



IRISH FINANCIAL SERVICES  
REGULATORY AUTHORITY

THE FUNDING OF THE IRISH FINANCIAL  
SERVICES REGULATORY AUTHORITY

## Table Of Contents

Executive Summary	2
1. Introduction	4
2. High Level Funding Guidelines	7
3. Approach to Funding	8
Procedure for calculating the Levy	9
Transitional Timing Arrangements	10
Types of Funding Instrument	10
Allocation of Funding Requirement	10
Levy Structures	11
Collection of the Levy	15
4. Consultation Process	16

## Executive Summary

On 1 May 2003, the Financial Services Regulator was established as the single regulator for Ireland's financial services industry, combining the existing regulated entities. Under the Central Bank and Financial Services Authority of Ireland Act, 2003 the Financial Services Regulator is empowered to impose levies on regulated bodies to fund its activities. This consultation paper (the 'paper') sets out the main issues for consideration as to how our activities should be funded by industry from 2004 onwards.

We are committed to providing value for money and believe that the best way for us to deliver this is to develop a programme of 'best practice' reviews of our different supervisory activities. We are planning to carry out these reviews as part of our wider three-year Strategic Plan for the development of an integrated and streamlined Financial Services Regulator. We intend to publish this Plan before the end of the funding consultation.

In order to ease the burden on the industry in the initial period we propose to introduce the levy on a phased basis seeking only to recover €20 million in the first year. The extent to which costs will be recovered from the industry in the longer term will be guided by public policy considerations such as competitiveness and ability of industry sectors to pay for their own regulation. The total cost of regulation in 2004 is estimated at present to be in the region of €39 million, at current prices. However, this includes some start-up costs associated with setting up the new organisation structure. The "steady state" level of our total costs will only emerge as we develop our integrated structure and those start-up costs fall away.

As part of the consultation process we are inviting views on all aspects of the raising of funds to finance our work and in this context we have highlighted a number of specific questions on which we wish to receive views. These include the high level guidelines which we believe can act as an overall framework for considering issues in relation to industry funding. These specific questions should not be understood to restrict the scope for comments interested parties may wish to make on any funding matters.

To aid the process of consultation we have identified possible sources of funding and have outlined a proposed approach. The approach we propose is to group regulated entities into a number of industry sectors and allocate the proposed levy amount across these sectors taking account of the amount of regulatory work involved in supervising each sector.

It is suggested that two methods would be used to determine the levy to be paid by individual regulated entities. The particular method used would be determined by the type of entity.

- In the case of certain industry categories an annual charge would be determined primarily by reference to authorisation type and, where necessary, taking some account of relative size and regulatory work involved.
- In the case of the more complex entities, the levy would be related to the size of the institution and would be based on figures such as regulatory capital and gross premium income.

Initially, for 2004, invoices will be issued to regulated entities in mid-2004. Thereafter we propose that invoices will be issued annually in advance.

In setting out an approach, we have highlighted particular issues for consideration by interested parties such as the amount to be raised initially, the sectors into which the regulated entities may be categorised, the basis on which the levy for each sector might be calculated and the method of invoice issuance and the collection of the levy.

# 1. Introduction

- 1.1 We were formally established on 1 May 2003 as the single regulator for all financial services in Ireland. We are an independent component of the Central Bank and Financial Services Authority of Ireland and our responsibilities are clearly defined in the Central Bank and Financial Services Authority of Ireland Act, 2003.
- 1.2 Section 33J of the Central Bank Act 1942 ('the Act') as inserted by Section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003 empowers the Chief Executive of the Financial Services Regulator, with the agreement of the other members of the Irish Financial Services Regulatory Authority, to make regulations prescribing levies to be paid by regulated entities to the Financial Services Regulator. The purpose of raising funds is to enable the Financial Services Regulator to "have sufficient funds to enable it to perform its functions and exercise its powers". The regulations imposing levies will take effect only when they have been approved by the Minister for Finance.
- 1.3 We will be held accountable in relation to our work, the amount we propose to levy and the value for money that we offer:
  - Our first Strategic Plan will be published early in the New Year, following submission to the Minister for Finance, and before the consultation process is complete. We will report publicly on progress in achieving the targets that we have set and update the Plan accordingly;
  - We will subject our allocation of regulatory costs to independent assessment;
  - Our proposed estimates of income and expenses will be submitted to the Minister for Finance annually;
  - The industry and consumer panels will review our proposed estimates of income and expenses;
  - We will publish an audited annual Income and Expenditure statement;
  - Our annual report will be submitted to the Minister for Finance and will be laid before both Houses of the Oireachtas;
  - Senior Officers of the Financial Services Regulator can be called to appear before a committee of the Oireachtas.

