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Central Bank of Ireland

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# Retail Intermediaries Roadshows 2017

Pat Sage

Head of Function - Consumer Protection: Supervision, Central Bank of Ireland

06/07 November 2017



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# Welcome!





## Welcome cont.

1. Welcome
2. Purpose of Today's Session
3. CPD Accreditation
4. How today will work
5. Running Order- Agenda





## 3. Agenda for the Day

	Name & Division	Topic	Times
1	Niall Cronin Consumer Protection: Policy & Authorisations	The Application Process for Retail Intermediaries & Mortgage Intermediary Authorisation Durations Policy Update	10.05 - 10.25
2	Colm O'Connor Regulatory Transactions Division	Fitness & Probity	10.25 – 10.45
3	John Healy/Conway O'Hara Enforcement	The Role of Enforcement	10.45 – 11.05
4	Marie Townsend/Ronan Scott Anti-Money Laundering Division	Unauthorised Providers Unit (“UPU”)	11.05 – 11.25
	<b>Break</b>		11.25 – 11.45
5	Sharleen Foody Consumer Protection: Policy & Authorisations	Minimum Competency Code Review	11.45 – 12.00
6	Anna Murphy Consumer Protection: Policy & Authorisations	Changes to the Code and IIA arising from MiFID II	12.00 – 12.15
7	Helen O'Neill & Ruairí de Burca Anti-Money Laundering Division	Anti-Money Laundering & Countering the Financing of Terrorism (AML/CFT)	12.15 – 12.35
8	Karen O'Leary & Brendan Sheridan Financial Control Division	Developments in Relation to Industry Funding Levy	12.35 – 12.55
	<b>Wrap Up</b>		12.55 – 1.00



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# **The Application Process for Retail Intermediaries & Mortgage Intermediary Authorisation Durations Policy Update**

**Niall Cronin**

**Consumer Protection: Policy & Authorisations, Central Bank of Ireland**

**06/07 November 2017**



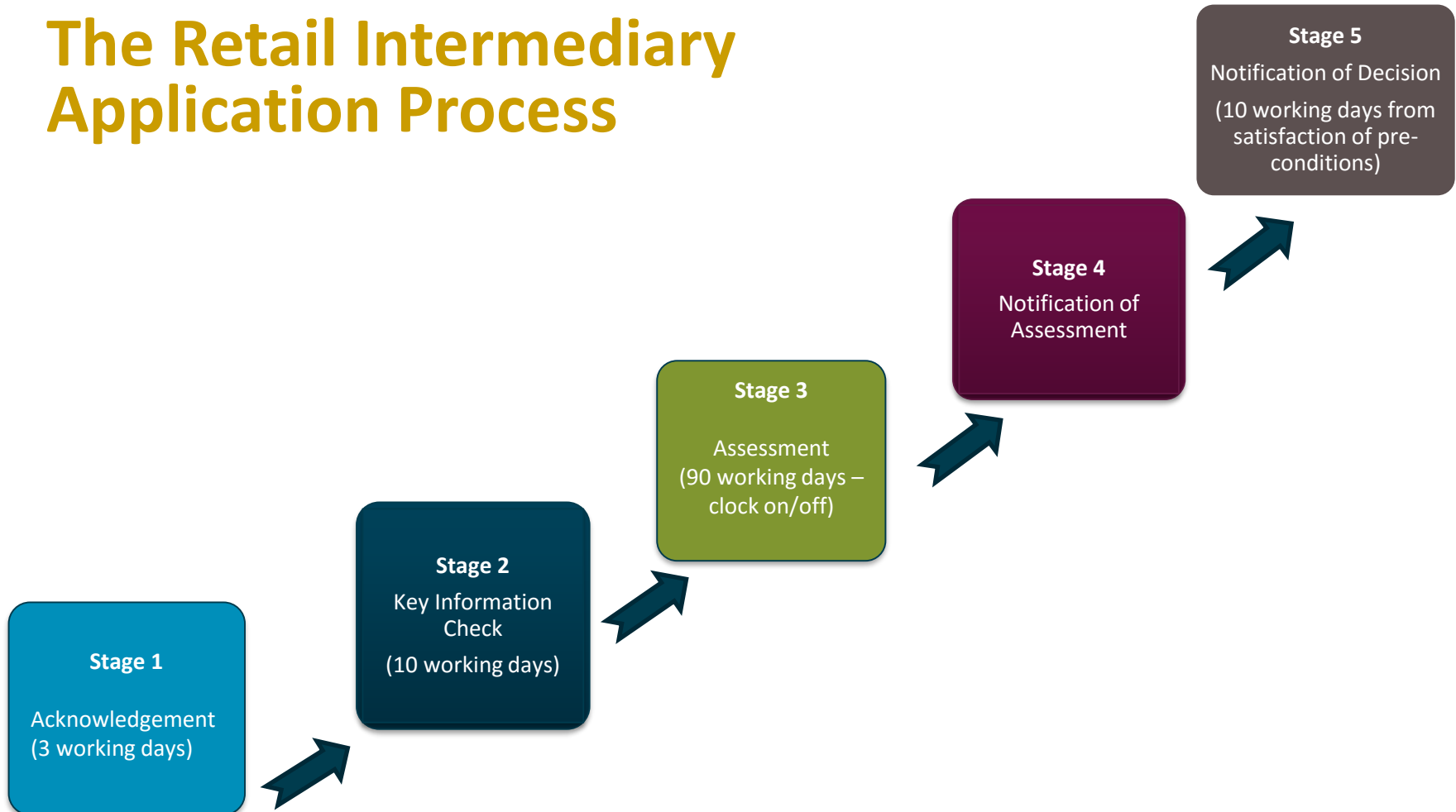
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## Topics Covered

1. Our Gatekeeper Function and the Application Process for Authorisation as a Retail Intermediary
  2. Policy Update regarding Duration of Authorisation granted to Mortgage Intermediary Applicants
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# The Retail Intermediary Application Process







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## The Retail Intermediary Application Process (cont'd)

- Robust, structured and risk based process
  - Transparency and clarity for applicants with regard to the process, its requirements and timelines (see CBI website)
  - Public reporting on adherence to authorisation service standards
  - **Ensuring that only those applicants that demonstrate compliance with all relevant authorisation requirements are authorised**
  - Committed to continuous improvement in how we deliver on our statutory mandate to operate a rigorous and effective gatekeeper function
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## Policy Update regarding Duration of Authorisation Granted to Mortgage Intermediary Applicants

- Move to model where authorisation will be granted for an indefinite duration (i.e. evergreen authorisation) rather than for a finite duration of up to 10 years
  - Applies to applicants seeking authorisation under the Consumer Credit Act 1995 (as amended) (the CCA) and/or under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (the CMCAR)
  - Authorisations granted for an indefinite duration from the date of policy implementation - no renewal of authorisation required thereafter
  - Existing Authorised Mortgage Intermediaries – continue to be cognisant of the relevant renewal date and application processing times; an authorisation of indefinite duration will be granted where the applicant meets the relevant authorisation requirements
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## The Retail Intermediaries Authorisation Process Webpage

