



STATUTORY INSTRUMENTS.

S.I. No. 438 of 2023

CENTRAL BANK ACT 1942 (SECTION 32D) REGULATIONS 2023

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In the exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 32D of the Central Bank Act 1942 (No. 22 of 1942) the Central Bank Commission, with the approval of the Minister for Finance, hereby makes the following regulations:

1. (1) These Regulations may be cited as the Central Bank Act 1942 (Section 32D) Regulations 2023.

(2) These Regulations come into operation on 6 September 2023.

2. In these Regulations:

“authorisation” means an authorisation, licence, approval or any other permission and includes registration;

“Bank” means Central Bank of Ireland;

“Client Asset Requirements” means the requirements imposed on regulated financial service providers pursuant to the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2017 [S.I. No. 604 of 2017] or pursuant to any amending or replacing legislation;

“due date” means

- (a) the day that falls 28 days after the date of the levy notice or,
- (b) the date referred to in Regulation 7 or,
- (c) the date identified by the Bank following consideration of an appeal;

“levy contribution” means the amount determined by the Bank as being due and owing by a regulated entity in respect of each authorisation held during the levy period, or the subsequent levy period and which is calculated in accordance with the Schedule to these Regulations or further regulations made under section 32D of the Principal Act, as applicable;

“levy notice” means a notice sent by the Bank to a regulated entity specifying one or more levy contributions and/or supplementary levy contributions in respect of each authorisation held by the regulated entity;

“levy period” means the period 1 January 2022 to 31 December 2022;

“Principal Act” means the Central Bank Act 1942 (No. 22 of 1942);

“regulated entity” means a person who is subject to regulation under the designated enactments and designated statutory instruments (including financial service providers whose business is subject to regulation by an Authority that performs functions in an EEA country that are comparable to the functions performed by the Bank under a designated enactment or designated statutory instrument) and a financial service provider whose business is subject to

supervision by the ECB under a designated enactment or designated statutory instrument and also includes regulated entities who are regulated for part of the levy period and “regulated entity” shall be construed accordingly;

“relevant levy period” means the levy period or subsequent levy period, whichever is applicable in the particular context;

“subsequent levy period” means the period from 1 January 2023 to 31 December 2023 inclusive;

“supplementary levy contribution” means any supplementary levy determined by the Bank as being due and owing by a regulated entity in respect of an authorisation held during the levy period, or the subsequent levy period, in addition to the levy contribution, and which is calculated in accordance with the Schedule to these Regulations or further regulations made under section 32D of the Principal Act, as applicable;

3. (1) All regulated entities are liable to pay to the Bank a levy contribution in respect of each authorisation and, where applicable in accordance with the Schedule, one or more supplementary levy contributions in respect of each authorisation held during a relevant levy period on or before the due date.

(2) Where a regulated entity is subject to regulation by the Bank for part of the levy period only -

- (a) the levy contribution shall be calculated in accordance with the Schedule in respect of the number of days of the levy period during which the entity was regulated, and;
- (b) any supplementary levy contributions shall be applied in accordance with the Schedule.

(3) Where a regulated entity ceases to be subject to regulation by the Bank during the subsequent levy period, and no Regulations have been made pursuant to section 32D of the Principal Act in respect of that period -

- (a) the levy contribution shall be calculated by reference to the Schedule herein in respect of the number of days of the levy period during which the entity was regulated, and;
- (b) any supplementary levy contribution shall be applied in accordance with the Schedule.

4. The Bank shall determine the appropriate category or categories that shall apply to a regulated entity for the purpose of assessing a levy contribution and any supplementary levy contribution.

5. A regulated entity is liable to pay the levy contribution prescribed in the Schedule to these Regulations whether or not a levy notice has been issued by the Bank under Regulation 6.

6. Subject to Regulation 7, the Bank may send to a regulated entity a levy notice specifying:

- (a) the levy contribution assessed by the Bank to be payable by that regulated entity for the relevant levy period in respect of each authorisation held, and
- (b) the due date for payment of the levy contributions.

7. If no levy notice is received by a regulated entity for the levy period by 3 October 2023 then 31 October 2023 shall be the due date for the payment of the levy contributions by such regulated entity.

8. Without prejudice to whether the Bank issues a levy notice setting out a levy contribution pursuant to Regulation 6, where a supplementary levy contribution applies, a levy notice specifying the supplementary levy contribution will be issued to a regulated entity.

9. A levy contribution, supplementary levy contribution and any interest accrued in accordance with Regulation 11 shall be paid by a regulated entity by cheque, 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.