1.4 We are committed to providing value for money. We are developing a programme of 'best practice' reviews of our different supervisory activities. We are proposing to carry out these reviews as part of our wider plan for the development of an integrated and streamlined Financial Services Regulator as set out in our forthcoming Strategic Plan.

1.5 This strategy is designed to complete the transition from the previous regulatory structure. It aims to tackle the broad range of regulatory issues facing us in a structured and effectively prioritised way. Our aim is to build on our strengths as a single regulatory body to deliver a regulatory framework which supports an orderly, fair and competitive financial services marketplace.

Our three key mandates are:

- Helping consumers to make informed choices through education and codes of practice in a fair financial services market.
- Having a regulatory system that fosters safe and sound financial institutions while operating in a competitive and expanding market of high reputation.
- Developing an appropriate regulatory system for credit unions.

1.6 We have a strong body of staff, expertise and resources available to us. We are now building a single, integrated organisation to fulfil our mandate efficiently and effectively. We have identified the following as key areas on which to focus in order to achieve the above objectives:

- Developing an adaptable, efficient and flexible organisation with motivated and skilled staff;
- Continuously enhancing and developing the regulatory system;
- Aiming for best practice;
- Implementing the industry funding regime.

1.7 Specific strategies have been formulated to achieve these goals and detailed actions have been mapped out. We will measure our performance against these targets. We will report publicly on progress to ensure that we can be held accountable for the use we make of our resources. We will ensure that our practices compare favourably with international standards. We will also review our Strategic Plan annually over the three years during which it will be implemented in the light of progress and the emergence of new challenges.

1.8 The manner in which funds will be raised is the subject of this paper. It is an opportunity for all parties with an interest in the financial services industry to put forward their comments on this issue.

1.9 We wish to receive the views of interested parties on all aspects of the raising of funds from the industry, including responses to the following questions:

- Are the high level guidelines as set out in this paper appropriate and comprehensive?
- Is the suggested approach to the funding of the Financial Services Regulator generally appropriate both in overview and for each sector?
- How could the proposed approach be refined?
- What alternative funding mechanisms, if any, should the Financial Services Regulator consider?
- What considerations in relation to the collection of levies should the Financial Services Regulator take into account in developing its collection system?

## 2. High Level Funding Guidelines

2.1 We believe that it is useful to outline a set of high-level guidelines and seek views in relation to these guidelines. Such guidelines can act as an overall framework for considering the system of industry funding.

2.2 The suggested guidelines are detailed below:

- We should have sufficient funding to discharge our responsibilities fully;
- We are committed to providing value for money and to operating in an efficient and effective manner in all our work in order to minimise the amount of the levy;
- The level of charges should not have a disproportionately negative impact on domestic competition and international competitiveness;
- The allocation of our funding requirement between different regulated sectors should generally take account of the differing levels of regulatory work as between different sectors;
- The collection of levies should be arranged so that the collection system is as efficient and practical as possible for regulated entities and the Financial Services Regulator.