Further information on the topics covered today are available on the Central Bank website:

- <https://www.centralbank.ie/regulation/industry-market-sectors/brokers-retail-intermediaries/authorisation-process>

Any queries regarding the authorisation process should be directed to:

- [RIAuthorisations@centralbank.ie](mailto:RIAuthorisations@centralbank.ie)
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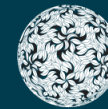
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# Fitness & Probity

Colm O'Connor

Regulatory Transactions Division, Central Bank of Ireland

06/07 November 2017



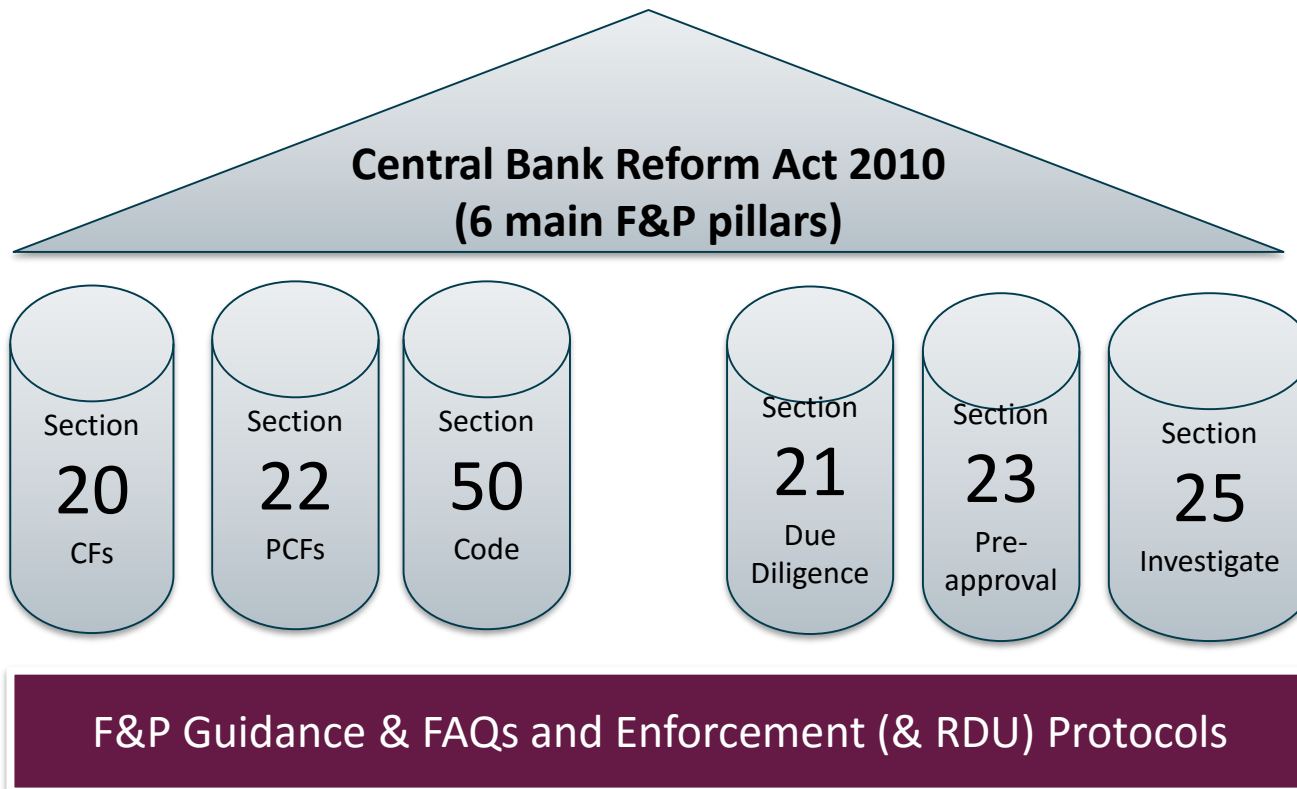
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## Agenda

1. Legislative Background (Key Pillars)
  2. Trends and Outcomes
  3. Due Diligence & Continuing Obligation
  4. Garda Vetting
  5. Contact Information
-



# 1. Legislative Background - The F&P Regime





Section  
20

- The Bank may make regulations prescribing controlled functions (CFs)

Section  
21

- Due Diligence: a person cannot perform a CF or PCF unless firm is satisfied they comply with Standard

Section  
22

- The Bank may make regulations prescribing pre-approval controlled functions (PCFs)

Section  
23

- Firm shall not offer to appoint a person to PCF role without **prior** written approval of the Central Bank

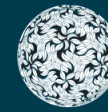
Section  
50

- The Bank may issue a code setting out standards of fitness and probity

Section  
25

- Statutory powers to refuse or remove a person from acting as CF or PCF





## 2. Trends to Date

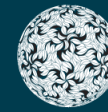


Consumer related industry sectors represented 25% of total IQ applications

57% formed part of an authorisation application

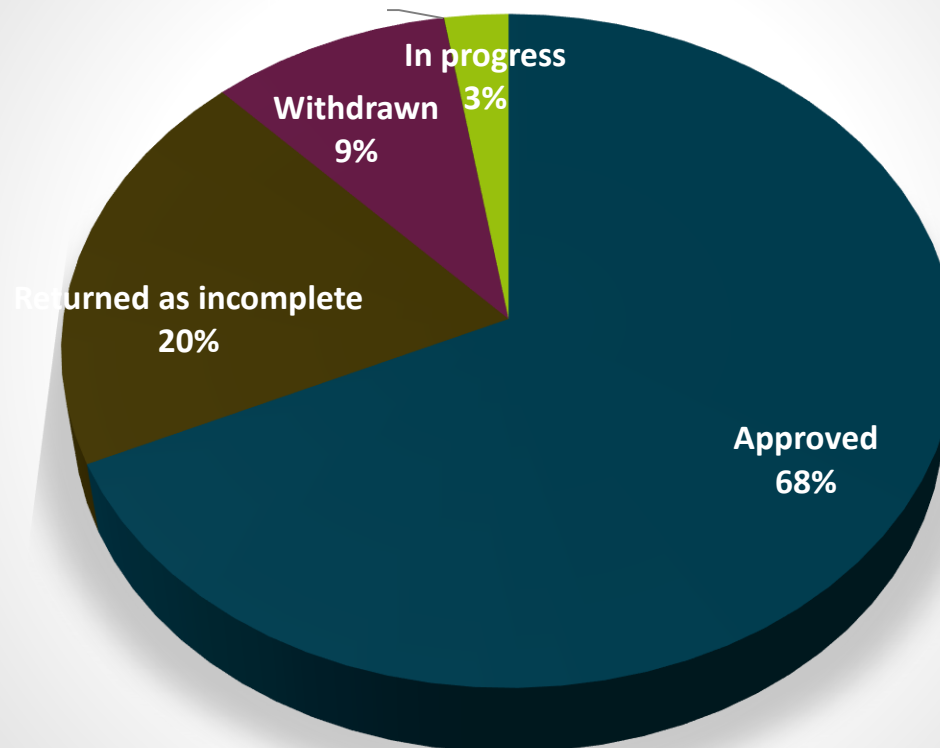


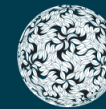
99% of applications\* completed in H1, 2017 decision within Service Standard targets of 12-15 days



