

21 February 2013

Levy Consultation CP61
Industry Funding
Financial Control Division
Central Bank of Ireland
PO Box 9708
Dame Street
Dublin 2

Re: Consultation in Impact Based Levies and Other Levy Related Matters ("CP61")

Dear Sirs

We welcome the opportunity to make a submission regarding the *Consultation in Impact Based Levies and Other Levy Related Matters* ("CP61"). In principle, we are in favour of making appropriate changes to the method of calculating the industry funding levy; however, we would also have some concerns which we have addressed below.

The format of our response is to quote each question posed in the Consultation Paper and comment immediately below the question concerned.

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?

We believe that the industry levy should be based on a firms' impact categorisation under PRISM but also on the type of client a firm engages with, the value of client funds directly under a firms' control, and the transaction values processed by a firm (in the preceding year). The current proposal would suggest that unless a firm has actually been categorised and notified of their category under PRISM, they should not be subject to any levy. Perhaps you can confirm.

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 clearer picture of the actual allocation of supervisory resources per industry sector and even sub-industry sector is required. For example, a firm that has been categorised within the Medium-Low impact category has between 10% and 20% of a supervisor allocated to that firm. This would imply that a firm that has been categorised within the Low impact category has less than 10% of a supervisor allocated to it. In addition, depending on the industry sector category a firm falls under, certain specialist staff would not be involved in supervisory matters at all. For example, a payment services provider, who deals only with the issuing and acquiring of payment transactions, is not subject to stress testing, market regulation, insider trading,

fund authorisations etc. From the information provided thus far, it is difficult to see how you have arrived at the estimated figures which range from approximately €30,000 for a Low impact firm to just under €200,000 for a Medium-High impact firm.

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?

We have no comments to make in relation to this matter.

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?

We have no comments to make in relation to this matter.

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 have no comments to make in relation to this matter.

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?

Until such time as the Central Bank offers clearer detailed instructions on what is expected from a firm seeking authorisation and clearly defined timeframes of when a firm can expect the authorisation process to be completed, we disagree with this proposal. We feel that the Central Bank should publish expected timeframes (similar to the Fitness and Probity application process) so that all firms can adequately assess the commitment and time required to submit an application in the first place. An application fee of €25,000 for a payment institution for example is excessive, especially given the differences between the different types of authorisation each payment institution may apply for. Furthermore, we feel that such large application fees will only inhibit innovation and create further barriers to firms who are attempting to enter the market place, thereby tightening rather enlarging the market in helping create further choices for customers.

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?

As above, we disagree with this proposal. Imposing an application fee of €25,000 for an e-money institution or payment services provider before a firm has any customers is unreasonable whilst a Credit Union application fee would be set at €5,000. Perhaps a general application fee could be introduced to at least show a firm's intent on completing the application process (should they satisfy the requirements). Such a fee could then also be written off against the first industry levy due to be paid by the firm.

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?

We believe a firm should only pay levies once (i) they have been authorised, (ii) they have been in business for say a period of at least one year and (iii) have reached a certain level/threshold in relation to client numbers, assets under management, transaction values, etc. as it often takes time for new and innovative firms to enter the sector and gain market traction.

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?

In principle yes, provided that there are no extenuating circumstances that has prevented a firm from paying the levy within the timeframe allowed.

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?

By continually, do you mean year on year or within a set time frame after the levy was due to be paid? Perhaps, following non-payment of any additional penalties imposed within an extended timeframe, the Central Bank could first issue a Direction to the firm, such as a ban on new customers until such time as the levy and any additional penalties were paid. To unilaterally revoke a licence would impose undue hardship on all concerned and not just those involved in the management of the firm but would also frustrate customers, force staff into unemployment, and result in narrowing the market choices.

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

We feel that there should be full transparency over the monetary penalty system, similar to that employed by the Financial Services Authority in the United Kingdom. It is possible that this will help to persuade firms' senior management to increase their focus on compliance and would help to ensure consistency in penalty determination across cases.

We favour Option 2 in that any monetary penalties received are fed back in to the cost of regulation, either by reducing the industry funding levies required across the entire industry sector base and by hosting greater collaborative engagement with firms on the interpretation of the various regulations, thereby improving the understanding by all parties concerned well in advance of any regulation coming into effect.

Should 100 per cent of the remittance value of monetary penalties be paid to the Exchequer, there would need to be full transparency as to where the Exchequer then spent/used the monies received.

General Comments

We note that it is the Central Bank's intention to implement the proposed impact based levy calculation regime for the funding year 2013. This we feel, does not give sufficient time for budgetary amendments.

In relation to regulated payment services providers, we fear that the imposition of such levies will deter new businesses from entering the sector. Ireland is a significant user of cheques and cash and the Central Bank are facilitating the National Payments Implementation Plan. In order to achieve the plan's ambitions we need to ensure we have a competitive and open payments environment where new businesses do not encounter unnecessary barriers.

Thank you once again for the opportunity to comment on the important matters raised within CP61. We would be happy to provide further information or clarification in relation to any of these points should this be required.

Yours faithfully



Anne Rothwell
Risk & Compliance Officer