



STATUTORY INSTRUMENTS.

S.I. No. 441 of 2017



THE CENTRAL BANK ACT 1942 (SECTION 32D) (INVESTMENT
FUNDS — ADDITIONAL SUPERVISORY LEVY) REGULATIONS 2017

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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) (Investment Funds — Additional Supervisory Levy Regulations 2017).

2. In these Regulations:

“additional supervisory levy” means the amount determined as being due and owing, payable following authorisation of an investment fund or approval of a sub-fund, which is calculated in accordance with the Schedule hereto;

“authorisation” means, in relation to an investment fund, an authorisation granted by the Bank under the following—

- (a) the Unit Trusts Act 1990 (No. 37 of 1990),
- (b) the Investment Limited Partnership Act 1994 (No. 24 of 1994),
- (c) the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (No. 12 of 2005),
- (d) Part 24 of the Companies Act 2014 (No. 38 of 2014),
- (e) the Irish Collective Asset-management Vehicles Act 2015 (No. 2 of 2015), and
- (f) the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011);

“the Bank” means the Central Bank of Ireland

“due date” means—

- (a) the day that falls 28 days after the date of issue of the levy notice, as specified on such levy notice, or
- (b) a date otherwise referred to in these Regulations as being a due date for payment of the additional supervisory levy or part thereof;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 20th October, 2017.

“levy notice” means each notice specifying the additional supervisory levy sent by the Bank to an investment fund in accordance with these Regulations.

3. Where an investment fund is authorised, or has been approved to establish a sub-fund, the Bank shall, within 12 months from the date of authorisation or approval, issue to the fund a levy notice.

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

5. An investment fund is required to pay the additional supervisory 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.

6. The Bank may send to an investment fund a levy notice specifying:

(a) the additional supervisory levy assessed by the Bank to be payable by that investment fund and

(b) the due date for payment of the additional supervisory levy.

7. The additional supervisory levy and any interest accrued in accordance with Regulation 9 shall be paid by an investment fund 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) An investment fund or former investment fund may, no later than 21 days following a due date, submit an appeal under this Regulation in respect of the additional supervisory 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 additional supervisory levy that is not under appeal must be submitted with an appeal under this Regulation.

(d) The Bank shall advise the investment fund or former investment fund concerned in writing of its determination of the appeal and details of any amount outstanding in respect of the disputed amount of the additional supervisory levy and the due date applicable for the payment of any outstanding additional supervisory levy.

9. Without prejudice to any other remedy available to the Bank, where the additional supervisory 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 an investment fund 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 investment fund 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 305(1) of the Companies Act 1963 or 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) An investment fund 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 additional supervisory levy, or may be otherwise assessed in a manner determined by the Bank, and the Bank may issue a levy notice to such an investment fund, or former investment fund, 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 1 December 2017.

Signed for and on behalf of the CENTRAL BANK COMMISSION,
17 October 2017.

ED SIBLEY,
Deputy Governor.

SCHEDULE**Investment Funds**

All investment funds will, in accordance with these Regulations, be liable to pay the additional supervisory levy. Umbrella funds will also pay a contribution per sub-fund of €2,000. Where the number of sub-funds received in a single application for authorisation exceeds ten, the amount to be charged will not exceed €23,000. For the avoidance of doubt, all further sub-funds approved are liable to pay the additional supervisory levy upon approval.

Umbrella Funds:

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

Standalone Funds:

Fund structure	Amount
Standalone	€5,000

Sub-fund approved subsequent to authorisation of umbrella investment fund:

Fund structure	Amount
Sub-fund	€2,000

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