



STATUTORY INSTRUMENTS.

S.I. No. 17 of 2019



THE CENTRAL BANK ACT 1942 (SECTION 32D) (ADDITIONAL AND
SUPPLEMENTARY SUPERVISORY LEVIES – REGULATED ENTITIES)
REGULATIONS 2019

SI No. 17 2019

The Central Bank Act 1942 (Section 32D)
(Additional and Supplementary Supervisory Levies – Regulated Entities) Regulations
2019

In exercise of the powers conferred on it by section 32D of the Central Bank Act 1942 (as inserted by the Central Bank Reform Act 2010), the Central Bank Commission hereby makes the following regulations which are effective with the approval of the Minister for Finance:

1. These Regulations may be cited as the Central Bank Act 1942 (Section 32D) (Additional and Supplementary Supervisory Levies - Regulated Entities) Regulations 2019.

2. In these Regulations:

“additional supervisory levy” means the amount determined as being due and owing, payable following:

- (a) authorisation;
- (b) an extension of an existing authorisation of a regulated entity;
- (c) approval of a sub-fund;

which is calculated in accordance with the Schedule hereto;

“additional supervisory supplementary levy” means the amount determined as being due and owing, payable following:

- (a) authorisation;
- (b) an extension of an existing authorisation of a regulated entity;
- (c) a significant expansion in activities,

which is calculated in accordance with the Schedule hereto;

“authorisation” means an authorisation or approval granted by the Bank, under the following-

- (a) Section 9 or 9A of the Central Bank Act, 1971;
- (b) the Unit Trusts Act 1990 (No. 37 of 1990);
- (c) the Investment Limited Partnership Act 1994 (No. 24 of 1994);
- (d) the Investment Intermediaries Act 1995 (No. 11 of 1995);
- (e) the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (No. 12 of 2005);
- (f) the European Union (Alternative Investment Fund Managers) Regulations 2013 (SI No. 257 of 2013);
- (g) Part 24 of the Companies Act 2014 (No. 38 of 2014);
- (h) the Irish Collective Asset-management Vehicles Act 2015 (No. 2 of 2015);
- (i) the European Union (Markets in Financial Instruments) Regulations 2017 (No. 375 of 2017); and
- (j) the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (No. 352 of 2011);

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 1st February, 2019*

“due date” means the day that falls 28 days after the date of issue of the levy notice, as specified on such levy notice;

“extension of an existing authorisation” means a change in the authorisation of a regulated entity which will result in the firm being authorised to:

- (a) provide additional business services; or
- (b) deal in more financial instruments than was previously the case;

“levy notice” means each notice specifying the additional supervisory levy and/or additional supervisory supplementary levy sent by the Bank to a regulated entity in accordance with these Regulations;

“regulated entity” includes sub-fund and former regulated entity.

3. Where a regulated entity is authorised, approved, granted approval to extend an existing authorisation or where consideration is given to a significant expansion in activities, the Bank shall, within 12 months from the date of authorisation, approval, granting of approval of an extension of an existing authorisation or the consideration of a significant expansion in activities, issue to the regulated entity a levy notice.

4. The Bank may waive or reduce the relevant levy, or part thereof, in exceptional circumstances at the Bank’s discretion.

5. A regulated entity is required to pay the additional supervisory levy and/or the additional supervisory supplementary levy prescribed in the Schedule hereto whether or not a levy notice has been issued by the Bank under Regulation 6 within 12 months from the date of authorisation, approval, granting of approval of an extension of an existing authorisation or the consideration of a significant expansion in activities.

6. The Bank may send to a regulated entity a levy notice specifying:

- (a) the additional supervisory levy and/or additional supervisory supplementary levy assessed by the Bank to be payable by that regulated entity; and
- (b) the due date for payment of the relevant levy.

7. The additional supervisory levy and/or additional supervisory supplementary levy and any interest accrued in accordance with Regulation 9 shall be paid by a regulated entity by direct bank transfer or equivalent electronic transfer of funds to a bank account specified by the Bank, or as is otherwise specified by the Bank.

