BNY MELLON

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Funding the Cost of Financial Regulation – Public Consultation
Financial Services Division
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About BNY Mellon

BNY Mellon is a global investments company helping its clients manage and service their financial assets throughout the investment lifecycle.

BNY Mellon provides services to clients and end-users of financial services globally.
BNY Mellon operates in Europe through: (i) branches of The Bank of New York Mellon (a New York incorporated financial institution) and (ii) directly established and duly authorised subsidiaries established in several EU jurisdictions and branches of those entities operating in most of the core EU member states including Ireland.

BNY Mellon has had a presence in Ireland for over 20 years. In Ireland, BNY Mellon operates through a number of legal entities, including:

- BNY Mellon Fund Services (Ireland) Limited
- BNY Mellon Trust Company (Ireland) Limited
- The Bank of New York Mellon SA/NV, Dublin Branch
- Pershing Securities International Limited

BNY Mellon Fund Services (Ireland) Limited is authorised as an Investment Business Firm and as a service provider to funds – and provides services such as fund administration and fund accounting. BNY Mellon Trust Company (Ireland) Limited is authorised as an Investment Business Firm and as a service provider to funds – and provides trustee services. BNY Mellon Trust Company (Ireland) Limited is also an authorised AIF Irish Collective Asset-management vehicle (ICAV). The Bank of New York Mellon SA/NV is a Belgian credit institution providing services including custody services. It operates in Ireland through its Dublin Branch.

Pershing Securities International Limited is the Irish subsidiary of Pershing, a BNY Mellon company. Pershing is a provider of global financial business solutions, including execution, clearing, settlement and custody services.

Our clients in Ireland include traditional and alternative asset managers, banks, pension funds, insurance companies and corporates.

BNY Mellon has a physical presence in Dublin, Cork and Wexford, and employs over 1,600 people in Ireland. We are active participants in our communities, including through our Community Partnership and Diversity & Inclusion initiatives. On 16 June 2014, BNY Mellon signed the Diversity Charter Ireland.

We participate in a number of Ireland-based industry associations including Banking & Payments Federation Ireland (BPFI), Federation of International Banking in Ireland (FIBI) and Irish Funds and we understand that each of those associations may choose to separately respond.

BNY Mellon's Response to the Public Consultation

As one of the world's largest investment services and investment management firms, BNY Mellon welcomes the opportunity to respond to this public consultation.

BNY Mellon's primary concern is that the cost of financial regulation in Ireland has already increased substantially in recent years and that this appears to be a continuous trend. Although much of the increased cost of financial regulation can clearly be attributed to rules and regulations at the EU level, some of it is due to domestic decisions taken in Ireland – particularly at the Central Bank of Ireland.

The proposals as outlined in the consultation paper would continue this trend of significant increases in the cost of financial regulation in Ireland, with no clear indication as to whether this trend will continue indefinitely, or whether there is an "end state" in mind. In our view, the cost of financial regulation has increased in all EU jurisdictions, but in terms of the jurisdictions in which BNY Mellon operates, the rate of increase has been significant in Ireland.

<u>The Benefits of the Joint Funding Model</u>

One of the central arguments used in the consultation paper for 100% industry funding is that this model is used in other jurisdictions. Whilst this may be the case, it is important to note that the jurisdictions are not necessarily comparable. For example, the UK is a much larger financial market, over which the costs of regulation can be spread.

More fundamentally, *it does not necessarily follow* that 100% industry funding is the best model. The taxpayer-industry joint funding model has a number of distinct advantages that cannot be easily replicated in the 100% industry funded model.

Firstly, the taxpayer-industry joint funding model builds into the system of financial regulation a degree of **oversight and accountability**. Although the Central Bank of Ireland retains its operational independence in terms of regulation of the financial sector, the fact that taxpayers contribute to the cost of the Central Bank's financial regulation role means that taxpayers can and do demand accountability and value for money in terms of how their tax contributions are spent. For example, the Oireachtas Joint Committee on Finance, Public Expenditure and Reform can play a significant role in delivering accountability and value for money – such scrutiny may no longer exist when taxpayer funding is not in scope.

Secondly, the **extent to which the financial sector is regulated is ultimately a political question and judgment** – there can be too little regulation and there can be too much regulation. What is ultimately needed is better regulation. We endorse the need for an adequately resourced financial regulator staffed by competent and effective people. But there needs to be a limit on resourcing of financial regulators. Otherwise resourcing can become excessive, and ultimately the costs may outweigh the benefits. Without taxpayer involvement in this equation, there may be an incentive for the Central Bank to increase its costs and pass them on to the industry, which would have no capacity to object. The existing industry would then be left with choices about the extent of future investment in Ireland. Potential market participants may decide not to operate in Ireland, and to operate in other jurisdictions instead increasing the burden for those who choose to remain.

Thirdly, the taxpayer-industry joint funding model recognises that **both taxpayers and industry are stakeholders in, and beneficiaries of, a well-regulated financial system** that delivers good outcomes and provides value for money.

Fourthly, it is **important not to confuse operational independence with funding**. Other bodies exercising public functions (whether or not part of the State) must ultimately manage limited resources in an effective manner. It does not follow that operational independence means that budgets must be unconstrained; instead operational independence occurs within the framework of political decisions on budget allocation. Like all other public bodies (whether or not the body has operational independence from the government of the day) there should not be an open chequebook.

Fifthly, we think there is probably more that the Central Bank could do to **bring its own budgets in line** with other bodies exercising public functions, and accountability to the taxpayer can assist in that process.

Concluding Remarks

The funding proposal explains that the cost of regulation is increasing (mainly due to EU rules and regulations, rather than domestic rules and regulations), but it *does not explain why* the background of increased regulation requires a change in the taxpayer-industry joint funding model. The increased regulatory cost can be part of a taxpayer-industry joint funding model. The main justification put forward for the change in model is that several other jurisdictions have a 100% industry funded model. But as set out above, we believe there are significant benefits in the taxpayer-industry joint funding model.

Furthermore, the references to the funding of energy and communications regulators in Ireland are not necessarily comparable, because the energy and communications regulators are responsible for licensing and access arrangements to infrastructure, such as pipelines and communications spectrum.

We think it would be useful for the Central Bank to set out its proposed "end state" model in regard to the cost of financial regulation, and whether the Central Bank thinks that the costs of financial regulation should continue to increase and for how long.

We also think that the Central Bank and the Department of Finance have an important part to play in the European institutions (for example, the European Commission, the European Supervisory Agencies and the Council of the EU).

In particular, the Central Bank and Department of Finance have a key role to ensure that the European Union remains focused on the Better Regulation agenda – one of the key objectives of the 2014-19 Commission.

By helping the European Union to develop better (smarter) regulation, including:

- a review of cumulative effects of existing regulation;
- encouraging horizontal consistency between EU regulations; and
- accepting that every issue does not necessarily require a regulatory solution,

this will help the regulatory environment to work more effectively and help to reduce the cost of regulation. Reducing the cost of regulation at the EU level is a vital step in reducing the cost of financial regulation in Ireland – thus reducing the cost burden both for Irish taxpayers and the financial industry in Ireland.

We are available to discuss our submission with the Department of Finance and the Central Bank.

P.P.

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BNY Mellon