Appian
asset management

Levy Consultation
Industry Funding
Financial Control Division
Central Bank of Ireland
PO Box 9708
Dame Street
Dublin 2

22 February 2013

Re: CP61 Consultation on Impact Based Levies and Other Related Matters

Dear Sir/Madam

Please find the response of this firm to the funding proposals outlined in CP61 attached.

Yours faithfully

Brian Cahalin
Head of Compliance

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Response to CP 61 Questions

8.1 Do you agree with the Central Bank's proposal to use firms' impact categorisation under PRISM as the basis for the setting of the levies it charges regulated entities on an annual basis? If you disagree, what would you propose instead?

Overall Approach

As a measurement tool the use of the Prism impact categorization is not entirely appropriate as it is does not take account of other inherent risks associated with regulated businesses and only provides an indication as to how a certain proportion of costs are allocated.

There is a lack of transparency in the documents available as to the interrelationship between different industry sectors and the proportion of income generated from different sized firms. While the 'Prism Explained' document sets out the metrics being used to assess each industry category, it does not explain how the interrelationship between the categories is arrived for the purpose of allocating cost to different sectors and within those sectors. For example, it is not clear how the costs will vary across different categories (e.g investment firms and retail banks) or across sub categories (e.g. an Investment Firm versus a proprietary trading Stockbroker.)

Recognition of Inherent Business Risks

By trying to utilize a single measurement across all sectors there is no account of real underlying risks. For example 'Assets Under Management ' is seen as a significant metric. While this has an obvious relevance, as it is currently set out, it does not consider how those assets are held. A firm which utilizes an independent custodian to hold assets and provide independent valuations will be subject to the same fee structure as one that performs all of these functions in house. The latter firm will have manifestly greater risk.

Another example of this would be that there is no transparency as to the distinction between firms which trade their own capital and those that do not and how this impacts on the levy.

The categories a firm fits into will also lead to a number of anomalies in circumstances where an investment firm operates both segregated/managed accounts as well as collective investment schemes. By managing assets in a collective investment scheme smaller clients are provided with greater security and efficiency as against managing assets in segregated accounts. The result of this is that such firms are categorised as a CIS Fund Service Provider and a Securities and Investment Firm and will have to pay a charge for both. If the same group of securities for smaller clients was in individual managed/segregated accounts, the regulatory fee would reduce but clients would pay substantially more to hold the same basket of securities and the risks to them would increase. In addition the operational risk for the firm, of managing a significant number of additional portfolios, would increase substantially. This approach to categorisation penalises such firms.

Quantum & Certainty of Costs

On a more general note, there is a need for greater certainty as to the forecast costs for the coming years. This firm has seen regulatory costs increase by 555% in 3 years, with the current proposals increasing that further. The cost of regulation is becoming a deterrent to doing business.

A proportion of the costs of overseeing the industry should be borne by the State as it is in other sectors such as agriculture, pharmaceuticals and not all divisions should be included as chargeable to industry. For these reasons, the proportion of costs recovered, while not the subject of this consultation should not be allowed to increase.

The Central Bank process for issuing invoices needs to change significantly. In a situation where regulated organisations are expected to forecast 3/5 years in advance, it is not acceptable that the Central Bank issue invoices with significant cost increases at the end of the financial year in question. In 2012 industry funding levy invoices for 2012 were issued in

October 2012. The increase in costs over 2011 was 108%. Cost variations like this make financial planning difficult.

The cost of regulation should be set and published in advance of the year to which it relates.

Please see the conclusion of Question 8.2 for our position on how levies should be calculated.

8.2 Do you agree with the Central Bank's proposal to allocate the cost of financial regulation activity on a basis consistent with the allocation of supervisory resources to regulated entities? If not, what cost allocation methodology would you propose?

A cost allocation mechanism is only reasonable if it represents a reasonable approximation of the allocation of a high proportion of resources. It is not clear from the documentation supplied that this is the case.

A review of the 2012 Guide to Industry Funding Regulations appears to indicate that approximately 1/3 of Central Bank staff are involved in direct supervision. If this is the case we believe that this is too low a proportion of overall numbers to represent a meaningful method of allocation and that efforts should be made to attribute a greater proportion of costs on a direct basis rather than be grouped into a pool and allocated on the basis of such a small proportion of overall staff numbers. By way of example, enforcement costs should follow enforcement issues and consumer protection should follow consumer numbers across the different categories.

Figure 4.6 of CP61 shows the components making up the costs of the central bank. All costs associated with direct supervision should be allocated to regulated entities, which could include a factor to allow for supervisory specialists. A significant proportion of overall costs seem to originate from the CPRE category. A more detailed analysis of this category would need to be completed to justify the chargeability of the costs to industry sectors. Where it is considered chargeable an activity based costing analysis should be undertaken to find a basis for the cost.

As it is currently explained we do not believe the mechanism proposed is appropriate as it tries to create a single measurement tool across all sectors supervised by the Central bank. While this may make it easy to administer, it does not accurately allocate costs to work undertaken by Central Bank staff. Given the variations in manpower and effort required to supervise different sectors, greater effort should be made to allocate costs at a more granular level to ensure this is achieved. While it may make the process more complex, it should lead to a more equitable distribution of costs.

8.3 Do you agree with the Central Bank's proposal to apply a minimum levy per umbrella plus an additional levy per sub-fund subject to a maximum number of sub-funds (i.e. Option 2)? If not, what alternative approach would you propose and why?

This firm agrees with the Central Bank's proposal.

8.4 Do you agree that the credit union sector should be required to fund the relevant proportion (currently 50 per cent) of the cost of financial regulation that would apply under an impact based approach to the levy process? If not, what alternative approach would you propose and why?

This firm agrees that the credit union sector should pay its fair share of costs. It is difficult to understand why this sector is treated as a special case given the risks that have come to light and the extent to which substantial assets are controlled by voluntary staff in many of the individual credit unions.

8.5 Do you agree that this change be phased in over a period of 5 years? If not, what alternative approach would you propose and why?

We believe it should be introduced over a 2 to 3 year time period.

8.6 Do you agree with the Central Bank's proposal to impose an application fee in respect of each industry funding category proportionate to the average time taken to consider an application for authorisation? If not, what alternative would you propose?

Yes, this firm believes that application fees are reasonable.

8.7 Do you agree that such a fee should be payable at the time an application for authorisation is submitted and that it should be non-refundable in the event that an application for authorisation is withdrawn or refused? If not, what alternative would you propose?

This firm believes that fees should be payable on application and be non refundable.

8.8 Do you agree with the Central Bank's proposal to maintain the policy of imposing pro-rata levies in respect of the period in relation to which a regulated entity holds an authorisation from the Bank? If not, what alternative do you propose?

Levies should be applied on a pro- rata basis.

8.9 Do you agree with the Central Bank's proposal to impose a penalty on any and all firms who do not pay their levy within the time allowed? If not, what alternative course(s) of action would you propose to ensure that all regulated entities pay their Industry Funding Levy?

This firm is of the opinion that there should be a penalty unless there are mitigating circumstances.

8.10 Do you agree with the Central Bank's proposal to seek the power to unilaterally revoke the authorisation of those firms which continue to fail to pay their Industry Funding Levy? If not, what alternative would you propose?

Yes, but only on reasonable notice.

8.11 Do you agree with the Central Bank's proposal to remit 100 per cent of the value of monetary penalties to the Exchequer? If not, how would you propose to treat monetary penalties?

Yes, all fines should be remitted to the Exchequer.