## 3. Approach to Funding

- 3.1 Our total funding requirement will be determined by the resources needed to discharge our responsibilities. For the remainder of 2003 the Minister for Finance has approved the funding of the Financial Services Regulator by the Board of the Central Bank and Financial Services Authority of Ireland.
- 3.2 The Act allows for two possible sources of funding, namely the industry and the Board of the Central Bank and Financial Services Authority of Ireland. The Act provides that any shortfall in the amount raised from levying the industry may be met by the Board of the Central Bank and Financial Services Authority of Ireland in accordance with the provision of the Act.
- 3.3 Certain sectors which are regulated by us already contribute to the funding of their own regulation.
- 3.4 The extent to which our costs will be recovered from the industry in the longer term will be guided by public policy considerations. We are seeking the views of interested parties on those considerations under the following headings:
- The effect of the levy on competitiveness;
  - The ability of each industry sector to pay for its own regulation;
  - Whether all Financial Services Regulator costs are part of the regulation of the industry;
  - The implications for the industry of the equitable treatment of different financial services providers.
- 3.5 Having considered views put to us, we shall then report these views to the Board of the Central Bank and Financial Services Authority of Ireland and to the Minister for Finance to facilitate them in exercising their respective functions.
- 3.6 Meanwhile we are proposing to charge €20 million in 2004. The total cost of regulation in the first year of the levy is estimated at present to be in the region of €39 million, at current prices. This covers the regulatory work which has previously been carried out by the Central Bank, the Department of Enterprise, Trade and Employment, the Consumer Credit section of the Office of the Director of Consumer

Affairs and the work in relation to credit unions of the Office of the Registrar of Friendly Societies. It also covers the new regulatory role given to the Authority in relation to consumer protection, information and education. Start-up costs associated with setting up the new organisation structure are also included. The “steady state” level of our total costs will only emerge as we develop our integrated structure and those start-up costs fall away.

- 3.7 The purpose of presenting a proposed structure at this time is to facilitate detailed comments concerning the issues associated with industry funding. While we see a strong case for a structure of the kind outlined here, alternative approaches are not being ruled out at this stage.

### Procedure for calculating the Levy

- 3.8 In principle, it is our view that regulated entities would be charged annually in advance, using the budget of the Financial Services Regulator as a guide to calculate the funding requirement to be paid by each sector. Our budget for a particular year (which would be finalised towards the end of the previous year) would be used to calculate the proportion of projected costs to be incurred in supervising each industry category. The levy amounts for individual firms would then be derived from those proportions.
- 3.9 The calculation of the levy amount would be made as follows: regulated entities would be grouped together into a number of industry sectors as detailed in Section 3.13, Table 1. Once all the relevant budgeted costs are estimated, such costs would then be allocated to each industry category. The process of allocation would take into account the regulatory work involved in supervising that sector. Finally, the costs are then allocated across the individual regulated entities in those categories.
- 3.10 The regulations<sup>1</sup> would issue early in the year to which the levy applies, with invoicing as soon as practical thereafter. The intention is that the general form of the levies as set out in the regulations would tend to remain relatively constant from year to year with the rates varying as budgeted regulatory costs vary. This preferred approach is, of course, subject to ongoing refinement to ensure that the structure of the levy continues to be consistent with a dynamic financial services industry, delivering high quality services to customers.

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<sup>1</sup> The regulations are the statutory instrument that details the exact amounts/rates that regulated entities are to be charged. These regulations would only come into effect once approved by the Minister for Finance.

## Transitional Timing Arrangements

3.11 For 2004, some transitional arrangements will apply in relation to the timing of invoicing firms. As the regulations will not be prepared until this consultation process is completed, we plan, exceptionally, to be invoicing institutions from the middle of 2004 instead of at the beginning of the year.

## Types of Funding Instrument

3.12 This consultation is based on the assumption that the only industry funding mechanism used is periodic levies. It is possible that this dependence on periodic levies might be reduced by introducing other fees for demand-driven services. We will consider proposals in that regard.

## Allocation of Funding Requirement

3.13 The allocation of the proposed 2004 industry funding requirement of €20 million is set out in Table 1, based on our interim allocation of the cost of our work. The approach is dependent on the following key points:

- Regulated entities which have their head office in Ireland and are not subject to significant regulation from overseas regulators should be subject to a higher charge to reflect the regulatory effort and risk arising in relation to them;
- Regulated entities which do not have domestic retail customers should not contribute to the cost of domestic consumer protection;
- Intermediaries should not contribute to the cost of prudential regulation of product producers.

