IBF SUBMISSION TO CENTRAL BANK OF IRELAND CONSULTATION ON IMPACT BASED LEVIES AND OTHER LEVY RELATED MATTERS

– CP61

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1. Introduction

The members of the Irish Banking Federation welcome the opportunity to respond to this consultation issued by the Central Bank of Ireland (CBI) on Impact Based Levies and other Levy related matters.

We consider the Probability, Risk and Impact System (PRISM) as a basis for calculation practical, as reflecting the risk based supervision approach now being applied by the CBI. We are supportive of any approach that is equitable and transparent. However greater transparency is sought in PRISM's implementation, as mentioned below.

2. General Observations

- The Consultation Paper (CP) mentions that this system is to be in force for the 2013 funding year. However the consultation runs until late February, after which the submissions must then be considered by the CBI before being finalised. Banks will have already budgeted for their 2013 costs. Ideally any changes would be levied commencing with the financial year 2014. This year, 2013, should be the year for consultation, followed by confirmation from CBI of the finalised approach and individual notification of each organisation as to what the change means for them financially. Banks then have time to understand /plan for any changes coming in 2014 and engage with their key internal stakeholders e.g. a foreign parent.

- Some member banks consider that the CBI has not provided sufficient detail within the consultation paper to enable them to establish the exact cost of the proposed levy which will be allocated to their institution. Again this will be important for a budgeting perspective. Given the volume of cost that will be incurred by many institutions, banks should be able to establish an expectation of this cost year on year through their budgeting processes.

  While many institutions have been allocated the same impact rating, the number of supervisors allocated to them can vary, depending on the level of supervision determined by the CBI. For example, for a High Impact firm this can range from 2 to 4 supervisors. With this in mind, the use of the Impact Rating alone as the basis for setting the levy is not deemed to be fair or appropriate. Within the "PRISM Explained" document, the CBI notes that this is a minimum engagement for institutions, which can be added to where needed to address identified issues, request additional information or conduct thematic reviews. This additional engagement could be unique to certain institutions and therefore should only be reflected within that institution's levy calculation. We would welcome the provision of tangible variables which could be used each year in order to recalculate the levy for each institution e.g. number of supervisors, number of onsite reviews etc. While on Page 10 we recognize that the CBI has identified the components for the levy, it does not provide adequate clarity and transparency on the definitions and expectations for each heading.

- Again, for budgeting purposes, will the levy vary annually, dependent on the CBI costs? Or can it be set for a predetermined period e.g. the next 3 years, when CBI staffing is expected to be flat or declining?

- Some of the increases in the levy are considerable. The example on page 13, Section 5.5 suggests a 123% increase for a High Impact Non-covered institution. Could this be phased in, as with the phasing in being considered for credit unions? In the examples in Sections 5.3 – 5.13, credit institutions are the most seriously impacted. In terms of any phasing in arrangements, as proposed should be available for credit unions, these need to be equitably applied and be available to any organisation incurring a significant increase in their levy.

- In relation to changes in impact ratings which occurred during 2013 and into the future, could the CBI clarify at what stage following a change in the impact rating will a change occur in the levy calculation and also will the principle of proportionality apply? For example, is the levy

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which is charged during 2013 in relation to the CBI supervision for the year ended December2012? Further clarification is sought in this regard.

- Can banks be assured that they will not have to pay extra for ECB regulation where this replaces CBI oversight in the proposed Single Supervisory Mechanism, to avoid double counting? (Page 4)

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3. Specific Questions Raised

Q.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?

The PRISM rating should be transparent and should be coupled with the right of appeal without prejudice. We believe that the ICAAP, which is the entity's own risk assessment, combined with *the Supervisor's SREP and PRISM, is a fuller basis for risk assessment of banks.*

Q.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?

The estimates in the table on page 12 are a significant increase on what has been levied on many banks in the past. The assessment of the levy is based on the PRISM risk category, the derivation of which is not transparent to the entity. The approach would be acceptable only if the basis of risk assessment was transparent and agreed with the entity being levied. In addition, there is potentially an excessive gulf between each step – particularly the Medium Low levy and Medium High levy.

Q.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?

No comment.

Q.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?

Yes.

Q.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?

Whilst we agree that the credit union sector should be required to fund the 50% proportion of the cost of financial regulation that would apply under an impact based approach, we would not object to the Central Bank's proposal to phase in this change over a 5 year period.

Q.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?

If the application fee is not material (as the €50,000 indicative example might not be for the type of institutions Ireland might seek) it should not be a disincentive to invest in Ireland compared with other

EEA jurisdictions that do not charge such an application fee, such as France. See also Question 7 regarding reimbursement.

Q.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?

We would be supportive of the fee being refundable in the case of a successful application, in the form of set-off against the applicant's first year levy.

Q.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?

Yes.

Q.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?

Yes.

Q.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?

This would seem extreme if applied in the first instance. A phased approach, consisting of additional fines and warnings (inclusive of an appeals process) for continued non-payment, would be more appropriate before revocation of an authorisation.

Q.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?

We agree with the proposal in Section 7.4 to allocate penalties to the Exchequer rather than to offset levies. We consider that this would provide an objective approach and reduce any real or perceived pressures on the Supervisor to maximise penalties.

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