

Information Leaflet

Reports from Auditors appointed pursuant to Section 33 of the Investment Intermediaries Act, 1995 on unincorporated entities

THE INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS IN IRELAND

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Introduction

This 'Helpsheet' has been prepared as interim guidance to assist those members in practice when reporting on the accounts of unincorporated clients authorised by the Central Bank of Ireland under the Investment Intermediaries Act, 1995 ('the IIA').

It assumes that the entity has prepared accounts based on its activity as a Multi Agency Intermediary or Authorised Advisor only. Where an entity has chosen this option, each partner/principal is required to furnish also a certificate of solvency when submitting accounts to the Bank.

However, as set out in the Central Bank's *Handbooks*, unincorporated entities have the option of preparing accounts that reflect all activities, including non-investment business and personal transactions.

Section 33(1) of the IIA requires the appointment of an 'auditor' by such entities and that the auditor shall make a report on the 'accounts' of the entity on an annual basis. Section 33 does not specify the requirements and content for annual accounts of such entities; nor does it specify the form of opinion required from an auditor appointed under section 33.

Section 33(2), however, does state that the '*supervisory authority may set out requirements in respect of the accounts and audit of an authorised investment business firm....including requirements which are analogous to those set out in the Companies Acts and may impose duties or obligations on the auditor or on the authorised investment business firm concerned.*' The principal requirement of the Companies Acts in respect of 'accounts' is that they give a 'true and fair' view.

Compliance with accounting standards issued by the Accounting Standards Board is normally necessary to meet this requirement.

Central Bank intends to consult with the industry and the auditing profession as to how these requirements might be achieved. This is likely to result in amendments to the Central Bank's '*Handbook for Restricted Activity Insurance Product Intermediaries*' and '*Handbook for Authorised Advisors*' issued in October 2001, which contains the current requirements for Restricted Activity Insurance Product Intermediaries (now known as 'Multi Agency Intermediaries'¹) and Authorised Advisors. While it is likely to take a number of months until amendments to the Handbooks are finalised, such entities are still required to comply with the IIA and submit accounts to the Central Bank together with a report from the auditor appointed under Section 33. Many smaller unincorporated entities are unlikely to be in a position at present to prepare accounts that give a 'true and fair' view in a manner similar to Companies Act requirements. As an interim measure, therefore, a Multi Agency Intermediary and Authorised Advisor may submit to the Central Bank annual accounts that show the income and expenditure of the entity's activity as a Multi Agency Advisor/Authorised Advisor together with a statement of its assets and liabilities.

¹ The term 'Multi-Agency Intermediary' as used by the Central Bank includes Multi-Agency Intermediaries, Single-Agency Intermediaries, and Tied Agency Intermediaries. Where an intermediary holds one appointment it must use the designation 'Single-Agency Intermediary'. An intermediary that is a tied agent must describe itself as a 'Tied Agent'.

In addition, Central Bank requires to be submitted to it along with these accounts a report from the auditor appointed under section 33 on whether, based on procedures performed by the auditor, an opinion on whether anything has come to his attention to indicate that;

- (a) the income figure as shown in the accounts has not been properly extracted from the books and records which relate to the activity as Multi Agency Intermediary or Authorised Advisor;
- (b) the books and records maintained by the entity for the purposes of compliance with the *Handbook* do not record and explain the transactions and assets and liabilities of the activity as a Multi Agency Intermediary or Authorised Advisor;
- (c) the statement of assets and liabilities does not fairly reflect, in all material respects, the assets and liabilities that relate to the activity as a Multi Agency Intermediary or Authorised Advisor.

Any assignment should be conducted in accordance with the terms of a written agreement between the client and the firm. An example of such a letter is given in appendix 2 to this helpsheet.

