

By Email – levyconsultation@centralbank.ie

Funding Levies Consultation 108 of 2017,
Central Bank of Ireland,
PO Box 9708,
New Wapping Street,
North Wall Quay,
Dublin 1.

18th May 2017

Re: New Methodology to Calculate Funding Levies – Consultation Paper 108

Dear Madam/Sir,

We welcome the opportunity to comment on this Consultation Paper regarding a New Methodology to Calculate Funding Levies.

The Irish Funds Industry Association (“Irish Funds”) is the representative body of the international investment funds community in Ireland, representing fund managers, custodian banks, administrators, transfer agents, professional advisory firms and other specialist firms involved in the international fund services industry in Ireland.

Given Ireland’s strong reputation as a leading centre for the domiciliation, management and administration of collective investment vehicles (with industry companies providing services to collective investment vehicles with assets totalling in excess of €4.1 trillion) we acknowledge the importance of an effective and well-reputed regulatory environment. As a proven part of Ireland’s international financial services offering our industry has been a consistent and growing part of the internationally traded financial services landscape for over twenty-five years.

Our comments in this letter relate specifically to investment firms and fund service providers and we note the confirmation in the Objectives section of the Consultation Paper that the revised methodologies do not increase the aggregate amounts levied from each sector but propose revised allocations within each sector.

Methodology and Process

At the outset we acknowledge the letter from Deputy Governor Roux dated 4th April 2017 providing additional helpful context with respect to the potential impact of the proposed new methodology. Additionally, it is appreciate that regulated entities can now, on request, receive the details of their PRISM impact score (“PIS”). This development was immediately helpful in that it enabled firms to assess what their 2016 levy would have been under the proposed new methodology and better understand the impact of the proposed changes.

In general we are supportive of a move from impact categories to impact scores and continuous levying as a means to determine an entities regulatory levy. This avoids a threshold effect (where a firms impact category changes) and means the regulatory levy is more aligned with changes in a firms business activity.

The current approach to levies is based on PRISM impact categories (5 categories) and due to the low number of categories, movement between categories is likely infrequent and regulatory levies and income are relatively predicable for both firms and the Central Bank respectively. However, given the proposed approach moves to further align the cost of regulation more directly with a firm's business activity (and in turn changes to firms PIS) this seems to result in a funding model which is much more sensitive to market movements and is perhaps less correlated with the underlying cost of regulation.

Given this increased sensitivity and increased potential for regulatory levies to alter year on year we believe it important that there be a greater level of transparency as to how the impact scores are computed. We believe that some of the inputs to the PIS score itself should be shared with firms so that they can understand some of the drivers for the score, and ultimately the fees. This would assist not just with the transparency of the calculation but also assist firms with their budget planning as it would allow firms understand how changes in the size and nature of their business may impact their regulatory levy.

We have set out below some suggestions as to how the process might be improved;

- Firms have been given their PRISM impact scores upon request. Regulated entities should be given their PRISM impact scores at least annually and if/when it changes. Furthermore as a change in PRISM impact score can have cost implications it would be important to understand how and when these scores are changed with an appropriate period of notice of any change in score.
- The PIS is a single numerical value, with little detail on the basis of its calculation. We believe the process should benefit from more transparency on the score itself. This would allow entities structure themselves so as to manage their risks and their PIS, and ultimately their fees.

Broadening of the revenue base

We note the consultation proposes an extension of the entities subject to regulatory levies, in particular to include EEA Investment Firms and EEA Fund Service Providers. We presume that any broadening of the revenue base will offset the costs levied from the Irish Investment Firm and Funds Service Provider firms. Additionally, we understand it is the Central Bank's intention (possibly later in the year) to introduce (fund) application fees and as this would be a further broadening of the revenue base should also offset current regulatory levies.

Any assessment of regulatory costs should also take into account the broader positive fiscal impact of activity being undertaken in the State and should include the revenues which accrue to the Exchequer from the regulated funds activity which occurs in Ireland. We believe there needs to be a much broader and holistic view of the total benefit to the State from the activities of regulated entities as opposed to focusing on one aspect, i.e. funding the regulator.