## 2. Outcomes

2012-H1, 2017

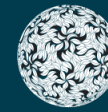




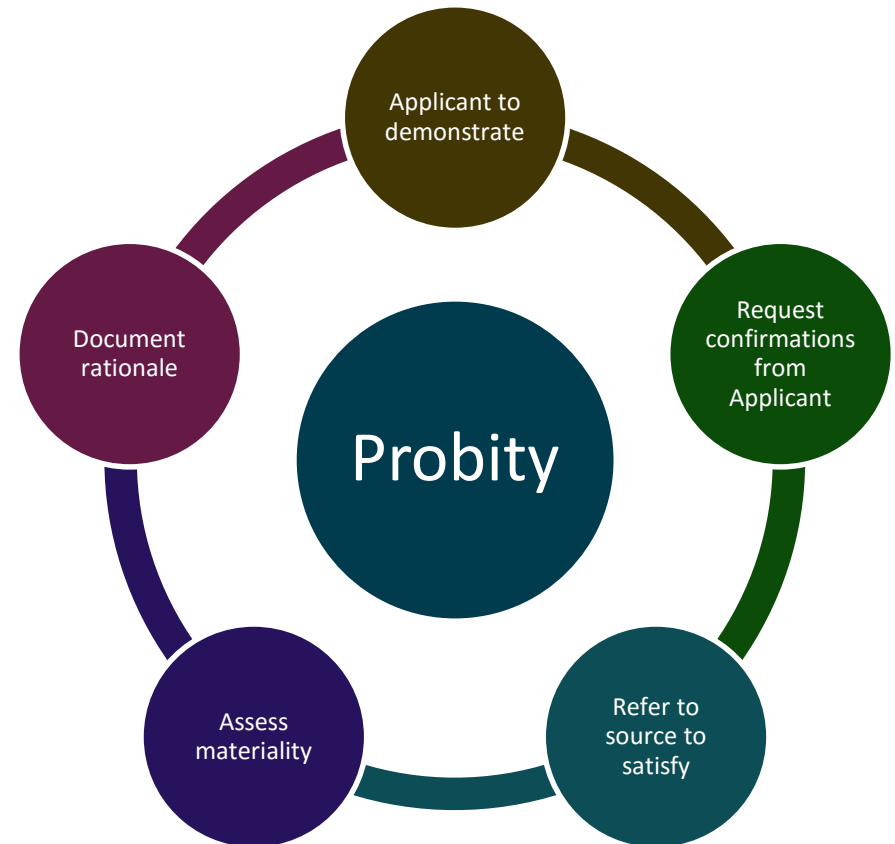
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## 3. Due Diligence & Continuing Obligation

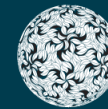
- Section 21 establishes a continuing obligation on firms to ensure compliance with F&P regime
  - Not a once off process discharged on commencement of appointment to CF or PCF role
    - e.g. Annual PCF Confirmation Return
  - Firms should require CFs / PCFs to notify it of material changes
  - A breach of Section 21 may result in the imposition of sanctions (which can be appealed to IFSAT)
-



### 3. Due Diligence (evidence of\*)



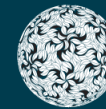
\*Information must be gathered and retained



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## 4. Garda Vetting

- Applies to Sole Traders and Single Director Companies
  - National Vetting Bureau requirements
  - On-line process implemented within Bank on 1 January 2017 – faster processing times
  - Complete form (and tick boxes) – info should mirror IQ
  - Accepted proof of identity:
    - **certified copy** of a current passport or **new version** of drivers licence;
    - New Learner Permit (new credit card format only); and
    - original letter/document confirming proof of address.
  - Rejection of IQ if GV incorrect / not received
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## 5. Contact Information

The Central Bank website has webpages dedicated to Fitness and Probity and the Online Reporting System

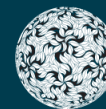
- Regulatory Requirements and Guidance; videos and “how-to” guides; On-going Compliance obligations; Half Yearly Performance Reports; User Manuals; Returns Guidance; ONR forgot password...

F&P Queries:

- Email a query to [fitnessandprobity@centralbank.ie](mailto:fitnessandprobity@centralbank.ie)
- Talk to the support team – F&P helpline 01 224 5333

ONR Queries:

- ONR self-service through Login page/Returns/Guidance
  - Submit a Query directly via ONR system
  - Email a query to [onlinereturns@centralbank.ie](mailto:onlinereturns@centralbank.ie)
  - Talk to the support team – ONR system helpline 01 224 4545
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# The Role of Enforcement

John Healy / Conway O'Hara

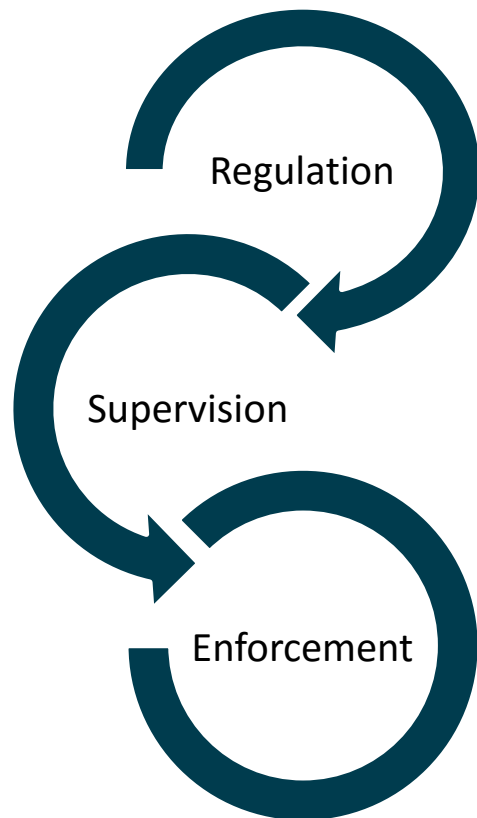
Enforcement Division, Central Bank of Ireland

06/07 November 2017





## Role of Enforcement in Financial Regulation



- Legislative Rules, Codes, Standards Underpinning Supervision and Enforcement.
- Risk-Based, Assertive Inspection and Supervision of Regulated Entities.
- Gatekeeping, Investigation and Enforcement Regime and Administrative Sanctions.