## Table 1

Allocation of Funding Requirement by Industry Category

Category	Description	Total €000s	Total %
A	Credit Institutions	5,900	29.50
B	Insurance Undertakings (Including Life and Non Life Insurance)	4,600	23.00
C	Intermediary Firms	1,775	8.87
D	Securities and Investment Firms	2,775	13.87
E	Collective Investment Schemes (CIS)	2,160	10.80
	Service Providers to CIS <sup>2</sup>	950	4.75
F	Credit Unions	1,400	7.00
G	Moneylenders	130	0.65
H	Approved Professional Bodies	30	0.15
I	Exchanges	35	0.18
J	Mortgage Intermediaries	200	1.00
K	Bureaux de Change	45	0.23
Total		20,000	100%

## Levy Structures

3.14 We are considering imposing two types of levy:

- An annual charge to apply to regulated entities by reference to the nature of their authorisation;
- An annual charge based on the volume of a regulated entity's business.

3.15 In the case of the first type of levy, we are considering taking the approach that where regulatory effort does not vary significantly with the size of firm, the burden placed on such firms to collect and hold data used to calculate levies will be minimised. This is relevant in many cases where there are a large number of entities, such as intermediaries and collective investment schemes.

<sup>2</sup>Includes Management Companies, Administration Companies and Trustees.

3.16 In these cases, a charge based on authorisation-type would be appropriate. The primary consideration here is that a charge based on the size of the entity would involve the imposition of a disproportionate burden on certain firms to report specified, detailed financial information to us. Many small firms have no other management requirement to generate the information that would be required by us and, consequently, would not have the necessary information systems in place to generate this information in a cost-effective manner. We believe firms would benefit from not being required to generate such information solely for the purposes of levy calculation. Furthermore, the cost of collection, maintenance and review of such information within the Financial Services Regulator would be an additional source of regulatory costs. Finally, in relation to those kinds of regulated entities, the annual regulatory work is often of a fixed and predictable nature. In those sectors, the amount of work done by us does not always vary proportionately to the size of the firm. For all these reasons, the proposal under consideration is that firms would pay an annual levy based on type of authorisation.

3.17 For example, multi-agency brokers would pay a basic amount while Authorised Advisers would pay a higher fee.

3.18 Another example is Collective Investment Schemes ('CIS'), which could be charged an annual levy per authorisation. The structure of the levy could, in this case, also reflect the use which is made of an 'umbrella' structure. An amount could be charged for each sub-fund with a limit on the number of sub-funds to which such a charge would apply, thereby capping the fee.

3.19 The sectors to which we propose to apply an annual charge by reference to type of authorisation are:

- Intermediary Firms (Investment, Insurance, etc.);
- Exchanges;
- Collective Investment Schemes;
- Money Lenders;
- Approved Professional Bodies (under the Investment Intermediaries Act, 1995);
- Mortgage Intermediaries;
- Bureaux de Change.

3.20 The simplest method is to apply a 'flat fee' annual levy to each type of authorised entity. However, we are interested in receiving views on how such a levy based on authorisation type should be structured in each case.

3.21 In the case of the second type of levy referred to above (paragraph 3.14), we propose to introduce a charge which varies in accordance with the size of the individual firm, based on figures such as regulatory capital and gross premium income. We are conscious that this type of levy could impose a more significant administrative burden on regulated entities. However, such an approach is likely to be more appropriate in those cases because the level of regulation is closely correlated to the size of the regulated entities and the information submitted by these entities to us for regulatory purposes (e.g. detailed monthly, quarterly or annual returns) is of a standard appropriate for the calculation of the levy.

3.22 The sectors to which it is proposed to apply such a charge are:

- Credit Institutions;
- Insurance Undertakings;
- Securities and Investment Firms<sup>3</sup>;
- Service Providers for CIS;
- Credit Unions.

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<sup>3</sup>This group of institutions is made up of large investment firms and stockbrokers

3.23 In the cases of banks and insurance companies, it is proposed that this charge would break down into two parts:

- A domestic retail consumer protection charge;
- A prudential charge.

3.24 In each case, it seems appropriate to base the retail consumer protection charge on the level of retail activity in Ireland. In relation to the prudential charge - taking the case of banks - a charge could be based on regulatory capital. In the case of the insurance sector where gross premium income is already being used, it is envisaged that this practice would continue. Complex financial groups pose additional challenges and risks from a prudential supervision viewpoint. In the case of those complex groups where the Financial Services Regulator is the lead regulator and the group submits figures for global regulatory capital, this group capital figure could be used as the basis for calculating the prudential regulation charge. The need for a minimum charge is also being considered as part of the application of the second type of levy.

