



STATUTORY INSTRUMENTS.

S.I. No. 560 of 2011



CONSUMER PROTECTION ACT 2007 (NATIONAL CONSUMER
AGENCY) LEVY REGULATIONS 2011

CONSUMER PROTECTION ACT 2007 (NATIONAL CONSUMER AGENCY) LEVY REGULATIONS 2011

The National Consumer Agency (the ‘Agency’), in the exercise of its power to impose levies conferred on the Agency by Section 24B of the Consumer Protection Act 2007 (as inserted by the Central Bank Reform Act 2010) as approved by the Minister for Jobs, Enterprise, and Innovation and with the consent of the Minister for Finance, hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Consumer Protection Act 2007 (National Consumer Agency) Levy Regulations 2011.

Interpretation

2. In these Regulations;

‘Agency’ means the National Consumer Agency;

‘Bank’ means the Central Bank of Ireland;

‘Consumer’ means a natural person who is acting for purposes unrelated to the person’s trade, business or profession;

‘Chairperson’ means the Chairperson for the time being of the Agency;

‘Chief Executive’ means the Chief Executive for the time being of the Agency;

‘levy’ means a levy imposed under section 24B of the Consumer Protection Act 2007 (as inserted by the Central Bank Reform Act 2010);

‘levy notice’ means the notice sent by, or on behalf of, the Agency in accordance with Regulation 5;

‘levy period’ means the period prescribed in the Schedules to these Regulations in respect of which regulated entities, as categorised in the Schedules, are obliged to pay the required levy contribution;

‘levy contribution’ means the amount expressed in the Euro currency that a regulated entity, as categorised in the Schedule, is required to pay to the Agency;

‘payment date’ means the date specified as the payment date in the levy notice being the latest date by which the levy contribution must be paid;

‘regulated entity’ means persons who are subject to regulation under the designated enactments and designated statutory instruments (within the respective

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 8th November, 2011.*

meanings given by the Central Bank Act 1942). It includes 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 also includes former regulated entities who are regulated for part of the levy period and ‘regulated entities’ shall be construed accordingly;

‘Schedule’ means the schedule to these Regulations. ‘Schedules’ shall be construed accordingly.

Application

3. These Regulations prescribe the application of levies and levy contributions payable by regulated entities. The levies relate to the function of the Agency in promoting the interests of consumers of financial services by;

- a. providing information in relation to financial services including information in relation to the costs to consumers, and the risks and benefits associated with the provision of those services, and
- b. promoting the development of financial education and capability.

4. All persons who are, or have been, regulated entities as categorised in the Schedules to these Regulations shall pay the required levy contribution to the Agency for each levy period in which they are, or have been, subject to regulation by the Bank. Where a regulated entity has been subject to regulation by the Bank for part of a levy period only, then the required levy contribution shall be calculated by reference to the number of days of such levy period for which the entity was regulated. Where a regulated entity becomes subject to regulation by the Bank for the first time during the levy period referred to in the Schedules, it shall not be required to pay a levy contribution unless specified in the Schedules.

Levy Notice

5. The Agency may transmit, or may arrange the transmission of, a levy notice in writing to a regulated entity indicating the required levy contribution payable by that regulated entity for the levy period and the payment date for submission of payment of the levy contribution.

6. A regulated entity not having received a levy notice remains liable to pay the levy contribution not later than 28 days after the expiry date of the levy period to which these Regulations apply. The levy contribution in these circumstances will be calculated by such regulated entity by reference to the Schedules hereto and shall be paid by such regulated entity to the Agency by the due date referred to in this Regulation.

Levy Contribution

7. Each regulated entity to which these Regulations apply shall pay to the Agency a levy contribution. Such a levy contribution shall consist of the amount specified in Schedule B, or calculated in accordance with the fifth column of the relevant section of Schedule A applicable to the category for that particular regulated entity.

Payment date

8. A regulated entity shall pay the levy contribution in respect of the levy period as provided for in the Schedules no later than 28 days from the date on the levy notice.

Payments

9. All levy contributions are payable in the Euro currency and in a single instalment.

10. The required levy contribution shall be paid in such manner as indicated in the levy notice.

11. Without prejudice to any other remedy available to the Agency, where a required 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 2002 (S.I. No. 388 of 2002).

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

Appeals

13. A regulated entity or former regulated entity which receives a levy notice under Regulation 5, may appeal to the Chief Executive, no later than 28 days following the date on the levy notice, to change the amount of the levy contribution assessed for that regulated entity where it considers the amount assessed is incorrect.