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## Types of Enforcement Action

- Administrative sanctions procedure
  - Fitness and Probity – Gatekeeper Interviews and Investigations
  - Refusal/revocation of authorisation
  - Reports to other agencies (such as the Gardaí, Revenue Commissioners or Competition and Consumer Protection Commission)
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## Why do we take Enforcement action against Retail Intermediaries?

- To ensure a credible threat of enforcement
  - To protect consumers by holding firms and individuals to account
  - To achieve high standards of regulatory compliance
  - To promote good culture and behaviour
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## Issues that have given rise to recent enforcement action against Retail Intermediaries

- Key risk indicators
  - Failure to maintain Professional Indemnity Insurance
  - Failure to submit Annual Returns
  - Breaches of the Consumer Protection Code
  - Fitness and Probity concerns
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## Focus on Fitness and Probity

**Section 21**

**Section 23**

**Section 25**

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## Firm's Due Diligence Obligation – Section 21

- A Firm has a due diligence obligation that a person carrying out a controlled function complies with the Fitness and Probity Standards
  - Competence, integrity and financial soundness
  - Guidance the Fitness and Probity Standards 2016
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## Gatekeeper Role - Section 23

- Prior written approval required before an individual can be appointed to a PCF function
  - Designed to prevent people who do not meet the F&P standards from taking up critical functions
  - Individuals may be called for interview to test their fitness and probity
  - Individuals must have the competence for the role (fitness), they must be honest and act with integrity (probity) and be financially sound (probity)
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## Investigations and Suspension/Prohibition - Section 25

- The Bank may carry out an investigation where there are reasons to suspect a person's fitness or probity
  - Following an investigation the Deputy Governor decides whether or not to prohibit a person from carrying out a controlled function
  - The Bank will issue a suspension notice where there is a urgent need to suspend a person from the industry.
  - Recent Prohibitions – Sole trader Insurance intermediary  
/Director of a Retail intermediary Firm/Manager of a Credit Union
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# Unauthorised Providers Unit ('UPU')

Marie Townsend / Ronan Scott

Anti-Money Laundering Division, Central Bank of Ireland

06/07 November 2017



## What does the UPU do?

- Identifies and investigates alleged instances of unauthorised activity carried out by individuals or entities who are not otherwise authorised or licensed by the Central Bank.
- Exercises the enforcement powers of the Central Bank in relation to unauthorised activity, where necessary.





# Categories of Unauthorised Activity





## Other Types of Queries/Complaints Received

- '419' scams
- Lottery scams
- Investments in gold (other precious metals), art, fine wine, carbon credits, property.
- Pyramid/Ponzi Schemes
- Virtual Currencies
- Crowdfunding/ Peer-to-Peer Lending





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## Sources of Complaints

- Members of the public (through contact form on Central Bank website, calls to the Central Bank's Public Contacts Unit, direct calls to the UPU)
  - Other Central Bank Divisions
  - Foreign Regulatory Authorities
  - Regulated firms
  - Gardaí or police in other jurisdictions
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## Example of a “Boiler Room” Scam (unauthorised investment firm)

- Firm “cold calls” a person and offers advice on the purchase (or sale) of shares in another company. Usually adopts high pressure sales tactics – e.g. limited offering, hostile takeover. Shares are either non-existent or worthless.
- Firm may advise that it is “authorised” by a bogus regulatory authority or the firm may have cloned the details of a legitimately authorised firm.
- Firm advises consumer that they have to pay an upfront fee for transaction to take place.
- Person invests (usually between €1,000 - €5,000) and does not hear from firm again.





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## Debt Management Firms

- Regime came into effect on 1<sup>st</sup> August 2013
  - The services provided by a debt management firm can include:
    - Providing advice to consumers on the discharge of debts, including the provision of budgeting advice in relation to the discharge of such debts;
    - Negotiating with consumers' creditors regarding the discharge of debt; and
    - Any other activity associated with the discharge of debt.
  - A firm authorised as a debt management firm will not be authorised to hold client funds except where it holds another appropriate authorisation such as an authorisation as a payment institution and/or a money transmission business.
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## Enforcement Options

- Publication of Warning Notices (prior to 1<sup>st</sup> August 2013, the Central Bank only had the power to publish a warning notice in relation to unauthorised investment firms/investment business firm);
- Issue a Direction to the unauthorised provider;
- Conduct an inspection of the premises of the unauthorised provider;
- Obtain a High Court Enforcement Order against the unauthorised provider; and
- Bring a summary prosecution against the unauthorised provider.





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## Consequences of Dealing With an Unauthorised Firm

- No recourse to the Investor Compensation Scheme.
- No access to the Financial Services Ombudsman.
- No rules in place to safeguard customer funds.

### UPU Contact Information

Email: [financial\\_crime@centralbank.ie](mailto:financial_crime@centralbank.ie)

Tel: 01 224 5213/01 224 4154

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# Questions?

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# Minimum Competency Code Review

Sharleen Foody

Consumer Protection: Policy & Authorisations, Central Bank of Ireland

06/07 November 2017



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## Agenda

1. Background
  2. Review of the Minimum Competency Code 2011
  3. Key Changes
  4. Summary
  5. Questions
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## 1. Background

- 2007: Minimum Competency Requirements
  - 2011: MCC replaced these requirements
  - 2016/17: Review of the MCC
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## 2. Review of the MCC 2011

- Public Consultation (CP106): Nov 2016 – Feb 2017
  - MCC 2017 and Minimum Competency Regulations published on 1 September 2017
  - Effective 3 January 2018
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## 3. Key Changes

- **Structure**
    - MCC 2017
    - Minimum Competency Regulations 2017
  - **Experience**
    - MiFID II investment products – From 3 January 2018 a 6 month experience requirement & a Certificate of Experience for new entrants
    - New obligation on regulated firms
-





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## 3. Key Changes

- **Product Design**
    - One person with material influence must meet MCC requirements for that product
  - **Board of a mortgage credit intermediary**
    - 6 hours of CPD each year
  - **Reinsurance**
    - 15 hours of CPD in relation to reinsurance or insurance each year
  - **Annual Review**
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## 4. Summary

- ✓ MCC 2017 and Minimum Competency Regulations 2017
  - ✓ Q&A available on Central Bank MCC Webpage
  - ✓ [competency@centralbank.ie](mailto:competency@centralbank.ie)
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# Questions?

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# Changes to the Code and IIA arising from MiFID II

Anna Murphy

Consumer Protection: Policy & Authorisations, Central Bank of Ireland

06/07 November 2017



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## Changes arising from MiFID II

Changes to:

- Consumer Protection Code 2012
- Investment Intermediaries Act 1995

Transposition of MiFID II into Irish Law

- Department of Finance consultation on MiFID II and IDD, June 2016
  - Department of Finance feedback, July 2017
-



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## Who and When?