- 8. (a) A regulated entity or former regulated entity may, no later than 21 days following a due date, submit an appeal under this Regulation in respect of the additional supervisory levy and/or additional supervisory supplementary levy payable by them;
- (b) An appeal must set out in writing the grounds of the appeal and should include, in particular, all supporting documentation or representations;

- (c) Payment or a receipt evidencing payment of that portion of the levy that is not under appeal must be submitted with an appeal under this Regulation;
- (d) The Bank shall advise the regulated entity concerned in writing of its determination of the appeal and details of any amount outstanding in respect of the disputed amount of the levy and the due date applicable for the payment of any outstanding additional supervisory levy and/or additional supervisory supplementary levy.

9. Without prejudice to any other remedy available to the Bank, where the additional supervisory levy and/or additional supervisory supplementary levy has not been received by the due date, interest shall accrue thereon in accordance with the provisions of the European Communities (Late Payment in Commercial Transactions) Regulations 2012 (S.I. 580 of 2012) or any amending or replacing legislation.

10. Every sum payable by a regulated entity under these Regulations, including interest, for or on account of the Bank shall be recoverable by the Bank from that person as a simple contract debt in a court of competent jurisdiction.

11. (a) Each regulated entity shall keep full and true records of all transactions which affect their liability under these Regulations and any related returns made;

(b) A record kept by a person pursuant to paragraph (a) and, in the case of any such record that has been given by the person to another person, any copy thereof that is in the power or control of the first mentioned person shall be retained by that person for a period of 6 years from the date of the last transaction to which the record relates, provided that this Regulation shall not apply to records of a company that have been disposed of in accordance with Section 707 of the Companies Act 2014;

(c) No person shall, in purported compliance with a provision of these Regulations, provide an answer or explanation, make a statement or produce or deliver any return, certificate, balance sheet or other document which is false in a material particular;

(d) A regulated entity that fails to comply with a provision of these Regulations or any applicable regulatory reporting requirements thereby preventing a full and proper assessment of their liability under these Regulations, may be assessed by the Bank in order to determine the levy, or may be otherwise assessed in a manner determined by the Bank, and the Bank may issue a levy notice to such regulated entity without prejudice to other actions which might be determined as necessary or appropriate by the Bank in such circumstances.

12. The Bank may exercise any of the powers and perform any of the functions and duties imposed on the Bank by these Regulations through, or by, any of the officers or employees of the Bank.

13. These Regulations take effect on 29 January 2019.

14. The Central Bank Act 1942 (Section 32D) (Investment Funds - Additional Supervisory Levy) Regulations 2017 are revoked on the coming into operation of these Regulations.

Signed for and on behalf of the CENTRAL BANK COMMISSION,
29 January 2019

ED SIBLEY,
Deputy Governor Prudential Regulation.

SCHEDULE

Additional Supervisory Levy: New authorisations

Upon authorisation, a regulated entity will, in accordance with these Regulations, be liable to an additional supervisory levy calculated in accordance with the relevant table set out below:

Type of regulated entity	Basis of calculation for additional supervisory levy					
<p>An investment firm or a fund service provider authorised by the Bank, under the following-</p> <p>(a) the Investment Intermediaries Act 1995 (No. 11 of 1995);</p> <p>(b) the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017);</p> <p>(c) the European Union (Alternative Investment Fund Managers) Regulations 2013 (SI No. 257 of 2013); and</p> <p>(d) the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (SI No. 352 of 2011).</p>	Impact Category	Ultra High	High	Medium High	Medium Low	Low
	Levy	n/a	€60,000	€40,000	€20,000	€10,000
	<p>‘Impact Category’ will be assessed by the Bank as part of the authorisation process, in accordance with its Probability Risk and Impact System (PRISM) to reflect the Bank’s assessment of the potential impact of the failure of a regulated entity on financial stability and consumers.</p>					

