Introduction

1. Safeguarding Ireland welcomes the opportunity to make a submission on ***'Consultation Paper 156 - Central Bank approach to innovation engagement in financial services'*** **(CP156).** In preparing this response, Safeguarding Ireland has endeavoured to answer all relevant questions based on its history of engagement with adults who are at risk of harm or in need of additional support and organisations that work with them or advocate on their behalf, the insights of its research, its information and awareness raising campaigns, lessons learned from the work of its State Payments Sub-Group and its work on related issues with a wide stakeholder grouping, the National Safeguarding Advisory Committee, as well as analysis and information gathered via the responses it prepares to queries and concerns received and responded to from the public via its info@safeguardingireland.org contact address[1].
2. Safeguarding Ireland welcomes the consultation and, broadly, the proposals as described and believes that 'Fin Tech' and other innovations in financial services have significant potential to support 'safeguarding by design', de-risk financial services, facilitate greater access, empower consumers, create efficiencies, and reduce costs for consumers in vulnerable circumstances/at risk or in need of additional support. For Safeguarding Ireland innovation in 'payments' is of particular interest, as there are various 'pain-points' and related risk issues that can arise across the 'customer journey' that may give rise to loss of autonomy and /or potential for financial abuse. We note that a relatively high percentage (31% in 2022) of inquiries to the Innovation Hub have been related to 'payments'. Safeguarding Ireland has previously stated[2] that '***without a dedicated policy/regulatory focus, it is possible that the opportunity to provide both needed choice and services that better cater to the needs of adults who may be at risk of harm or abuse may be missed'.***
3. Safeguarding Ireland also notes the position of so-called 'Big Tech' in Ireland and globally and note that this sector also has the potential to benefit consumers via development of its role in financial services. We note that the Innovation Hub and the proposed Sandbox appear to be oriented towards smaller firms[3] and suggest that the CBI's ***approach to innovation***

1 Safeguarding Ireland does not provide a service to the public, but nonetheless receives a wide range of queries from organisations, professionals and individuals relating to 'adult safeguarding'. A significant proportion of these queries relate to concerns about /risks related to an adult's management of their money or loss or other abuse of money, property, or assets – all queries are triaged and sign-posted to a relevant organisation for further support. Additionally, where there is an immediate/serious risk of harm the contact is directed to An Garda Siochana.

2 https://safeguardingireland.org/wp-content/uploads/2023/04/Safeguarding-Ireland-Submission-to-the-CBI-Review-of-the-CPC-%E2%80%93-March-2023.pdf

3 '*the majority of inquiries often stem from start-ups'* Data included in the ' Profile of Enquiry Firms' shows, that historically enquiries have been primarily from small and micro sized firms – however there seems to be some decline in that trend alongside some growth in the number of medium/large firms using the Innovation Hub. https://www.centralbank.ie/docs/default-source/regulation/innovation-hub/innovation-hub-2022-

engagement in financial services' is also cognisant of the potential impacts (benefits and risks) of Big Tech[4] on innovation, competition, and consumers.

Question 1 What is your feedback on the enhancements underway with the Innovation Hub? Are there other areas that should be developed?

4. CP156 describes the current approach as follows, '*The Innovation Hub seeks to help innovators to gain a deeper understanding of our regulatory and supervisory expectations by sharing our perspective on innovation within financial services including with our subject matter experts.'* It further describes *'feedback from firms' - inquiries often stem from start-ups…* the establishment of *'sub-groups under our Financial Industry Forum'* as well as work undertaken to '*collaborate, engage and share insights with our regulatory peers*' and *'engagement with EU and international institutions and with our peers, as we seek to understand their approaches to engage on innovation and to learn from their experiences'.* In setting out proposals for enhancements the CBI notes that *'As the financial landscape evolves, we acknowledge the need to deepen our engagement with innovators and the wider innovation ecosystem and stakeholders'.*
5. Safeguarding Ireland acknowledges that the Innovation Hub as currently structured is not oriented towards users or consumers of financial services but believe that the perspective of users and consumers has been missing from developments to date and is critical to ensuring that firms concerned with innovation have an opportunity to engage with the markets they ultimately aim to serve. Safeguarding Ireland has, elsewhere, (response to DP10) previously noted that current products and services may not adequately meet the needs of adults who are at risk of harm and abuse and believe that outcomes for innovators and consumers could be greatly enhanced via their inclusion in either the governance structures for the proposed new Sandbox or in relevant projects.
6. In addition, and in this context, we note that as well as 'inclusion' there should be 'ethical' safeguards incorporated into the design and administration of the CBI's proposed Sandbox in relation to approaches that involve /include adults who may be at risk of harm or otherwise 'vulnerable'. (We highlight here the current CBI review of the CPC and its 'vulnerability theme' and suggest that notwithstanding that firms entering the Sandbox may ***not*** ultimately be regulated that any good practice relating to 'vulnerability' emerging within a revised CPC should be replicated in expectations of all firms entering/proposing to enter the Sandbox, i.e.