- Effective date for all changes – 3 January 2018
  - The new requirements apply to regulated entities when providing certain investment services.
  - MiFID II imposes a new condition that firms which are exempt from MiFID must be subject to requirements that are aligned to specified requirements in MiFID II, including organisational and conduct requirements.
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## Code Addendum

- A requirement to either:
    - ensure the recording of telephone conversations or electronic communications leading to or intending to lead to a transaction; or
    - to follow up such telephone conversations with a written communication to the client confirming the relevant details of the conversation and providing the client with an opportunity to amend or withdraw an order;
  - Conflicts of interest requirements;
  - Information on products and target market;
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## Code Addendum

- Requirements relating to the provision of independent investment advice, including the prohibition on Article 3 firms accepting and retaining inducements (i.e. fees, commissions or other benefits) from third parties when providing independent advice.
  - Fair analysis of the market still required but with some additional requirements to be independent.
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## Code Addendum

- Information to be provided to customers in relation to the execution of orders;
  - Information to be provided to customers on costs and associated charges;
  - Requirements to inform customers whether the firm will provide periodic suitability assessments; and
  - Remuneration and incentives.
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## IIA Changes – Tied Agent Regime

- The Bank shall establish, update on a regular basis, and in such manner as it sees fit make available, a public register of tied agents.
  - Firms should report the proposed tied agency to the Central Bank.
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## IIA Changes – Tied Agent Regime

- A firm that appoints a tied agent remains fully and unconditionally responsible for any act or omission on the part of the tied agent when acting on behalf of the investment business firm.
  - A firm shall monitor the activities of the firm's tied agents, established or operating in the State, to ensure the firm's compliance with this Act when the tied agents are acting on behalf of the firm.
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## **IIA Changes – Information to be Provided on Authorisation**

- There are new requirements for firms seeking authorisation, which will be included in application forms.



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## Questions to Consider

- Have you reviewed and updated your Conflicts of Interest policy?
  - How will you meet costs and charges disclosure?
  - Will you provide independent advice? If so, what arrangements are in place to return inducements to customers?
  - Will tied agents act for your firm? If so, have you reported the tied agency to the Central Bank?
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## Code Addendum

- <https://www.centralbank.ie/docs/default-source/Regulation/consumer-protection/other-codes-of-conduct/addendum-to-the-consumer-protection-2012-code---august-2017.pdf?sfvrsn=6>
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# Anti-Money Laundering & Countering the Financing of Terrorism (AML/CFT)

Helen O'Neill & Ruairí de Burca

Anti-Money Laundering Division, Central Bank of Ireland

06/07 November 2017



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## Topics to Cover

1. Background and Context
2. Role of the Central Bank
3. Supervisory Strategy
4. 2017 AML/CFT Inspections- Main Findings & Expectations







# 1. Background and Context

## ❑ Money Laundering

- ❖ Disguise illegal origins

## ❑ Terrorist Financing

- ❖ Intended use
- ❖ Origins – legal or illegal



Costs of terrorist attacks are often small.

Funds used for obtaining weapons to carry out attacks on the *Charlie Hebdo* in Paris in January 2015 were relatively small and were obtained through the following sources:

- a €6,000 consumer loan, obtained with forged documents;
- an overseas used car sale;
- cash transfers linked to the sale of counterfeit goods.

It is estimated that the London bombings in July 2005 cost no more than **£8,000** to carry out.

The funds primarily came from Mohammad Sidique Khan who had been in full time employment as a teaching assistant prior to the attack.



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## 1. Background and Context

- ❑ Irish Times 6 June 2017 – Head of the Islamic Centre of Ireland warned that there are people in Ireland trying to spread hate online.
  - ❑ Irish Times 7 June 2017 – London Attack - one of the terrorists, a pastry chef, had been living in Dublin.
  - ❑ Attack in Stockholm, Sweden in April of this year, proved any Western country could be a target. Like Ireland, Sweden is a neutral country.
-



## 2. Role of the Central Bank

- ❑ Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended in 2013 (“CJA 2010”)
- ❑ Central Bank as the State’s competent authority must
  - ❖ effectively monitor
  - ❖ take measures that are reasonably necessary for the purpose of securing compliance
- ❑ 4<sup>th</sup> Anti-Money Laundering Directive





### 3. AML/CFT Supervisory Strategy- Onsite Inspection Process

- ❑ Request for Information
- ❑ Onsite Review
  - ❖ Interviews with key personnel
  - ❖ Sample of files
- ❑ Issue Preliminary Observations
- ❑ Issue Final Findings
- ❑ Ongoing Communication





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## 4. 2017 AML/CFT Inspections – Main Findings & Expectations

- i. Governance
- ii. Training
- iii. Customer Due Diligence
- iv. Suspicious Transaction Reporting





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## i. Governance - Findings

- ❑ Issues identified in regard to the role of the **Board/senior management** include:
    - ❖ Failure to demonstrate appropriate oversight of the AML/CFT function.
  - ❑ With regard to **Risk Assessment**, the following was noted:
    - ❖ ML/TF risks pertaining to the retail intermediary not adequately assessed at the outset or on an on-going basis.
    - ❖ Consideration/Approval by the board/senior management could not be evidenced
  - ❑ With regard to **Policies and Procedures**, the following was noted:
    - ❖ Not tailored to the business and practices of the retail intermediary;
    - ❖ Current practices and processes in place are insufficiently documented or absent from the policy and procedure;
    - ❖ Consideration/Approval by the board/senior management could not be evidenced.
-



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## i. Governance Structure – Central Bank Expectations

### □ Board/Senior Management

- ❖ Ability to demonstrate that there is a strong awareness of the AML/CFT legislation/regulatory requirements;
  - ❖ Ability to **demonstrate** that AML/CFT **discussion** and **challenge** takes place regularly at board meetings and is appropriately documented. Discussions should include:
    - Existing, new and emerging risks;
    - Approval of policy and procedures;
    - Review of qualitative and quantitative information contained within the MI reports;
    - Regulatory and legislative updates and the impact on the existing AML/CFT framework.
-



## i. Governance Structure – Central Bank Expectations

### ❑ Risk Based Approach

- ❖ A documented risk assessment is in place, which assesses product/services risk, customer risk, geographic risk and distribution risk.
- ❖ Supporting documented methodology determining the relevant risk ratings.
- ❖ Documented evidence of review of the risk assessment at least annually to identify any new and emerging risk factors.
- ❖ The risk assessment should outline controls and mitigating factors in place.







## i. Governance Structure – Central Bank Expectations

### ❑ Policies and Procedures

- ❖ Covers all aspects of the CJA 2010.
- ❖ Should be documented and relevant to the existing business/operations and practices of the retail intermediary.
- ❖ Should include the roles and responsibilities of key personnel involved in the AML/CFT function, including the MLRO.
- ❖ Subject to regular review and updated as required.
- ❖ Be able to demonstrate review and approval.