Content of Accounts

Responsibility of owners

The Multi Agency Intermediary/Authorised Advisor is responsible for selecting appropriate accounting policies; the maintenance of books and records in compliance with the relevant *Handbook*; the preparation of the accounts; and for the provision of the books and records, together with any other information considered necessary, to the auditor appointed under section 33 to enable him to make his report. The accounts should, therefore, contain a proprietor's responsibility statement. The following example may be appropriate;

- I/we acknowledge my/our responsibility for the selection of the accounting policies as set out in Note 1 to the accounts on page X and for the preparation of the accounts relating to my/our activity as a Multi Agency Intermediary (or Authorised Advisor), which comprise the profit and loss account and statement of assets and liabilities, together with related notes on pages X to Y;
- I/we are also acknowledge our responsibility for the maintenance of books and records as required by the '*Handbook for Restricted Activity Investment Product Intermediaries*' (or '*Handbook for Authorised Advisors*') issued by the Central Bank of Ireland;
- I/we confirm that I/we have made available all relevant records, information and explanations necessary to enable the auditor to report under section 33 of the Investment Intermediaries Act, 1995.

Income

Income of a Multi-Agency Intermediary or Authorised Advisor, accounted for on an accruals basis, will include commission earned from placing business with product providers and, possibly, fees charged to clients for services provided. Income may also include brokerage fees, insurance advice fees, deposit broking, override commissions (commissions based on overall volume and not linked to specific clients); and premium finance.

Books and records

Paragraph 4.1 of Part IV of the Central Bank's '*Handbook for Restricted Activity Insurance Product Intermediaries*' issued in October 2001 states, in respect of the minimum content of records that;

A restricted intermediary shall ensure that its records, contain as a minimum, any record referred to elsewhere in this Handbook, together with the following:

- (a) details of all transactions representing all monies received and expended by a Restricted Intermediary both on its own behalf and on behalf of clients, together with details of how receipts and payments arose, including funds received and distributed in circumstances referred to in Part V of this handbook (*Premium Handling Requirements*);
- (b) a record of all income and expenditure of the Restricted Intermediary, explaining its nature;
- (c) a record of all assets and liabilities of the Restricted Intermediary and off balance sheet items, including any commitments or contingent liabilities;
- (d) any working papers necessary to show the preparation of any return submitted to the bank.

Similar requirements exist for Authorised Advisors.

Books and records likely to include a cashbook detailing the date, source and amounts received by the advisor. Commissions received from 'product providers' are normally reflected in monthly Commission Statements' issued by life insurance providers. In certain cases, reconciliation of commission earned to statements from product providers may be difficult due to timing differences in the 'booking' of policies, cancellations, and the treatment of 'cooling off periods'.

In addition, as Multi-Agency Intermediaries/Authorised Advisors are required to obtain written letters of appointment from product providers, the multi agency advisor should be asked to confirm in writing details of all those product providers for whom written letters of appointment have been in place during the period covered by the accounts. The commission statements can provide some assurance regarding 'completeness of income' and assist with 'cut off'.

The advisor should also maintain details of invoices raised to clients where the client pays a separate fee for services provided.

Assets and liabilities

Assets, calculated on a historical cost basis, may to comprise premises, bank accounts relating to the Multi Agency Intermediary or Authorised Advisor activity, amounts due from product providers and clients. Liabilities are likely to include bank overdrafts and loans and unpaid expenses arising from the multi agency activity.

The Central Bank has indicated that it requires from auditors an opinion on whether the statement of assets and liabilities of the business of the Multi Intermediary or Authorised Advisor fairly reflects in all material respects the assets and liabilities arising from the activity of the entity as a Multi Agency Intermediary or Authorised Advisor.

The term 'fairly reflects in all material respects' is related back to the accounting policies as determined by the proprietors and the basis on which the accounts are prepared.

Furthermore, as the business of the unincorporated Multi Agency Intermediary or Authorised Advisor has no separate legal identity to the principal(s) of the business, it may not be possible to identify separately all of those assets and liabilities that relate to the Multi Agency Intermediary or Authorised Advisor activity. Written representations are therefore likely to be obtained from principals, not only in respect of the assets and liabilities but also in respect of income and on the maintenance of books and records.

Reporting

Appendix 1 to this helpsheet contains an example of a report which may be given on these entities. Where exceptions have arisen in the course of work carried out, these should be specified in the report.

Where it is felt that knowledge of the facts is confined to the principals or when a matter is principally one of judgement or opinion, representations from the principals may be the only evidence available. In such cases, the matter may be of such significance that reference may be made to these representations in the report as being relevant to a proper understanding of the basis of the conclusions.