Accountability

The importance and value of a robust and effective regulatory environment via the services which the Central Bank provide is acknowledged and understood by industry. Equally, the level of scrutiny which applies to all institutions (whether public or private sector) is increasing and part of this appropriately falls on the areas of cost management and value.

It is understood that the business of regulation is a complex area and requires funding to provide services. This is the same with regulated entities who provide services within an environment where the composition and trajectory of costs is a central management concern. We therefore believe that appropriate mechanisms should exist to enable transparency on how the cost/value dynamic is being measured and managed to deliver effective and efficient services on a multi-year basis.

There should be a multi-year budget approach so firms can incorporate costs for future years with reduced volatility. Year on year changes to the overall costs of regulation is something the Central Bank should, like any other business, plan and budget for and be in a position to communicate to regulated entities. The “business” of providing regulatory services and oversight, like other activities requires medium to long term planning – this doesn’t remove the possibility that things change but creates a base of expectation for planning. Regulatory levies are an important, and in a number of cases, not insignificant part of regulated entities cost base.

Furthermore benchmarking against the approach in other jurisdictions should be considered, to ensure the approach to financial regulation, and therefore the related costs, continues to be appropriate. We propose the establishment of a body comprised of public sector officials, industry representatives and Central Bank representatives which would be tasked with monitoring and providing input to the Central Bank (be that Executive Management or the Commission) as regards the progression of service delivery and related costs. Alternatively, a body like the Comptroller and Audit General could have a role in providing an independent assessment of cost control within the Central Bank.

As a practical operational matter we suggest there should be a mechanism in place to ensure appropriate engagement on fee increases. We would suggest Ireland follow other jurisdictions in their annual consultation and transparency with regard to regulatory levies, such as the Financial Conduct Authority in the UK. For example, in July 2013 the FCA published “How we raise our fees” which sets out in detail the FCA’s fee raising policy. The FCA publishes their annual Business Plan and Risk Outlook each March. This sets out their statutory objectives and strategic priorities. At the same time they publish their annual consultation paper on their periodic fees for the following financial year (1 April to 31 March).

Central Bank Fines

As set out in our previous submission¹ we re-iterate our understanding that monetary proceeds of fines and sanctions arising from financial regulation activity are returned to the Exchequer gross. We believe the manner in which regulatory fines and sanctions are dealt with is relevant and should be used to offset the cost of regulation rather than ring fenced and remitted to the Exchequer.

¹ Letter dated 25th September 2015 in response to Public Consultation on Funding the Cost of Financial Regulation

Fines/sanctions that are a direct consequence of regulatory activity should be used to offset the costs of financial regulation. There are two specific reasons why we believe this is appropriate;

- Fines and sanctions arise from programs of regulatory activity which are currently 50% funded by all regulated industry entities. Diverting the proceeds of such activity back to the Exchequer gross means that compliant firms are in effect subsidising the cost of those who are not. This is inequitable and also means that the effective proportion of funding provided by industry is in excess of 50%. Any offset to the costs of financial regulation should be returned to the general pool, thereby reducing the burden of cost of all those who fund the regulator (public and private sector) proportionately.
- There appears no direct or indirect risk underwriting provided by the State to the funds industry as a consequence of regulatory or financial problems so there is no justification to provide another separate source of income to the Exchequer.

Additional observations

- We would note that the levies charged have increased significantly in the last 5 years and are now multiples of what they were in 2012. We are concerned with the scale of the increases in regulatory costs and the absence of any mechanism that can facilitate pre budgeting for these levies by regulated entities with any degree of certainty.
- The Government has committed to grow and develop the financial services sector as highlighted by the IFS2020 Strategy where there is a commitment to the creation of at least 10,000 net new jobs in the international financial services sector by the year 2020. To achieve this all elements of our international financial services infrastructure needs to remain cost competitive, including the cost of regulation. Therefore the funding mechanism needs to be mindful of the costs of competing jurisdictions to ensure the charges applied do not put Ireland at a competitive disadvantage.

We hope you find these comments helpful, and we remain at your disposal to discuss the issues raised in this response further.

Yours faithfully,



Pat Lardner
Chief Executive