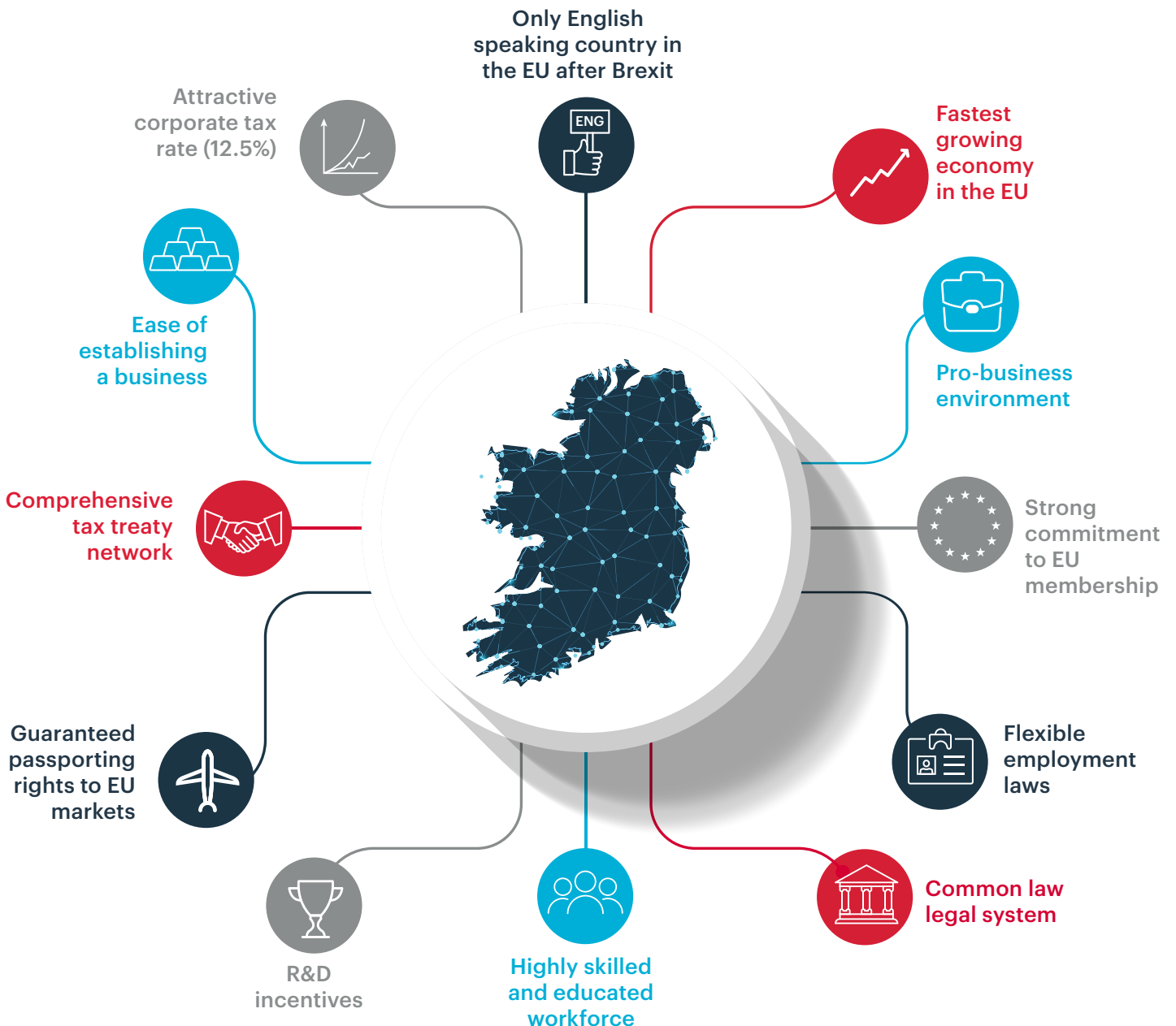
8 CONDUCT AND TRANSPARENCY

Firms must evidence compliance with Irish regulatory conduct of business rules. Firms are expected to demonstrate how customer interests are secured and how the suitability of their product offering is being proactively assessed in accordance with customer risk tolerance.

HOW CAN WILLIAM FRY ASSIST YOU?

William Fry’s Financial Regulation team has vast experience of working with applicants’ in-house teams to navigate the authorisation process efficiently and cost-effectively. For more information, please contact Shane Kelleher, Louise McNabola, John Aherne or any member of William Fry’s Financial Regulation team for legal advice.

WHY ARE FIRMS CHOOSING IRELAND?



CONTACT US

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