10. (1) A regulated entity may, no later than 21 days following a due date, submit an appeal under this Regulation in respect of a levy contribution and/or supplementary levy contribution payable by such entity.

(2) The regulated entity must set out in writing the grounds of the appeal and should include supporting documentation.

(3) Payment or a receipt evidencing payment of that portion of the levy contribution or supplementary levy contribution that is not under appeal must be submitted with an appeal under this Regulation.

(4) Where in the reasonable opinion of the Bank the obligation of a regulated entity to pay a levy contribution or part thereof or a supplementary levy or part thereof would be likely to make that entity insolvent, or, where the regulated entity is a sole trader, bankrupt, the Bank may waive the obligation of that entity under these Regulations to pay a levy contribution or part thereof or a supplementary levy contribution or part thereof in respect of the relevant levy period.

(5) Without prejudice to paragraph (4), the Bank may at its discretion waive or reduce a levy contribution or part thereof, or a supplementary levy contribution or part thereof, in respect of the relevant levy period in exceptional circumstances on foot of an appeal pursuant to paragraph (1).

(6) The Bank shall advise the regulated entity in writing of its decision in respect of the appeal, providing reasons for same and details of any amount outstanding in respect of the disputed amount of levy contribution and/or

supplementary levy contribution and the due date applicable for the payment of any outstanding levy contribution and/or supplementary levy contribution.

11. Without prejudice to any other remedy available to the Bank, where payment for a levy contribution or supplementary levy contribution 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. No. 580 of 2012) or any amending or replacing legislation.

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

13. (1) Each regulated entity shall keep full and true records of all matters which affect their liability under these Regulations and of any related returns made.

(2) A record kept by a person pursuant to paragraph (1) 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 (No. 38 of 2014).

(3) 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.

(4) 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 subjected to a levy in accordance with Category L of the Schedule to these Regulations, or may be otherwise assessed by reference to regulations made under section 32D of the Principal Act or may be otherwise assessed in a manner determined by the Bank, and the Bank may issue a levy notice to such a regulated entity without prejudice to other actions which might be determined necessary or appropriate by the Bank in such circumstances.

14. 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.

SCHEDULE
CATEGORY A
Credit Institutions

Type of Regulated Entity		Basis of Calculation for Levy Contribution:	
		Minimum Amount plus Variable Amount	
		Minimum Amount	Variable Amount
			In addition to the minimum amount, all entities in Category A1 shall pay a variable amount calculated as follows:
			<ul style="list-style-type: none"> (a) The variable amount payable by each entity in this category A shall be calculated by reference to that entity's weighted share of the levy factors for all entities in category A1 as determined by the Bank. (b) The levy factors used to determine the variable amount in respect of an entity in category A1 shall be the amount of each of the following: <ul style="list-style-type: none"> (i) total assets as reported in FINREP template F01.01 row 380 for the period 31 December 2022. For entities whose year-end is October, data for the period 31 October 2022 will be used. For entities whose year-end is March, data for the period 31 March 2022 will be used; (ii) total risk exposure as reported in COREP template C02.00 row 010 for the period 31 December 2022. (c) The relative weighting applied to the levy factors referred to in paragraph (b)(i) and (ii) above shall be:
A1	Irish authorised Credit Institutions (including relevant credit institutions authorised pursuant to section 9A of the Central Bank Act 1971)	€178,142	

		<p>(iii) total assets: 50%</p> <p>(iv) total risk exposure: 50%.</p> <p>Accordingly, the variable amount (V) to be paid by a credit institution in this category shall be calculated as follows:</p> $V = ((S + G) * 50\%) * C \text{ where}$ <p>S = entity's percentage share of the sum of total assets for category A1</p> <p>G = entity's percentage share of the sum of total risk exposure for category A1</p> <p>C = proportion of total variable amount for category A1</p> <p>The values of S, G and C relevant to their levy calculations shall be communicated by the Bank directly to each entity.</p> <p>In relation to credit institution groups, one levy shall be calculated and issued at the highest level of consolidation in respect of its regulatory reporting to the Bank.</p> <p>The funding requirement relates principally to the recovery of 2022 costs but is adjusted for balancing items and deferred income from previous years and such other approved adjustments.</p>
	Supplementary Levy	<p>Supplementary Levy Contribution:</p> <p>A supplementary levy contribution is payable as a separate levy by ELG credit institutions in addition to the levy contribution.</p> <p>For the purposes of providing the Bank with sufficient funds for the conduct of activities relating to inquiries that may be held by the Bank under Part IIIC of the Central Bank Act 1942, certain credit institutions within the scope of category A1 shall pay a supplementary levy to the Bank.</p> <p>Such supplementary levy will be set out in a levy notice sent to relevant credit institutions within the scope of category A1.</p>

