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Payment Institutions and E-Money Institutions Consultation 2021

Industry Funding

Central Bank of Ireland

PO Box 9708

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16 April 2021

Dear Raoul

Re: EMA response to CBI CP on New Levy Methodology for Payment Institutions and E-Money Institutions, CPI37, published on 16 February 2021

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis, and a large number have obtained – or are applying for - licences to operate from the Central Bank of Ireland. A list of current EMA members is provided at the end of this document. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Thaer Sabri'. The signature is written in a cursive style and is underlined with a long horizontal stroke.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA response

General comments:

The EMA and its members welcome the opportunity to comment on the proposals to adjust the levy calculation for EMI and PIs under the [Central Banks 'Funding Strategy and Guide to the 2020 Industry Funding Regulations.'](#) The EMA supports the CBI's efforts to recover regulatory costs from the regulated sector in a manner proportionate to the size and risk of authorised firms. We acknowledge the CBI's need for more resources to support supervisory activities, given the increase in volume of firms in this sector, as well as the need to take into account prudential, conduct and anti-money laundering /terrorist financing (AML/CTF) risks.

However, we consider the timing of the proposed changes to be premature. Given the fact that many firms authorised in Ireland have only recently migrated their EU business and operations from the UK to the Irish entity following Brexit, and other firms continue to progress their authorisation applications, the volume of transactions processed by firms authorised in Ireland is currently unknown. We note that the first set of quarterly returns for 2021 have not yet been reviewed by the CBI; we suggest that a revision of the levy calculation should only be considered following the submission of the first quarter, or indeed second quarter, returns. Basing the adjusted levy calculation on the previous years' activities will not accurately reflect the major changes to the industry in Ireland since 2020, including the influx of firms with varying risk profiles.

We would also welcome greater transparency around the calculation of the €2 million cost calculation, for example:

- whether it includes estimated costs associated with both authorisation and supervision of payment services and e-money firms, or whether it covers the cost of supervision alone.
- whether it has taken into account the forecasted cost of (authorisation and) supervision of firms entering the market over the next 12 months
- whether fines/sanctions paid by relevant member firms will contribute towards the supervision budget, thus reducing the value that must be recuperated via the levy.

Further transparency around the €2 million calculation would provide certainty for firms regarding any likely fluctuation in the total levy amount that might be required year on year, for example if the CBI supervision budget were to be subject to a sudden increase due to the size of the market, or even a reduction. The EMA would for example welcome a guarantee from the CBI that the levy methodology will not change for the next 5 years for example, and that the €2 million calculation will also remain static for a certain number of years; we note that the existing CBI fee model set out in the CBI's document [Funding the Cost of Regulation](#) projected Recovery Rates for PIs and EMIs to be at 75% in 2020, 80% in 2021, 90% in 2022, and 100% from 2023 onwards. We would welcome clarity from the CBI whether this is still the intended approach. If it proves necessary to increase the €2 million over coming years, we suggest that the proportion obtained from the levy should only be recovered on a gradual basis during the years following the end of the guaranteed period.

Q 1. Do you agree with the broad structure proposed? (please provide rationale for response)

The EMA and its members welcome the efforts made to avoid the “cliff-edge” effect of previous band movement rises, and a move towards more predictable, transparent and proportionate fee levies for the industry. The proposal for a split levy approach, with a transparent flat fee and a variable element appears to be reasonable.

The EMA acknowledges the desire of the CBI to move away from the use of PRISM ratings and towards a more transparent levy calculation by basing the calculation on transaction value/average value of safeguarded funds. However a methodology that does not take into account individual firm risk, control or governance mechanisms, removes the relationship between the levy amount, and the relevant supervisory overhead required for that firm. Incorporating the PRISM rating into the calculation in a transparent manner would allow the CBI to take into account not only firms’ total transaction values, but also the risk(s) associated with that firm, and thus draw on CBI supervisory resources. The CBI could consider using models similar to that of the insurance and fund industry, where PRISM ratings hold a weighting factor in the calculation ranging from low, medium to high and ultra high risk.