Example Report

Appendix 1

Report from the Auditor to (insert name of Principal(s) on the accounts of XYZ, Unincorporated Entity for the year ended DD/MM/YY pursuant to Section 33 of the Investment Intermediaries Act, 1995

We report to you in accordance with the terms of our letter of engagement dated DD/MM/YY.

Respective responsibilities

As stated on page X, you acknowledge your responsibility for the financial statements prepared for the purposes of section 33 of the Investment Intermediaries Act, 1995 and for the maintenance of accounting records which reflect and explain the transactions and assets and liabilities arising from your activity as a Multi-Agency Intermediary[□] in accordance with the requirements issued by the Central Bank of Ireland. You have also agreed to make available to us all books and records relating to that activity and to provide any further information and explanations as we consider/ are necessary to make our report.

It is our responsibility to report to you on whether, in our opinion, the accounts have been prepared in accordance with the accounting policies as specified in Note 1 to the financial statements. In addition we report to you on the basis of the audit procedures carried out by us, whether anything has come to our attention to indicate that;

- (1) the income figure as stated in the financial statements has not been properly extracted from the books and records relating to your activity as a Multi Agency Intermediary;
- (2) the books and records maintained by you do not record and explain the transactions, assets and liabilities of your activity as a Multi Agency Intermediary/Authorised Advisor consistent with our understanding of that activity, based on discussions with you ; and
- (3) the statement of assets and liabilities do not fairly reflect, in all material respects, the assets and liabilities of your activity as a Multi Agency Intermediary/Authorised Advisor.

Work performed

We carried out those audit procedures that we considered necessary to enable us to report to you on the above matters. This included testing, on a sample basis, commission and fee income earned from your activity as a Multi Agency Intermediary to ensure it had been reflected in the books and records relating to that activity.

We have also relied on written representations from you that;

- (1) all income has been reflected in the books and records maintained for the purpose of your Multi Agency Intermediary;

* Or 'Authorised Advisor'

- (2) appropriate accounting records have been maintained by you; and
- (3) the statement of assets and liabilities reflects, in all material respects, all assets and liabilities relating to your activity as a Multi Agency Intermediary.

[Exceptions

Specify]

Conclusion

Except for the matters noted above/Other than clerical errors or omissions which we are satisfied have been isolated occurrences, our conclusion is that, in our opinion, the accounts in respect of your activity as a Multi Agency Intermediary have been prepared in accordance with the accounting policies set out on page ... , and nothing came to our attention to indicate that;

- (1) the income as stated in the financial statements for the year ended DD/MM/YY had not been properly extracted from the books and records maintained for your activity as a Multi Agency Intermediary;
- (2) the books and records of your Multi Agency Intermediary activity did not reflect the transactions and assets and liabilities arising from this activity; and
- (3) the statement of assets and liabilities did not reflect the net assets/liabilities arising from your activity as a Multi Agency Intermediary.

Signature

ABC & Co
Certified Public Accountant and Registered Auditor Date

Appendix 2

LETTER OF ENGAGEMENT – Unincorporated Entities authorised under the Investment Intermediaries Act, 1995

Dear (insert client name)

Thank you for appointing us as your auditor pursuant to section 33 of the Investment Intermediaries Act, 1995. (Use alternative wording if this is a renewal of an existing professional appointment).

In accordance with the recommendation of the Institute of Certified Public Accountants in Ireland, we would like to formally set out our understanding of the services you require us to perform.

Partner A (insert name) will be personally in charge of the work we perform for you. He/she will ensure that the service you receive from us is of the highest quality.

We have agreed that we shall compile, as your agents, the financial statements based on accounting records maintained by yourself on the basis that you will make full disclosure to us of all relevant information.

Responsibilities of proprietors

You are responsible for making available to us, as and when required, all the businesses's accounting records and all other relevant records and information that are necessary for the preparation of the financial statements and for compliance with the requirements of the '*Handbook for Restricted Activity Investment Product Intermediaries*' (or '*Handbook for Authorised Advisors*') issued by the Central Bank of Ireland under the Investment Intermediaries Act, 1995 . You will make full disclosure to us of all relevant information.

You are responsible for both the accuracy and completeness of the information supplied to us.

You are responsible for approving and signing the financial statements prior to the issue of our report.

You are responsible for ensuring that, to the best of your knowledge and belief, financial information, whether used by the business or for the financial statements, is reliable.