Type of regulated entity	Basis of calculation of levy contribution: Flat Rate Levy
A2 Credit Institutions authorised in another EEA state which have established a branch in Ireland	Each credit institution within category A2 and A3 shall pay a flat rate levy of €29,500.
A3 Credit Institutions authorised in another EEA state operating in Ireland on a Freedom of Services basis	

Type of regulated entity	Basis of calculation for levy contribution: Supplementary Levies
A1, A2 and A3 (As above)	<p>The following supplementary levy contributions are separate levies which shall be paid in addition to the levy contributions above.</p> <p>Supplementary Levy Contribution (1): Tracker Mortgage Investigation</p> <p>For the purposes of providing the Bank with sufficient funds to enable it to exercise its powers under Part IIIC of the Central Bank Act 1942 in respect of serious failings relating to tracker mortgage accounts and notified to each relevant lender, Credit Institutions who themselves, or, the persons concerned in their management have been, or remain subject to, the Tracker Mortgage Investigation shall pay a supplementary levy to the Bank.</p> <p>Supplementary Levy Contribution (2): Significant changes to Business Model</p> <p>For the purposes of providing the Bank with sufficient funds to enable it to consider significant changes to the business model and/or activities of a credit institution, relevant credit institutions shall pay a supplementary levy.</p>

CATEGORY B
Insurance Undertakings

Category B: Insurance/Reinsurance undertakings authorised in Ireland	Basis of Calculation for Levy Contribution: Impact Category*				
	Ultra-High	High	Medium High	Medium Low	Low
B1 Life Insurance Undertakings as defined under the EU (Insurance and Reinsurance) Regulations 2015 with an Irish Head Office					
B4 Non-Life Undertakings as defined under the EU (Insurance and Reinsurance) Regulations 2015 with an Irish Head Office	€4,393,100	€1,993,369	€455,784	€90,608	€28,147
B7 Reinsurance Undertakings as defined under the EU (Insurance and Reinsurance) Regulations 2015 with an Irish Head Office					
B8 Branch in the State of a third-country insurance undertaking as defined under the EU (Insurance and Reinsurance) Regulations 2015					

* 'Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.

Category B: Insurance undertakings authorised in another EEA state		Basis of Calculation for Levy Contribution: Gross Written Premium on Irish risk business or Flat Rate Levy				
		GWP > €100m	GWP €0- €100m	GWP >€50m	GWP €0m- €50m	Flat Levy
B2	Life Insurance Undertakings authorised in another EEA state which have established a branch in Ireland	€227,892	€21,110	N/A	N/A	N/A
B3	Life Insurance Undertakings authorised in another EEA state operating in Ireland on a Freedom of Services basis ¹	N/A	N/A	N/A	N/A	€21,110
B5a	Non-Life Insurance Undertakings authorised in another EEA state which have established a branch in Ireland writing motor insurance	N/A	N/A	€227,892	€45,304	N/A
B5b	Non-Life Insurance Undertakings authorised in another EEA state which have established a branch in Ireland not included in B5a	N/A	N/A	N/A	N/A	€21,110

¹ As insurance undertakings operating in Ireland on a Freedom of Services basis may write Irish risk business, they will be subject to a levy designed to contribute towards the cost of consumer protection regulation.

B6	Non-Life Insurance Undertakings authorised in another EEA state operating in Ireland on a Freedom of Services basis	N/A	N/A	N/A	N/A	€21,110				
Category B: Special Purpose Reinsurance Vehicles²			Basis of Calculation for Levy Contribution: Minimum Levy plus Contribution per Arrangement on a pro rata basis with respect to the number of days of the levy period during which the Special Purpose Reinsurance Vehicle or arrangement were approved							
B9	Special Purpose Reinsurance Vehicles shall pay a minimum levy equivalent to 50% of that applied to Low impact undertakings in Category B (Insurance/reinsurance undertakings authorised in Ireland) in respect of single and multiple arrangements.	<u>Minimum levy</u> €14,073								
	Second and each subsequent Special Purpose Reinsurance Vehicle arrangements shall be subject to a levy equivalent to one-third of the minimum levy payable in respect of single and multiple arrangements.	€4,691 per arrangement								

² Special purpose reinsurance vehicle is a “special purpose vehicle” as defined under the EU (Insurance and Reinsurance) Regulations 2015