We acknowledge that the CBI has designed the levy calculation to meet the CBI’s estimated €2m funding requirement. It is not clear what proportion of regulated entities fall into the “ultra high risk” category; Table 2 appears to indicate there is currently only one firm in this category, but we would welcome confirmation. In the event that a large levy contributor firm were to relocate to another jurisdiction, it is unclear what the impact might be on remaining EMIs and PIs. We therefore propose a cap on the levy payable, the level of which is dependent on the firm’s size and risk profile. The cap could be in place for a certain number of years following any significant transition, and then gradually scaled up to cover the gap. This will allow firms to budget and plan for the future, and avoid any cliff-edge effects.

We seek clarity regarding the classification of ‘Ultra-high’ risk firms: it is unclear from the consultation paper the threshold conditions that must be met in order for a firm to be classified as ‘Ultra-High’ on the CBI AML/CTF risk matrix, and whether there are particular business models that would automatically fall under the ‘Ultra High’ category. Without such information it is difficult for firms in this sector to be able to fully understand the potential impact of the levy on their business, or indeed to be able to ensure it has been taken into account when preparing their annual budget.

We would welcome clarity regarding the treatment of micro or small EMIs/PIs who have submitted a notification; will these firms be expected to subject to the same calculation methodology, or simply a flat fee? We suggest that the flat fee should be sufficient as well as proportionate in order to cover the related supervisory costs.

Finally, firms require sufficient notice in order to be able to budget for the regulatory levy, particularly where the value may change year on year. Firms have requested that the CBI offer a minimum of six-months’ notice when issuing firms with invoices for the regulatory levy, and for the CBI to indicate when the applicable PI/EMI supervisory fee will be issued in order to enable firms to plan their budgets.

Q2. With regard to the variable fee element, do you favour a methodology which:

a. Is solely based on the Total Value of Transactions Processed?

b. Considers both the Total Value of Transactions Processed and Average Value of User Funds Held at period end?

Scenario 1: Total Value of Transactions Processed

Scenario 1 is preferred by EMA members, as it is deemed to represent the most equitable reflection of activity undertaken. However, using transaction value as the single and only tool for calculating the variable element of the levy is not considered proportionate in all circumstances. For high transaction volume firms with low profit margins for example, this scenario is unfavourable.

We suggest the CBI reconsider making use of the PRISM impact ratings within the calculation, as an indicator of risk, and therefore supervisory resource needed. Alternatively, as mentioned earlier the CBI could consider having several levels for the flat fee which, similarly to the current levy calculation methodology, are based on the risk rating of a particular firm.

Scenario 2: Total Value of Transactions Processed and Average Value of User Funds Held at period end

EMA members did not support scenario 2, as it was not considered proportionate, nor a fair representation of the supervisory cost to the CBI.

E-money is not intended to be a savings product, and the higher the velocity of funds moving in and out of the wallet, the more efficient the product. Therefore the value of transactions processed is a better indicator of business activity and potential risk than the value safeguarded.

PSPs frequently find it necessary to hold funds for a period of time before they are released to merchants, in order to guard against fraud. A levy based on the value of safeguarded funds would discourage PSPs from managing their risk in this way, as there would be a cost associated with it. Similarly, PSPs will be required to hold frozen funds as part of their management of financial crime, and calculating the levy based on the value of safeguarded funds would penalise firms that have reported and taken action in relation to AML/TF risks. A proportion of safeguarded funds can usually be attributable to dormant funds (where customers have remaining unused or forgotten funds), or unredeemed due to other factors, such as when customers have been unable to take advantage of gift card balances (e.g. during the COVID 19 lockdowns).

Scenario 2 places a heavy burden on firms holding high volumes of safeguarded funds; the average value may be far higher than the value of transactions processed over the same period of time, and the value of safeguarded funds does not necessarily represent the level of activity, as the holding of e-money does not necessarily represent a source of income for EMIs. Firms who have run the calculations based on current volumes and value of funds safeguarded have calculated an increase of 4 to 6 times the levy arising from the Scenario 1 calculation.

Members of the EMA, as of April 2021

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[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[American Express](#)
[Azimo Limited](#)
[Bitpanda Payments GmbH](#)
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