update.pdf?sfvrsn=e0c5991d_4#:~:text=Feedback%20from%20those%20engaging%20with,of%20the%20formal%20regulatory%20processes.

[4] Relevant issues have been considered in a recent FCA feedback statement https://www.fca.org.uk/publication/feedback/fs23-4.pdf - we note in particular that some respondents to that consultation highlighted *'that Big Tech entry may lead to financial exclusion of vulnerable consumers, particularly in cases where consumers can be profiled, or consumers are geographically excluded from accessing online services. Defaults, choice architecture and algorithms were also noted by respondents as ways in which consumer harms may arise.'* (p15)

a beneficial impact of ALL firms' engagement with the Sandbox would be an enrichment of their understanding of consumer/customer 'vulnerability' .

7. In its submission on DP 10, Safeguarding Ireland highlighted the emergence of an *'expertise gap'* between firms (fintech's – regulated and otherwise) and the organisations that work with or advocate for consumers of new fintech products and services and, in particular, the cohort who may be at heightened risk of harm. In this regard, the inclusion and involvement of relevant civil society organisations in the governance, monitoring/evaluation, or implementation of the Sandbox, would have the beneficial impact of developing the capability of civil society organisations to support consumers in their engagement with new and innovative products and services. We add that the State operates/contracts several very large payment systems and suggest that representatives of relevant Government Departments and Agencies should also be encouraged explicitly to engage and participate. Given the very novel nature of firms and products, there are few alternative mechanisms through which civil society and other parts of the State can develop this expertise.

Question 2: What is your feedback on the proposal to establish an Innovation Sandbox Programme?

8. Safeguarding Ireland welcomes the proposal to create a Sandbox (on the basis that the model should provide an opportunity for greater engagement with, and participation by, consumers and in particular those whose needs may not currently be sufficiently met by incumbents) but, as above, highlights the need for the related governance and administration to be inclusive. We note that it is proposed that (*inter alia*) 'there will be '*Annual themed workshops involving industry, academia, etc. and focussed on understanding emerging trends and future risks to consumers'.* The absence of explicit reference to consumers/the organisations that work with them, here is a significant omission and Safeguarding Ireland suggest that the proposed workshops be broadened and include the active participation of consumers/ those working with or supporting them so that industry, academia and others can more directly understand '*emerging trends and future risks'*.
9. Safeguarding Ireland welcomes the CBI proposal to launch '*a Digital Centre for knowledge sharing of dedicated content with all stakeholders in the innovation ecosystem: Initially, the Digital Centre will contain existing materials but over time, we will develop dedicated content including innovation-related FAQs, case studies, best practices and webinars'.*
10. However, we highlight the need for the content and material to be accessible and inclusive and for 'case studies' and 'best practices' to highlight content that is relevant to adults at risk/vulnerable consumers[5]. As above, webinars, should seek both to attract speakers with

5 https://www.fca.org.uk/publication/research/fostering-innovation-through-collaboration-evolution-techsprint-approach.pdf For example - Case study – Stephen – an example 'Persona used in the Money and Mental Health TechSprint' - *"My mum helps with my decisions about big purchases, like a new camera or car, because she is better at telling whether I am manic or not" Steven lives by himself though, so his mother isn't always there to play that role. However, he would never grant his mother full power of attorney as when he is well he feels able to manage his own money and life goes on'. (*This FCA Tech Sprint sought to identify money management solutions for Stephen's 'persona'.

diverse experiences of 'the problems' which innovators aim to address, as well as encouraging attendance from outside industry.