Type of regulated entity	Basis of calculation for additional supervisory levy																																									
<p>An investment fund authorised by the Bank, under the following-</p> <p>(a) the Unit Trusts Act, 1990 (No. 37 of 1990);</p> <p>(b) the Investment Limited Partnership Act, 1994 (No. 24 of 1994);</p> <p>(c) the Investment Funds, Companies and Miscellaneous Provisions Act, 2005 (No. 12 of 2005);</p> <p>(d) Part 24 of the Companies Act 2014 (No.38 of 2014);</p> <p>(e) The Irish Collective Asset-management Vehicles Act 2015 (No.2 of 2015); and</p> <p>(f) The European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (No. 352 of 2011).</p>	<p>Umbrella Funds</p> <table border="1" data-bbox="730 472 1382 965"> <thead> <tr> <th>No. of sub-funds</th> <th>Additional supervisory levy per sub-fund</th> <th>Total Levy</th> </tr> </thead> <tbody> <tr><td>1</td><td>€2,000</td><td>€5,000</td></tr> <tr><td>2</td><td>€2,000</td><td>€7,000</td></tr> <tr><td>3</td><td>€2,000</td><td>€9,000</td></tr> <tr><td>4</td><td>€2,000</td><td>€11,000</td></tr> <tr><td>5</td><td>€2,000</td><td>€13,000</td></tr> <tr><td>6</td><td>€2,000</td><td>€15,000</td></tr> <tr><td>7</td><td>€2,000</td><td>€17,000</td></tr> <tr><td>8</td><td>€2,000</td><td>€19,000</td></tr> <tr><td>9</td><td>€2,000</td><td>€21,000</td></tr> <tr><td>10</td><td>€2,000</td><td>€23,000</td></tr> </tbody> </table> <p>Standalone</p> <table border="1" data-bbox="730 1077 1382 1151"> <thead> <tr> <th>Fund Structure</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Standalone Fund</td> <td>€5,000</td> </tr> </tbody> </table> <p>Sub-fund approved subsequent to authorisation of umbrella investment fund</p> <table border="1" data-bbox="730 1301 1382 1451"> <thead> <tr> <th>Fund Structure</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Sub-fund approved subsequent to authorisation of umbrella investment fund</td> <td>€2,000</td> </tr> </tbody> </table>	No. of sub-funds	Additional supervisory levy per sub-fund	Total Levy	1	€2,000	€5,000	2	€2,000	€7,000	3	€2,000	€9,000	4	€2,000	€11,000	5	€2,000	€13,000	6	€2,000	€15,000	7	€2,000	€17,000	8	€2,000	€19,000	9	€2,000	€21,000	10	€2,000	€23,000	Fund Structure	Amount	Standalone Fund	€5,000	Fund Structure	Amount	Sub-fund approved subsequent to authorisation of umbrella investment fund	€2,000
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Extensions to existing authorisations

Following an extension to an existing authorisation, a regulated entity will, in accordance with these Regulations, be liable to an additional supervisory levy calculated in accordance with the table set out below:

Type of regulated entity	Basis of calculation for additional supervisory levy					
<p>An investment firm or a fund service provider authorised by the Bank, under the following-</p> <p>(a) the Investment Intermediaries Act 1995 (No. 11 of 1995);</p> <p>(b) the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017);</p> <p>(c) the European Union (Alternative Investment Fund Managers) Regulations 2013 (SI No. 257 of 2013); and</p> <p>(d) the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (SI No. 352 of 2011).</p>	Impact Category	Ultra High	High	Medium High	Medium Low	Low
	Levy	n/a	€30,000	€20,000	€10,000	€5,000
	<p>‘Impact Category’ will be assessed by the Bank as part of the authorisation process in accordance with its Probability Risk and Impact System (PRISM) to reflect the Bank’s assessment of the potential impact of the failure of a regulated entity on financial stability and consumers.</p>					

Additional Supervisory Supplementary Levies

Upon authorisation, extension of an existing authorisation or a significant expansion in activities, the regulated entity may, in accordance with these Regulations, also be liable to pay an additional supervisory supplementary levy as set out below:

Type of regulated entity	Basis of calculation for additional supervisory supplementary levy
<p>Credit institutions authorised pursuant to Section 9 or 9A of the Central Bank Act 1971</p> <p>An investment firm or a fund service provider authorised by the Bank, under the following-</p> <ul style="list-style-type: none"> (a) the Investment Intermediaries Act 1995 (No. 11 of 1995); (b) the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017); (c) the European Union (Alternative Investment Fund Managers) Regulations 2013 (SI No. 257 of 2013); and (d) the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (SI No. 352 of 2011). 	<p>This additional supervisory supplementary levy contribution is a separate levy which shall be paid in addition to the additional supervisory levy.</p> <p>For the purposes of providing the Bank with sufficient funds to enable it to consider matters of particular complexity in relation to an authorisation, or extension of existing authorisation or of a significant expansion in activities of a regulated entity, a regulated entity shall pay an additional supervisory supplementary levy.</p> <p>Such additional supervisory supplementary levy will be set out in a levy notice sent to the regulated entity concerned.</p>

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