

**Joint submission by:**

**Irish Brokers Association (IBA) and**

**Professional Insurance Brokers Association (PIBA)**

**on the**

**Consultation on Impact Based Levies and Other Levy Related Matters**

**Consultation Paper CP 61**



This submission outlines the views of the Irish Brokers Association (IBA) and the Professional Insurance Brokers Association (PIBA) in relation to relevant proposals contained in the consultation paper on Impact Based Levies and Other Levy Related Matters (CP 61) on behalf of both associations' members. Between both associations, we represent 1300 Insurance, Investment and Mortgage Intermediaries; therefore representing the vast majority of full time regulated entities under category C.

Both associations strongly oppose the flat rate proposal as contained in CP 61. We believe that a band structure is the most equitable and fair method for determining fees to be applied on the intermediary sector. This was the preferred method which was outlined by our previous joint submission in relation to the Consultation paper on the Funding of the Financial Services Regulatory Authority on the 20th of February 2004 and we do not believe there is a rationale to change this structure.

We continue to hold the view as outlined in 2004 that a move to a flat rate leads to a regressive levy and does not take account of the size of an entity or the volume of business it conducts. This is the most equitable system for the collection of the levy from intermediaries given the large variations in the size of turnover in the intermediary sector. A small number of firms within the intermediary category hold 30% of the intermediary market share. A scaled levy also acknowledges the firms' ability to pay a levy as a percentage of their turnover.

A levy scaled to take account of turnover ensures payments by firms will be correlated to resources used by the Central Bank to supervise regulated firms. It would be wholly inequitable to propose that a small intermediary firm should pay the same levy as a larger firm with significantly higher turnover and market share, and to suggest that the Central Bank of Ireland would allocate the same resources to supervising a large entity with hundreds of employees as they would a soletrader. Large firms impact on more consumers and thus more resources should be focussed on regulating them.

Both associations have developed a proposed levy structure for Category C which is based on turnover and will yield the required budget for the intermediary section.

We also oppose the proposed €2000 application processing fee for authorisation – we do not believe that such a high fee is warranted particularly given the move to online processing of Individual questionnaires. A high application fee as proposed would act as a barrier to entry which in turn may lead to a shrinking of the intermediary sector. This in turn would drive choice and independent advice out of the market to the detriment of the consumer. It would also act as a barrier to efficient re-structuring of existing firms.

Outlined below are responses of both associations to the questions posed in the consultation paper:

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 agree that the division of regulated entities into categories should be based on the risk based PRISM approach and agree that Intermediaries should fall into the low risk category. However, we do not agree with the proposed flat fee levy for the intermediary sector as it does not take into account the fact that intermediaries vary in risk within the intermediary category**

itself. It should be noted that a small number of firms within the intermediary category hold 30% of the intermediary market share. It is unfair and unjust to propose that a small intermediary firm should pay the same levy as a larger firm with significantly higher turnover and market share and that the Central Bank would allocate the same resources to supervising same. The fact that a firm has a higher turnover indicates higher risk through the number of clients impacted and this should in turn require higher application of Central Bank supervisory resources. We continue to believe that a levy based on turnover is the most equitable and fair method of calculating levies to be paid.

We believe the principle of proportionality also applies to MiFID firms however there is insufficient market data available to us to propose a levy scale. As a consequence of the need for greater regulatory oversight, we believe in addition to turnover the type of business the MiFID is authorised to conduct, for example discretionary portfolio management and whether or not it is authorised to hold Client Assets are also relevant to the levy payable.

Both associations propose the below band structure which will achieve the required Central Bank income for the intermediary sector. This proposed band structure takes into account the variance in turnover and risk of firms within the category in a fair and equitable manner.

<b>Bands</b>	<b>Current</b>	<b>Proposed</b>
0-€250,000	€220-€330	€450
€250,000-€600,000	€980	€800
€600,000-€1,000,000	€1,800	€1,250
€1,000,000-€1,250,000	€2,785	€2,500
€1,250,000-€1,500,000	€4,200	€4,000
€1,500,000-€4,000,000	€8,350	€8,000
>€4,000,0000	€16,380-€25465	€16,000

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?

**Yes, we agree that the calculation of the levy should be based on the cost of supervisory resources for regulated entities and that the allocation for retail intermediaries would be significantly lower than other regulated entities; however as outlined above within the Intermediary category there is significant variance in market share and turnover. It would be inappropriate for the Central Bank to suggest that the regulation and supervision of an intermediary with a turnover of less than €250,000 would be allocated the same regulatory and supervisory resources as an intermediary with a significant market share.**

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 believe all regulated financial services providers should contribute appropriately to the regulation of their sector.**

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 believe all regulated financial services providers should contribute appropriately to the regulation of their sector**

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?

**Yes, we believe the proposals should be phased in over the suggested 5 year period and once implemented in full, a three year moratorium should be put in place in respect of any further levy increases.**

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?

**We do not agree with the proposed application fee for the processing of authorisations for intermediaries. We feel that €2000 is too high a fee given that intermediaries are seeking authorisation in a low risk sector and the application process should reflect this. Applicants also complete individual questionnaires and submit required supplementary documentation online thereby removing the manual processing of paperwork. We would suggest that a more appropriate fee would be €500.**

**We also feel that an application fee should not be charged where an intermediary is restructuring i.e. a soletrader moving to a ltd. company.**

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 authorization is withdrawn or refused? If not, what alternative would you propose?

**We agree that if an application is withdrawn or refused that the application fee should be non-refundable. We also propose that where an application is successful, that the application fee should be credited to the firm's first year levy requirement. This will provide the necessary incentives to ensure only well thought out applications are made without creating disincentives to new intermediaries establishing.**

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?

**Yes, we agree with the proposal of imposing pro-rata levies in respect of the period in relation to which a regulated entity holds an authorisation.**

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?

**We believe that the application of a penalty for firms who have not paid their levy within the specified timeframe should be on a case by case basis. The Central Bank should be cognisant of mitigating circumstances which may have led to the late payment of the levy. It should not be an automatic penalty.**

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, we agree with this approach. It is inappropriate to have regulated firms continuing to operate within a category if they are not contributing to the levy, thereby meaning that those firms that pay have to bear the additional cost of those that do not.**

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, we agree that in order to avoid a conflict of interest monetary penalties should be remitted to the Exchequer rather than to the Central Bank directly.**