Will the proposal support the Central Bank in meeting our overall objectives, including the needs of consumers and the wider economy?

11. In a recent speech, *'Looking over the Horizon: Governor Makhlouf on the Long-Term Outlook for the Irish Economy'* [6] Governor Makhlouf noted that *'several major structural changes already underway will shape the long-term growth prospects for the economy over the next 50 years'* (the changes included: demographic change and ageing, climate change, the rapid advance in the development and use of digital technologies, and the issue of global trade fragmentation). With regard to the CBI's proposal that the *'sandbox will take a thematic approach in engaging with innovation'.* Safeguarding Ireland suggests that project selection or prioritisation should further a key policy goal outlined by Governor Makhlouf i.e., '*reconcile short-term priorities with long-term objectives'* and consequently propose that themes related to 'demographic change and ageing' should be a particular focus.
12. Safeguarding Ireland also notes that '*There is an increasing prevalence of disability in Ireland, in part linked to an aging population'*[7]. The aging population (in combination with the (related) increasing prevalence of disability) has implications for the economy (as described in Governor Makhlouf's speech) and also for consumers and those who may support them in managing their money (as well as for firms)[8]. In the context of Safeguarding Ireland's submission to CP 156 we highlight the need for innovation in product design (accessibility, safety etc.) as well as in product availability – i.e., savings and investment products, insurance, and access to credit- informed by demographic change and the needs of a population that is living longer.
13. *'Our intention is to operate it during 2024 and take the learnings from that experience to consider its effectiveness and any potential future developments/enhancements'*. In the context that the consultation will close in February, and it may take some time to further design/refine the Sandbox and to engage stakeholders beyond industry (or those ***already*** familiar with the Innovation Hub) Safeguarding Ireland suggest that this timeline may need to be extended.

6 https://www.centralbank.ie/news-media/press-releases/press-release-governor-makhlouf-on-the-long-term-outlook-for-the-irish-economy-30-january-2024

7 https://www.gov.ie/pdf/?file=https://assets.gov.ie/270938/7c444ddf-acfc-4d28-ad82-c7b1baa37cc1.pdf#page=null

8 We highlight the new arrangements under the ADMCA https://decisionsupportservice.ie/services/decision-support-arrangements and the need for financial services/products to better reflect the legal presumption of capacity and the new arrangements.

Question 3: What is your feedback on the operating model of the Innovation Sandbox Programme?

14. **Objectives of the Innovation Sandbox Programme** – Safeguarding Ireland notes that it is intended that the Sandbox will be *'open to a wide range of applications from all sectors of the financial system, such as authorised firms, start-ups, new entrants, and academic projects'.* Safeguarding Ireland does not know whether (currently) there is an appetite or readiness amongst relevant organisations within 'civil society' to apply, but suggest that this grouping is at least named, in the hope that applications may emerge, or that firms may consider partnering with relevant organisations when preparing their applications.
15. *'Stage 1: Thematic Approach An evaluation panel consisting of relevant expert staff and senior leaders within the Central Bank, and leveraging input from engagement with innovators through the Innovation Hub and the Financial Industry Forum's Innovation Sub-Group, will identify the key themes of the current/next phase of the programme'.* As previously highlighted, Safeguarding Ireland believes that the governance/evaluation structures proposed should be expanded to include the perspectives of consumers. The literature on Sandboxes in other jurisdictions suggests that there can be a risk of 'regulatory' or 'cognitive' capture..*('If regulators come to rely on the providers of complex financial products and services for explanations about how they work, the result may be that regulation ultimately comes to reflect the worldview of the financial industry, rather than the objectives of society as a whole (this phenomenon is often referred to as "cognitive capture"*[9])'. Given Safeguarding Ireland's mandate – the perspective(s) of consumers who may be underserved in their use of existing products and services (and consequently at heightened risk of harm) should be a key focus for innovation within the proposed Sandbox.
16. We note that the CBI has stated that: *'There will also not be any digital testing of products with consumers in the proposed programme'.* While Safeguarding Ireland fully agree that the CBI should ensure that there is no risk of consumer detriment or financial loss arising as a result of a consumer utilising a Sandbox' innovation for 'test' purposes, we nonetheless think it would be advantageous to simulate digital tests with consumers – and in particular those consumers who may not currently be using/ or are unable to use mainstream products autonomously.