14. Any such appeal must be in writing and shall set out the grounds of the appeal in detail with full disclosure of all relevant facts. Any such appeal must be accompanied by the full levy contribution as set out in the levy notice. In the event of a successful appeal, the Agency will reimburse such sums as the Chief Executive directs to the particular regulated entity.

Keeping of Records

15. Each regulated entity shall keep full and true records of all transactions that affect their liability under these Regulations and any related returns. A record kept by a person pursuant to this Regulation 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. This Regulation shall not apply to records of a regulated entity that have been disposed of in accordance with section 305(1) of the Companies Act 1963.

16. The Agency may exercise any of the powers and perform any of the functions and duties imposed on the Agency by these Regulations through or by any of the authorised officers or employees of the Agency or by persons seconded to the Agency or by persons engaged or retained by the Agency to exercise any

of the powers and perform any of the functions as set out in these Regulations on its behalf.

4 November 2011

STEPHEN COSTELLO,
Chairperson.

National Consumer Agency
4/5 Harcourt Road
Dublin 2

SCHEDULE A

Levy period: A 12-month period, commencing on 01 January 2011 and ending on 31 December 2011.

Categories for Regulated entities	Institution type	Percentage share out among categories	Total amount payable by regulated entities	Basis for calculating amount of levy per individual firm in each category
A1a	Credit Institutions authorised under Irish law and covered by the Credit Institutions (Financial Support) Scheme 2008 and their subsidiaries that are credit institutions authorised under Irish legislation.	43.99%	€1,558,706	278.57% of Central Bank's A1a consumer net annual funding requirement charged to individual regulated entities in this category (as at 30 September 2011).
A1b	Credit Institutions authorised under Irish law and not covered by the Credit Institutions (Financial Support) Scheme 2008.	10.99%	€389,411	43.53% of the Central Bank's A1b and A2 consumer net annual funding requirement charged to individual regulated entities in these categories (as at 30 September 2011).
A2	Credit Institutions authorised in another EEA State, operating in Ireland on a branch basis.			
B1	Life insurance undertakings with Irish head office and life insurance undertakings authorised in another non-EEA State operating in Ireland.	13.50%	€478,348	145.60% of the Central Bank's B1 and B2 consumer net annual funding requirement charged to individual regulated entities in these categories (as at 30 September 2011).
B2	Life insurance undertakings authorised in another EEA State operating in Ireland on a branch basis.			
B4	Non-life insurance undertakings with Irish head office.	23.17%	€820,987	174.20% of the Central Bank's B4 and B5 consumer net annual funding requirement charged to individual regulated entities in these categories (as at 30 September 2011).
B5	Non-life insurance undertakings authorised in another EEA State, operating in Ireland on a branch basis.			
D2, D3, D4	Investment firms.	1.20%	€42,520	See Schedule B

Categories for Regulated entities	Institution type	Percentage share out among categories	Total amount payable by regulated entities	Basis for calculating amount of levy per individual firm in each category
D5	Member Firms of the Irish Stock Exchange.	1.21%	€42,874	3.52% of the Central Bank's D5 net annual funding requirement charged to individual regulated entities in this category (as at 30 September 2011).
F	Credit Unions.	4.66%	€165,119	11.45% of the Central Bank's F net annual funding requirement charged to individual regulated entities in this category (as at 30 September 2011).
G	Money Lenders.	0.26%	€9,213	2.45% of the Central Bank's G net annual funding requirement charged to individual regulated entities in this category (as at 30 September 2011).
M1	Retail credit firms.	1.02%	€36,142	25.24% of the Central Bank's M1 net annual funding requirement charged to individual regulated entities in this category (as at 30 September 2011).

SCHEDULE B

Levy period: A 12-month period, commencing on 01 January 2011 and ending on 31 December 2011.

Categories D2, D3 and D4: Investment Firms authorised under the provisions of the European Communities (Markets in Financial Instruments) Regulations 2007 (other than those in Category D5 in Schedule A)

Band	Range of retail clients in Ireland, at 31 December 2010 (as reported to the Agency)	Levy Rate per Band €
A	1 — 99	50
B	100 — 499	550
C	500 — 1,999	1,550
D	2,000 — 4,999	4,000
E	5,000 — 10,000	8,000

EXPLANATORY NOTE

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

These Regulations made by the Chairperson of the National Consumer Agency in accordance with Section 24B of the Consumer Protection Act 2007 (as inserted by the Central Bank Reform Act 2010) provide for a levy scheme to fund the provision of information in relation to financial services including information in relation to the costs to consumers, the risks and benefits associated with the provision of those services and promoting the development of financial education and capability. The Regulations also provide for the collection of the levy with associated requirements and obligations for the regulated entities subject to this levy.

BAILE ÁTHA CLIATH
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