CATEGORY C
Intermediaries and Debt Management Firms

	Type of Regulated Entity	Basis of Calculation for Levy Contribution:	
		Minimum Levy	Variable Levy
C	Intermediaries (including Investment Product Intermediaries and Mortgage Intermediaries who hold authorisations under the Consumer Credit Act 1995)	€950	Variable Levy calculated as follows: $(A - B) * C$ Where: A. = total of firm's 'Income from Fees' and 'Income from Commissions' as reported in the firm's On-Line Return to the Bank for year ended 31 December 2021 which was due for submission to the Bank at end June 2022 or the most recent previously submitted report;
	Mortgage Credit Intermediaries who hold authorisations under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016		B. = threshold level of total 'Income from Fees' and 'Income from Commissions' of €200,000; and
	Insurance/Reinsurance Intermediaries registered under the European Union (Insurance Distribution) Regulations 2018		C. = Variable Levy Rate of 0.25%.
	Debt Management Firms authorised under the Central Bank Act, 1997		

CATEGORY D
Investment Firms
(other than Investment Product Intermediaries)

(Firms regulated under the provisions of either the Investment Intermediaries Act, 1995 or European Union (Markets in Financial Instruments) Regulations 2017 [S.I. No. 375 of 2017] or any amending or replacing legislation)

Type of Regulated Entity: Investment Firms		Basis of Calculation for Levy Contribution: Impact Category*			
		High	Medium High	Medium Low	Low
D1	Designated Fund Managers				
D2	Receipt & Transmission of Orders &/ or Provision of Investment Advice	€1,813,792	€906,896	€180,287	€23,046
D3	Portfolio Management; Execution of Orders				
D4	Own Account Trading; Underwriting on a Firm Commitment Basis				

D5	Stock Exchange Member Firms : Member Firms of the Irish Stock Exchange which have been authorised or deemed authorised as an Investment Firm under the European Union (Markets in Financial Instruments) Regulations 2017 or any amending or replacing legislation				
D6	Firms authorised under the Investment Intermediaries Act 1995 that are not captured in any other levy category for the purposes of these Regulations	€1,813,792	€906,896	€180,287	€23,046
D9	High Volume Algorithmic Trading Firms				
D10	Market Infrastructure Firms				
Investment Firms in D1 to D10 subject to Client Asset Requirements	For the purposes of providing the Bank with sufficient funds to enable it to continue to perform its functions under the Client Asset Requirements,	€449,484	€224,742	€44,678	€6,263

	<p>institutions which are subject to the Client Asset Requirements in the categories D1</p> <p>— D10 shall pay a supplementary levy to the Bank. The supplementary levy contribution is a separate levy which shall be paid in addition to the levy contribution.</p>				
Investment Firms in D1 to D10 within the meaning of Regulation 3 of the European Union (Bank Recovery and Resolution) Regulations 2015	<p>Pursuant to Regulation 5 of the European Union (Bank Recovery and Resolution) Regulations 2015, and for the purposes of providing the Bank with sufficient funds to enable the Bank to perform its functions as resolution authority under the European Union (Bank Recovery and Resolution) Regulations 2015, all of the investment firms in this category shall pay a supplementary levy to the</p>	€110,637	€109,120	€21,693	€10,846

	Bank. The supplementary levy contribution is a separate levy which shall be paid in addition to the levy contribution				
D11	Investment Firms authorised in another EEA state which have established a branch in Ireland	All entities in this sub-category shall pay a flat rate levy of €23,046			
*'Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.					

CATEGORY E**Investment Funds, Alternative Investment Fund Managers and other Investment Fund Service Providers**

		Basis of Calculation for Levy Contribution: Minimum Levy plus Contribution per Sub-fund
Type of Regulated Entity: Investment Funds		Minimum Levy (Single & Umbrella Funds with one sub-fund)
E1a	Authorised UCITS; Authorised Unit Trusts; Authorised Investment Companies (Designated and non-Designated); Authorised Investment Limited Partnerships; Authorised Common Contractual Funds; Authorised Irish Collective Asset-management Vehicles (ICAV)	
E1b	UCITS Self-Managed Investment Companies (SMICs); UCITS Self-Managed ICAVs; Authorised Designated Investment Companies (Internally Managed Alternative Investment Funds); Authorised Irish Collective Asset-management Vehicles (Internally Managed AIF ICAVs)	€7,165 €475 per sub fund
<p>* Umbrella funds shall also pay a contribution per sub-fund of €475 up to ten sub-funds and a further levy of €475 on sub-fund numbers greater than ten, to a maximum of twenty sub-funds, resulting in a maximum contribution for umbrella funds of €16,665.</p>		