Question 4: Are there specific themes or areas of innovation that the Central Bank Innovation Sandbox Programme should address?

17. Safeguarding Ireland has already highlighted the need to focus on demographic change – both the needs of an ageing population and related increasing prevalence of disability - there is an economic rationale for the prioritisation of this theme as well as obvious consumer protection imperatives. Additionally, research conducted by Safeguarding Ireland in

9 Regulatory Sandboxes, (2019) Hilary Allen American University Washington College of Law https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1714&context=facsch_lawrev

conjunction with the BPFI in 2019[10] indicated that 49% of those in the age range 19-24 were concerned about experiencing financial abuse in the future.

18. Sage Advocacy in its 2023 Report *'Managing Finances Supporting adults who may be vulnerable'*[11], identified the following support needs described as, *'to a greater or lesser extent, common to all adults who may be vulnerable to financial abuse, depending on the individual's own circumstances and decision-making capacity*:
    1. To be enabled to control their own money to the greatest extent possible (empowerment need)
    2. To have ease of access to their own money (accessibility need)
    3. To be able to use their own finances for their personal benefit in order to enrich their lives and reach their full potential (social and comfort need)
    4. To have their money readily and openly identifiable as their own (accountability need)
    5. To have their money kept safe (safeguarding need),
19. While potentially all of these 'needs' could be encompassed in a particular theme 'vulnerability'/similar (in line with the outcome of proposals in the revised Consumer Protection Code arising from feedback on 'Theme 6 - Vulnerability' (DP10)), Safeguarding Ireland suggest that the 'safeguarding' need may be the most urgent – this arises both with regard to the increasing prevalence[12] of 'financial scams' (perpetrated by strangers) as well as the less 'visible' but equally harmful incidence of financial abuse (usually perpetrated by known and trusted third parties) in Ireland13 and internationally[14].
20. Safeguarding Ireland notes the references within CP156 to European/international groupings and frameworks (*membership of the European Forum for Innovation Facilitators… the three European Supervisory Authorities, the European Central Bank*

10 https://safeguardingireland.org/wp-content/uploads/2019/11/BPFI-Safeguarding-Ireland-Financial-Abuse-Nov-2019.pdf

11 https://sageadvocacy.ie/wp-content/uploads/2023/12/managing-finances-march-2023.pdf
Regulating Fintech in the EU: the Case for a Guided Sandbox - https://www.cambridge.org/core/services/aop-cambridge-core/content/view/3EE71CEEB3BC22E57A1BF08023073A6F/S1867299X20000082a.pdf/regulating_fintech_in_the_eu_the_case_for_a_guided_sandbox.pdf The authors propose a "guided sandbox", which should be guided by an interplay between the federal (EU) and national levels. More specifically, it would be the Member States who operate the sandbox, but with endorsement, support, and monitoring by EU institutions.

12 https://www.rte.ie/news/business/2023/0924/1406717-scam-alert-higher-incidence-and-more-sophisticated/#:~:text=That%20breaks%20down%20quite%20neatly,is%20definitely%20on%20the%20rise.

13 https://safeguardingireland.org/financial-abuse-blog/

14 https://survivingeconomicabuse.org/wp-content/uploads/2022/11/SEA_Economic-Abuse-A-Global-Perspective_Annex.pdf

including Single Supervisory Mechanism, International Organization of Securities Commissions, Bank for International Settlements, and many more EU and international organisations) and engagement '*Participating in relevant Irish, EU or international sector/theme specific programmes'* and suggest that the potential exists for at least one 'theme' to have a pan-European dimension to address an issue (for example ageing population/ disability/ fintech /digital payments adoption) which is of concern to consumers, Central Banks and policy makers on a pan-European basis[15]. This is particularly relevant as start-ups considering engagement with the proposed Sandbox may not view the Irish market as offering sufficient scale (in the short-term) to justify investment[16].