You are also responsible for ensuring that the activities of the business are conducted honestly and that its assets are safeguarded, and for establishing arrangements designed to deter fraudulent or other dishonest conduct and to detect any that occurs.

You are responsible for ensuring that the business complies with the laws and regulations applicable to its activities, and for establishing arrangements designed to prevent any non compliance with laws and regulations and to detect any that occurs.

Responsibilities of the auditor appointed pursuant to section 33 of the Investment Intermediaries Act, 1995

It is our responsibility to report to you on whether the accounts have been prepared in accordance with the accounting policies as specified by you. In addition we report to you, on the basis of procedures carried out by us, our opinion on whether anything has come to our attention to indicate that;

- (4) the income figure as stated in the financial statements has not been properly extracted from the books and records relating to your activity as a Multi Agency Intermediary (or Authorised Advisor);
- (5) the books and records maintained by you do not record and explain the transactions,

- assets and liabilities of your activity as a Multi Agency Intermediary (or Authorised Advisor) consistent with our understanding of that activity, based on discussions with you ; and
- (6) the statement of assets and liabilities does not fairly reflect in all material respects the assets and liabilities of your activity as a Multi Agency Intermediary (or Authorised Advisor).

Scope of work

Our procedures will consist of those we consider necessary to enable us to report on the matters detailed above and will include assessing information and explanations supplied to us and making such limited enquiries of the proprietors as we consider necessary.

We are not responsible for the maintenance of the accounting records of the business, but we shall be happy to advise on these matters, if the need arises.

The financial statements will contain a declaration for your signature that you approve them and have made available all relevant records and information for their preparation.

As a result of our work we may be able to suggest improvements which could be made to your accounting records. However, our work should not be relied upon to disclose defalcations or other irregularities. If an investigation is required specifically to discover defalcations or irregularities this can be separately undertaken on request.

Tax Compliance Work

We have agreed, as your agents, to prepare in respect of each accounting period an income tax computation, adjusted in accordance with the provisions of the Taxes Acts. Subject to your approval this will be submitted to the Inspector of Taxes.

You will be responsible, unless otherwise agreed, for all other returns including returns relating to employee taxes under PAYE/PRSI. You will also deal with all returns and other requirements in relation to value added tax, where applicable.

We have agreed to prepare and submit, on your approval, your personal tax returns. We undertake this work on the basis that you will make full disclosure to us of all relevant information.

We shall be pleased to advise you on other matters relating to taxation such as the implications of particular business transactions and other taxation matters which you refer to us.

Other Services

We shall be pleased to provide, if requested, other services such as:

- a) Reports in support of returns or claims eg. for Government grants, consequential loss insurance declarations etc.;
- b) Reports for special purposes eg. for raising finance, for acquisitions of other businesses or investigations into some specific aspects of the business;
- c) Advice on computers and computer bureau services;
- d) Recruitment of staff;
- e) Formation of limited companies.

In providing the agreed services for you, our relationship will be that of professional person and client save where we are instructed to negotiate tax liabilities with the Commissioners Revenue.

Consequently, in producing the financial statements of your business, any working papers, including the nominal ledger which we bring into existence for this purpose shall remain the property of this firm.

Fees

Our fees are based upon the skill involved and the time occupied on the work and will be charged for each class of work. They will be billed at appropriate intervals during the course of the year and will be due on presentation.

Should you so require, we will forward an estimate of fees in advance of any assignment.

We should also be pleased to give you any help you may require with problems which arise during the year and would plan to keep in touch with you throughout the year to discuss any matters affecting your business.

Please do not hesitate to contact Partner A (insert name) whenever you feel he/she can be of assistance.

Applicable Law

This engagement letter shall be governed by, and construed in accordance with, Republic of Ireland Law. The Courts of the Republic of Ireland shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the engagement letter and any matter arising from it. Each party irrevocably waives any right it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.

Agreement of Terms

Once it has been agreed this letter will remain effective until it is replaced. Please confirm your agreement with the terms of this letter by signing this copy and returning it to us.

If this is not in accordance with your understanding of the terms of our appointment, please let us know and we will be happy to give you any further information you require.

Yours sincerely,

ABC & Co.

Acknowledged by: _____ Date: _____

On behalf of Unincorporated business