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## i. Governance Structure – Central Bank Expectations

### ❑ Money Laundering Reporting Officer:

- ❖ Necessary skills and expertise and autonomy to carry out the role effectively;
  - ❖ Sufficient time to dedicate to the role;
  - ❖ Involved in the development and ongoing review of the policy and procedures;
  - ❖ Produce an annual MLRO Report;
  - ❖ Act as point of escalation for AML/CFT issues;
  - ❖ Role in the review and reporting of suspicious transaction/activity reports;
  - ❖ Facilitate AML/CFT training for management and staff.
-



## ii. Training



**Section 54(6)** of the CJA 2010 requires retail intermediaries to ensure that staff, including Senior Management and members of the Board are:

- ❖ instructed on the law relating to ML/TF; and
- ❖ provided with on-going training.



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## ii. Training - Findings

- ❑ Failure to demonstrate that an effective monitoring plan is in place to ensure that all staff, including board members and senior management , have successfully completed the required AML/CFT training; and
  - ❑ Failure to demonstrate that the AML/CFT training provided is adequately tailored to the retail intermediary business activities.
-



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## ii. Training - Expectations

- ❑ Ensure that there is a process in place to effectively monitor that all staff, including board members and senior management, have successfully completed the required AML/CFT training;
  - ❑ Content is adequately tailored to the retail intermediary business activities;
  - ❑ Training content should be regularly reviewed and updated;
  - ❑ Copies of all such training materials must be retained and readily available;
  - ❑ Enhanced training is provided to staff in key AML roles to ensure their knowledge remains adequate and up-to date;
  - ❑ Induction training should include training on AML/CFT policy and procedures and legislative and regulatory requirements; and
  - ❑ Training completed on an annual basis or more frequently if required
-



### iii. Customer Due Diligence - Findings

- ❑ Non-adherence to policies and procedures;
- ❑ CDD processes insufficiently detailed or absent;
- ❑ Failure to demonstrate the application of the requirements of S33 and S34 of CJA 2010 in identifying and verifying customers, particularly in relation to specified products;
- ❑ Failure to demonstrate robust processes for the identification and management of potential PEPs at on-boarding and during the course of the business relationship; and
- ❑ Failure to demonstrate evidence of ongoing customer monitoring conducted.





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### iii. Customer Due Diligence – Central Bank Expectations

- ❑ CDD Policy and Procedures in place which reflect existing processes and practices and act as a clear set of instructions to enable staff identify and verify customers.
  - ❑ That the documented CDD procedure outlines the relevant CDD requirements which is applied taking into consideration the product type, customer type, jurisdiction and distribution channel.
  - ❑ Ongoing monitoring of customer relationships.
  - ❑ Consideration of the appropriateness of the application of S34 specified product exemption.
  - ❑ Process is in place which demonstrate how the Firm is complying with S37 of the CJA 2010 requirements and that the Firm's policy and procedure reflects the Firm's practices in relation to PEPs at on-boarding and during the course of the business relationship.
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## iv. Suspicious Transaction Reporting - Findings

- ❑ Weaknesses identified in the policy and procedures with respect to the STR process include:
    - ❖ Procedure does not act as a step by step instruction on the process to be followed in the event that an STR is to be raised;
    - ❖ No clarity on timelines in relation to raising an STR both internally and externally;
    - ❖ Tipping off and penalties associated with offences are not documented.
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## iv. Suspicious Transaction Reporting – Central Bank Expectations

- ❑ Documented procedures in place for reporting suspicious transactions internally and externally which should include:
    - ❖ adequate information for employees outlining their obligation to report;
    - ❖ guidance on how to sufficiently complete and submit such reports;
  
  - ❑ Training provided to all relevant personnel should:
    - ❖ be tailored to the retail intermediary;
    - ❖ include guidance and examples on matters that may constitute a suspicious transaction;
    - ❖ outline their obligations with respect to STR (including tipping off);
    - ❖ address associated penalties and fines; and
  
  - ❑ Appropriate records should be maintained of suspicious transaction reports generated internally and externally.
    - ❖ STRs reported externally must be reported to the Relevant Authorities as soon as practicable.
    - ❖ if an STR is not reported externally, the details of the assessment and rationale for not doing so to be documented and retained by the MLRO.
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## iv. Suspicious Transaction Reporting



- GoAML (<https://fiu-ireland.ie/Home>)

GOAML





Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

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**THANK YOU**

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Central Bank of Ireland

Eurosystem

# Industry Funding Levy

Karen O'Leary & Brendan Sheridan

Financial Control Division, Central Bank of Ireland

06/07 November 2017



1. Headlines
2. Funding the cost of Financial Regulation
3. Regulatory costs for the Retail Intermediary sector
4. Refresher – levy calculation basis
5. A number of income scenarios
6. Guidance – online regulatory returns
7. Engagement with Brokers Ireland
8. AOB – an update on civil debt collection processes

# 1. Headlines



Why? To recover a proportion of the 2017 cost of financial regulation

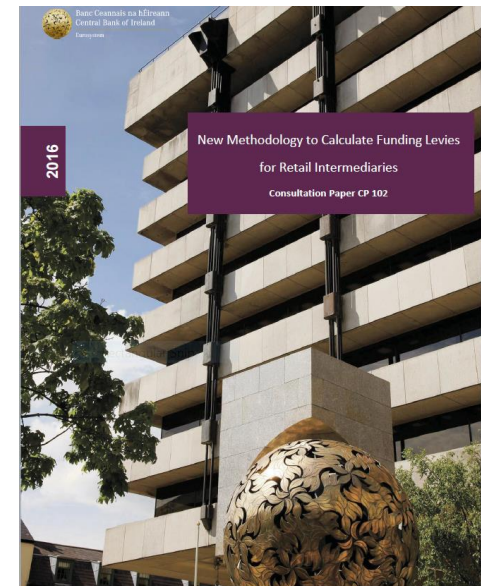
How? Minimum levy + variable element

When? Invoices issue early November

Cost? €932 minimum levy plus variable levy of 0.22% of turnover >€300k

## Special considerations for the Intermediary sector

- In 2016, in response to representations from IBA and PIBA, the Bank consulted with industry (CP102) and introduced a new methodology to calculate levies for the Retail Intermediary sector
- In 2017, recognising the impact of significantly higher regulatory costs on the sector, the Bank took a decision to maintain a subvention level of 50% for this sector (alone) as a transitional position – please note that subvention rates will be aligned with reduced subventions applicable to other categories from 2018 onwards



- 90% of Retail Intermediaries will continue to pay the minimum levy

## 2. Funding the cost of Financial Regulation



CP95 in 2015, joint Bank and Dept of Finance consultation  
*Funding the Cost of Financial Regulation*