21. 'Data sharing' /Open Banking/Open Finance. Safeguarding Ireland believe that 'open banking' offers significant potential benefits for consumers by enabling them to access/locate and utilise a more comprehensive personal financial data set. The OECD's recent paper '*Open finance policy considerations'* (November 2023)[17] notes that *'Open Finance frameworks can be an opportunity to design data sharing in a manner that effectively empowers users and protects their personal data'*. (p29). The OECD report also notes the importance of a '*portable digital ID'*. Safeguarding Ireland would suggest that a theme on 'data and identity portability,' which incorporates a focus on the needs of clients who may be challenged in providing a standard ID or compiling and maintaining their own financial dataset autonomously, could be beneficial in enabling consumers to access relevant and appropriate financial services or to switch services/products as their needs change and would also be useful in assisting in over-coming public distrust of potentially positive product innovations (The OECD paper notes that '*Responses to a consultation launched by the European Commission indicate that 84% of the responders believe*

15 https://www.ecb.europa.eu/press/key/date/2023/html/ecb.sp230904~8f5dff1e57.en.html;
https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_3502
'The digital euro would be simple and easy to handle, including for persons with disabilities, functional limitations or limited digital skills, and older persons, in line with Directive (EU) 2019/882 (European Accessibility Act)'.

16 A pan-European theme would overcome the potential risk of 'Galapagos syndrome' i.e. the development of technologies solely for the Irish market, based solely on an understanding of the needs of Irish consumers and incapable of achieving further scale. ("*Galapagos Syndrome" has become a metaphor used to describe products, services, and even processes that have developed with a focus on a single market or culture, making them distinct when compared to the rest of the world*).
https://www.mizuhogroup.com/americas/insights/2021/06/galapagos-syndrome-when-isolation-breeds-deviation.html
Safeguarding Ireland's work with international peers demonstrates that issues and challenges are often shared across jurisdictions and that there is a willingness to contribute to the development of good practices/solutions.

17 https://www.oecd-ilibrary.org/docserver/19ef3608-en.pdf?expires=1707260111&id=id&accname=guest&checksum=9A01E4351ECCEE7D9546AB6794266142

there are security and/or privacy risks in giving service providers access to their data').

Other - 'Tech Sprints'

22. Safeguarding Ireland's reading of CP 156 suggests that CBI does not propose to run Tech Sprints'[18] Tech Sprints are workshops aimed at developing technology and sharing ideas that address specific industry challenges, and have been an initiative the FCA has run successfully since 2016[19,] Rather, the proposal is that the CBI will participate in Tech Sprints, hackathons etc. ('*Participating in innovation activities, such as Hackathons, Incubators, market-led skill programmes like Springboard, and Central Bank approach to innovation engagement in financial services Central Tech Sprints to gain insights into market activities and trends and to develop skills and capabilities within the Central Bank*.).
23. The FCA has recently announced a 'Financial Inclusion' Tech Sprint, noting that the FCA has a *'unique convening power to shape the direction of innovation both in technology and where wider issues persist in the economy'…'these events help us to shine a light on issues and expand the discussion and awareness of potential solutions'* The aim of the FCA's current Tech Sprint is to '*explore technological solutions that can dismantle barriers to inclusion, particularly for consumers vulnerable to exclusion from financial products and services. We aim to address issues such as the difficulty some consumers face in obtaining even a basic bank account, or the impact of disabilities on accessing fundamental financial services'*[20].
24. Safeguarding Ireland encourages the CBI to consider whether, it could similarly utilise its 'convening' powers to initiate similar initiatives to bring innovators, experts, and consumers together in a structured format to consider and ideally find technical, scalable solutions to the challenges facing some consumers.

[19] https://www.fca.org.uk/publication/research/fostering-innovation-through-collaboration-evolution-techsprint-approach.pdf

[20] https://fca.idloom.events/Financial_Inclusion_TechSprint