

Funding the Cost of Financial Regulation
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Re: Response to Consultation Paper 95- Funding the Cost of Financial Regulation

Pershing Securities International Limited ('PSIL') is a subsidiary of Pershing LLC, and ultimately owned by The Bank of New York Mellon ('BNY Mellon'). PSIL is an investment firm authorised under MiFID (Ref: C31371) to provide Investment and Ancillary Services.

PSIL welcomes the publication of the joint public consultation paper between the Department of Finance and the Central Bank of Ireland ("CBI") and the opportunity to comment on same.

PSIL'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. 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 both Pershing and BNY Mellon operates, the rate of increase has been significant in Ireland.

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 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.

Thirdly, 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

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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.

Current regulatory cost model

We wish to reiterate our view on the current regulatory cost model. The current regulatory cost model calculates a firm's levy solely on its PRISM rating/Industry category 'group'. We are extremely concerned that this approach ignores stark differences between firms within the same (or similar) PRISM rating and Industry category.

While we agree that the Impact Based Approach should form the basis for the calculation of a firm's levy, to calculate a firm's levy solely on its PRISM rating/Industry category 'group' is overly-simplistic and fundamentally inequitable. To do so implies that all firms within a group are equal and require equal supervisory attention. We would question this implication and instead propose that firms are *graded or sorted into bands* within each group. This separation would address the differences between firms within a group, and remain true to the overall methodology.

There are a number ways to differentiate between firms. One solution may be to merge the new method of calculation with the previous method and grade firms by turnover however, this would mean a firm's levy would change each year making budgeting difficult for both the firm and the CBI. But this may be the most suitable approach within certain firm types.

Another approach would be to band firms by the complexity of their authorisation. For example, firms who were authorised to provide multiple complex investment services (MiFID & non-MiFID) in a range of financial instruments to retail and institutional customers would attract a larger levy than firms authorised to provide basic "vanilla" services in a small number of non-complex, low risk instruments to institutional only clients. This method remains true to the risk-based approach as the former would require greater supervisory resources than the latter although both may be in the levy same group.

PSIL's industry category is Investment Firms and Fund Service Providers with PSIL's peers within this category being stockbroking and high frequency trading firms. PSIL does not trade on an agency or principal basis, does not take positions, and provide investment advice or portfolio management services. PSIL is well capitalised and is risk-averse, yet, the proposed methodology asserts PSIL should suffer the same levy as a firm providing all of these higher risk services. We contend this unfairly penalises PSIL and, in a multi-national group structure, draws unnecessary negative comment on the cost of providing premium services to the Irish financial services industry.

We are happy to discuss the above in further detail at your convenience.

Yours sincerely



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Pershing, a BNY Mellon company

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