### Feedback

- Tax payer should not subvent the cost of financial regulation indefinitely
- Industry call for greater clarity and transparency acknowledged
- A move to full industry funding should be phased in over a number years

### Response

- Methodology for levying R.I.'s changed in 2016 (CP102) and changes for some other categories were introduced in 2017 (CP108)
- Minister approved a phased increase, moving from 50% to 65% in 2017, Ministerial approval required for further increases in future years
- Annual Performance Statement will provide greater clarity and transparency
- Bank continues to target resources at areas of highest priority (cost control)

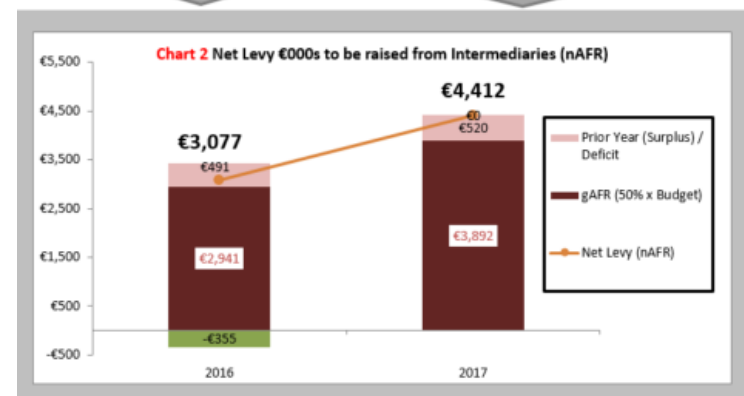
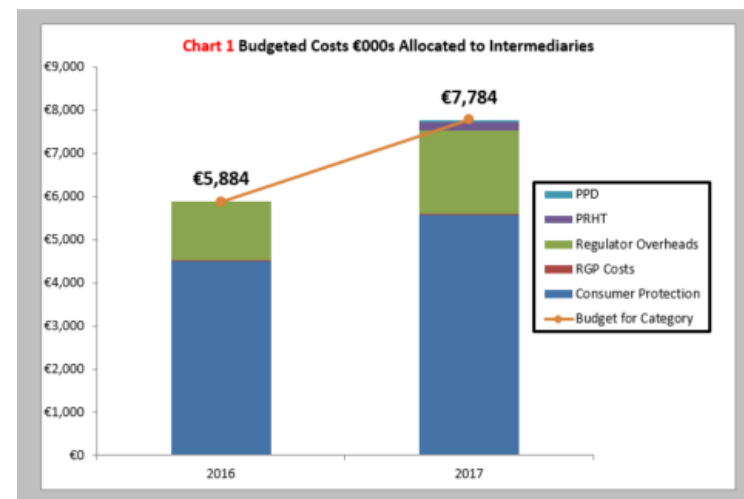


• Subvention level maintained at 50% for R.I.'s for 2017 – will align with others in 2018

### 3. Regulatory costs for R.I. sector



- Costs of regulating the sector are up in 2017
  - Driving an increase in the amount raised from industry
  - Notwithstanding retention of 50% subvention levels
- Costs reflect an increasingly onerous regulatory mandate
- Total cost of regulating R.I.'s is €7.8m
  - 50% subvention in 2017 reduces the amount being recovered to €3.9m
  - plus a shortfall of €0.5m for 2016, total €4.4m to be recovered from c2,400 firms



• Bank is conscious of impact of cost increases and has responded by maintaining subvention at 50% and ensuring most pay firms continue to pay minimum levy



## 4. A refresher - levy calculation basis



- CP102 methodology first introduced for 2016 levies

- » Minimum Levy: €932 *plus*
- » Variable Levy:  $(A - B) \times C$

For 2017:

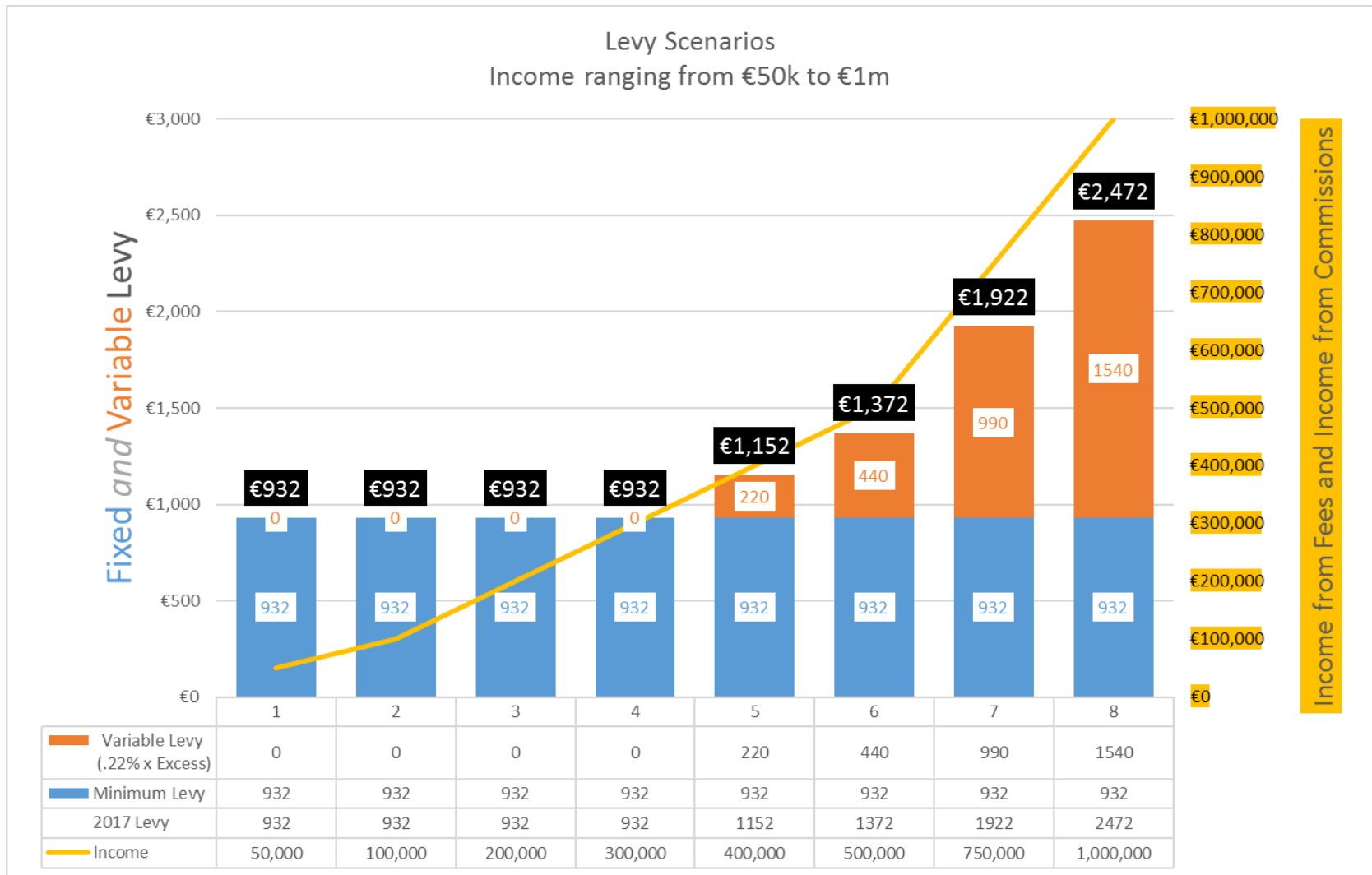
**A** = total 'Income from Fees' and 'Income from Commissions' (latest On-Line Regulatory Return);