Type of Regulated Entity: Alternative Investment Fund Managers and other Investment Service Providers	Basis of Calculation for Levy Contribution : Impact Category* or Flat Rate Levy			
	High	Medium High	Medium Low	Low
E2a AIF Management Companies				
E2b Administrators; UCITS Managers (Non Delegating); Depositaries; Alternative Investment Fund Managers	€1,566,457	€783,228	€155,702	€19,903
E2c UCITS Managers (Delegating)				
E2d UCITS managers and alternative investment fund managers authorised in another EEA state which have established a branch in Ireland	All entities in this sub-category shall pay a flat rate levy of €19,903.			
*Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.				

CATEGORY F**Credit Unions**

Type of regulated entity	Basis of calculation for levy contribution
F Credit Unions	The required levy from individual credit unions will be assessed as 0.02784% of total assets reported in the quarterly prudential return setting out their balance sheet as at 31 December 2022, provided that the total levy collected or recovered from credit unions does not exceed the total costs incurred by the Bank in performing the functions and exercising the powers of the Bank under the Credit Union Act, 1997.

CATEGORY G**High Cost Credit Providers**

Type of Regulated Entity	Basis of Calculation for Levy Contribution: Minimum Levy plus Variable Levy	
	Minimum Levy	Variable Levy
G High Cost Credit Providers (HCCP)	€1,920	<p>Variable Levy calculated as follows: (A — B) * C</p> <p>Where:</p> <p>A. = total of firm's turnover reported to the Bank in section 6.2 of the most recently received Renewal Application (2022) for the entity</p> <p>B. = threshold level of total 'Turnover' of €60,000; and</p> <p>C. = Variable Levy Rate of 1.178%.</p> <p>This levy will cover HCCPs' operation in all Court Districts.</p>

CATEGORY H
Approved Professional Bodies

Type of Regulated Entity		Basis of Calculation for Levy Contribution : Impact Category*
		Low
H	Approved Professional Bodies	€5,500

*'Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.

CATEGORY J
Bureaux de Change

Type of Regulated Entity		Basis of Calculation for Levy Contribution : Impact Category*
		Low
J	Bureaux de Change	€2,500

*'Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.

CATEGORY L
Default Assessments

Type of regulated entity		Basis of calculation for levy contribution: Flat Rate Levy
L	Regulated entities falling within Regulation 13(4)	Each regulated entity falling within Regulation 13(4) shall pay a flat rate levy of €3,600.

CATEGORY M
Retail Credit Firms, Home Reversion Firms and Credit Servicing Firms

Type of Regulated Entity: Retail Credit Firms; Home Reversion Firms; Credit Servicing Firms		Basis of Calculation for Levy Contribution : Impact Category*
		Low
M1	Retail Credit Firms	
M3	Credit Servicing Firms	€81,703
M2	Home Reversion Firms	€5,000

*'Impact Category' is a rating given to regulated entities by the Bank in accordance with the Bank's Probability Risk and Impact System (PRISM) framework.

CATEGORY N
Payment Institutions and E-Money Institutions

Type of Regulated Entity	Basis of Calculation for Levy Contribution:	
	Minimum Levy*	Variable Levy
N	Payment Institutions	<p>Variable Levy calculated as follows:</p> <p>A = B/C</p> <p>Where:</p> <p>A = Variable Levy Rate % (i.e. Firm's % share of Total Value of Transactions processed by all firms)</p> <p>B = Value of Transactions processed by the firm as reported in On-Line Returns to the Bank for year ended 31 December 2022</p> <p>C = Total Value of Transactions processed by all firms as reported in On-Line Returns to the Bank for year ended 31 December 2022</p>
	E-Money Institutions	
	An Post in its capacity as a Payment Service Provider	
<p>*In addition to the Minimum and Variable levies as above, any firms rated as 'Ultra High' on the Central Bank's AML/CTF [Anti-Money Laundering/Combating the Financing of Terrorism] risk matrix will be required to pay a separate flat fee of €375,000.</p>		€5,000

Signed for and on behalf of the CENTRAL BANK OF IRELAND
4 September 2023

SHARON DONNERY,
Deputy Governor, Financial Regulation

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to prescribe levies pursuant to section 32D of the Central Bank Act 1942.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

ISBN 978-1-3993-2589-9



9 781399 325899 >

€ 6.50