3.25 In relation to Securities and Investment firms, the charge could be based on the level of gross fee income or turnover generated by the regulated entities from regulated activities.

3.26 In relation to Service Providers for Collective Investment Schemes a prudential charge could be based on the level of business undertaken by each firm.

3.27 In the case of credit unions a variable charge based on the level of gross assets is currently charged. We propose to continue with this approach.

## Collection of the levy

- 3.28 As there are a significant number of regulated entities, the issuance of invoices and collection of levies will be a substantial exercise. Accordingly it is intended to put in place procedures to ensure that invoicing operates in an efficient and effective manner.
- 3.29 It is not appropriate that other regulated entities should bear the additional costs arising from late payment by individual firms. Prompt payment of amounts due and the use of electronic payment methods will greatly reduce the level of administration that will be required and, therefore, the cost of the levy system to the industry. Prompt payment will be encouraged by the imposition of additional charges where levies are paid more than 35 (or more than 65 days) after the due date.
- 3.30 Other matters being considered include the extent to which the payment of the levy can be incorporated with submission of existing returns or reports to the Financial Services Regulator in the ordinary course of business. This could minimise the administrative burden for all parties by integrating the payment into existing processes. This approach is exemplified by Insurance Undertakings who submit their periodic payment when they submit their annual returns.
- 3.31 While it would be preferable for payments to be received early in the financial year, we will consider views on the precise timing of payments if there is an alternative which can be justified in terms of minimising the administrative burden on both the Financial Services Regulator and the regulated entities.
- 3.32 We request views on how the collection of the levy can be organised in an efficient manner for regulated entities and will take such views into consideration along with other factors relevant to the effectiveness of collection and our own systems requirements.



## 4. Consultation Process

- 4.1 The closing date for submissions will be 20 February 2004. Comments are welcomed from all interested parties. Submissions should be in writing, and should also, if practical, be provided in electronic format by e-mail or on disc.
- 4.2 To facilitate the efficient handling of submissions, respondents are requested to use a standard format. The issues raised in a submission should be categorised into general and specific categories. The general issues should be set out first in the submission and should deal with the principal concerns of the respondent. The second part of the submission should present the detailed points that the respondent wishes to raise relating to the contents of the paper. When addressing a specific issue that has been raised in this paper, the corresponding paragraph numbers in the paper should be used to identify the section being referred to. (A submission template has been prepared and is available on our website [www.ifsra.ie](http://www.ifsra.ie)).
- 4.3 We place a high value on the transparency of the consultation process. Consequently, it is our intention to make submissions publicly available on our website after the deadline for the receipt of submissions has been reached. Parties are advised not to include commercially sensitive material in submissions. Where a party making a submission considers it essential to a submission that commercially sensitive material be included, such material should be clearly highlighted. Where parties reasonably represent material contained in submissions to be commercially sensitive, we will take such steps as we consider reasonable to avoid publication of that material. To this end, we will endeavour to publish submissions with the relevant sensitive material deleted. Deletions will be indicated.
- 4.4 However, notwithstanding the approach outlined in the paragraph above, we make no representations to the effect that material which a party making a submission considers confidential will not be published and all parties making submissions do so on the basis that they consent to the publication of their submissions in full.



ÚDARÁS RIALÁLA SEIRBHÍŚÍ  
AIRGEADAIS NA HÉIREANN

All submissions should be sent to:  
Funding Consultation  
Irish Financial Services Regulatory Authority  
P.O. Box 9138  
College Green  
Dublin 2  
Email: [redpolicy@ifsra.ie](mailto:redpolicy@ifsra.ie)

Submissions should be addressed to the Financial Services Regulator at the above address. If a pattern of queries is identified on a particular issue, a supplementary information note may be issued during the consultation period. If further copies of this paper are required or if you need assistance to make a submission please call 1890 923 802.

Following the completion of the process, the Authority will submit its proposals for regulations imposing funding obligations on regulated bodies to the Minister for Finance for approval, as required by the Central Bank of Ireland Act, 1942 as amended by Section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003.

We see this consultation process as part of our wider dialogue with all parties concerned with the regulation of the financial services sector. Consequently, we will continue, on an on-going basis, to welcome comment and submissions on our approach to funding.