**B** = threshold 'Income' level of €300,000;

**C** = 0.22%

- This formula is used to illustrate a number of levy scenarios on the next slide

# 5. A number of Income scenarios



- Firms with income up to a €300k threshold will pay the minimum levy of €932

## 6. Guidance - On-line Regulatory Returns



- You can...
  1. Check your details by logging on to Online Reporting System
    - Income from Commissions: Line 17 of Section 2: Financial Information of ONR
    - Income from Fees: Line 18 of Section 2: Financial Information of ONR
  2. Use the calculator on our website to check your 2017 levy
- Further information can be found in the 2017 Guide to the Industry Funding Levy or by emailing [funding@centralbank.ie](mailto:funding@centralbank.ie)

16	Gross Income/ Turnover	Value entered cannot be zero
17	Commission Income	
18	Fee Income	

- The ONR and the calculator on the Bank's website will help you to validate the 2017 levy

## 7. Brokers Ireland Engagement



- Industry perspectives raised, inter alia:
  - Regulatory costs, Regulation and Consumer Protection
  - Authorisation process
  - Proportionality
  - Strategic importance of Intermediary sector (Attract, Retain participants) and sensitivity to costs
  - For 2018, seek to recover more from variable levy in order to keep the minimum levy low
- Bank's perspective:
  - Industry challenges acknowledged but Bank cannot compromise on its regulatory mandate
  - Supervision increasingly intensive in response to international peer comparisons and IMF findings
  - International regulatory developments impact our mandate too (e.g. IDD, PSD2)
  - Enhanced inspections will give rise to regulatory actions in a number of instances
  - Significant focus on MGA's, European product sourcing, firms regulated in other member states, governance

- Industry perspectives and engagement welcome, more regular engagement planned;
- Bank cannot compromise on its regulatory mandate and will continue to move towards full industry funding

# 8. AOB: An update on civil debt collection



- Industry concerns about non payers
- Remedies now include:
  - District Court Judgements
  - Instructions to Sheriff
  - District Court Examination Order of means
  - Judgement Mortgage

- Seven judgements have been registered



### Of which

- 3 have entered into payment plans
- 4 have been published in Stubbs Gazette

- Non-payment is pursued through civil debt collection processes to avoid the paradox whereby compliant firms make good all shortfalls!

CBI0010033 Record No: 4180/2016

**AN CHUIRT DUICHE  
THE DISTRICT COURT  
DECREE (SUMMARY JUDGMENT)**  
(Excepting proceedings instituted in pursuance of Consumer Credit Act 1995)

District Court Area of Dublin Metropolitan District No: 0  
BETWEEN

**Central Bank of Ireland**  
Having its registered office at Dame Street, Dublin 2  
Claimant

-AND-

Operating his business from [REDACTED]  
in the County of City of Dublin and Court Area and District aforesaid  
Respondent

IT APPEARING

- 1) That a Claim Notice for a debt or liquidated money demand was duly served on the Respondent claiming €1,200.00 for unpaid levies due by the Respondent to the Claimant.
- 2) That the Respondent failed to serve and file an Appearance and Defence to the Claimant Notice.
- 3) AND IT FURTHER APPEARING by the Affidavit of [REDACTED] on behalf of the Claimant, verifying the said claim, sworn the 11<sup>th</sup> October 2016 and the Claimant's request for Judgment thereon that the Respondent is justly indebted to the Claimant in the sum of €1,200.00.

IT IS THEREFORE ORDERED AND DECREED that the Claimant recover from the Respondent(s) the said sum of €1,200.00 for debt together with the sum of €246.40 for costs.

And all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the Respondent(s) to satisfy the said debt, costs (and value added tax), and interest from the date hereof (exclusive of the costs and tax) – at the rate per annum for the time being standing specified in Section 26 of the Debtors (Ireland) Act 1840. from the 25<sup>th</sup> October 2016 to the 31<sup>st</sup> December 2016 and interest at the rate of 2 per cent per annum from the 1<sup>st</sup> of January 2017.

Dated this 6<sup>th</sup> day of February 2017

Debt	€1,200.00
Costs	€ 246.40
Credit	€ 0.00
Total	€1,446.40

**DISTRICT COURT** **JUDICIAL**

SIGNED   
Judge of the District Court.

SIGNED   
Hugh J Ward & Co, Solicitors for the Claimant  
9 Seville Place, Dublin 1



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# THANK YOU

Karen trained as a Chartered Accountant before joining the Central Bank in 1988. During her career in the Bank, she has held a variety of roles in Financial Regulation Supervision in her early career and in policy development.

Since 2008, Karen has been responsible for the Industry Funding Levy and other related activities.

Brendan joined the CBI in 2011 following a 30 year career in financial services. He trained as a Certified Accountant and, in 2017, completed a Masters in Business Practice in 2017.

He joined the Central Bank in 2011 and throughout the Troika era as Head of Credit in Banking Supervision Division, leading a team focused on the supervision and resolution of Non Performing Loans. In early 2015, he was appointed as Head of Function, Finance where his responsibilities include Financial and Management Accounts and Funding.

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## Contact Details

- Authorisations Queries
    - [riauthorisations@centralbank.ie](mailto:riauthorisations@centralbank.ie)
  - Fitness & Probity Queries
    - [fitnessandprobity@centralbank.ie](mailto:fitnessandprobity@centralbank.ie)
  - Online Reporting Queries
    - [onlinereturns@centralbank.ie](mailto:onlinereturns@centralbank.ie)
  - UPU
    - [financial\\_crime@centralbank.ie](mailto:financial_crime@centralbank.ie)
  - Competency Queries
    - [competency@centralbank.ie](mailto:competency@centralbank.ie)
  - Code Queries
    - [code@centralbank.ie](mailto:code@centralbank.ie)
  - Funding
    - [funding@centralbank.ie](mailto:funding@centralbank.ie)
  - General Queries
    - [brokers@centralbank.ie](mailto:brokers@centralbank.ie)
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