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**The Investor Compensation
Company Limited**

**Consultation Paper
in relation to the funding of the scheme.**

**This paper is issued to all contributors to the
scheme.**

Responses are invited by 20 November 2009

9 October 2009

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1 Introduction

1 Since its establishment, the Investor Compensation Company Limited (ICCL) has adopted a policy of consulting with industry on the structure of the scheme in general and on the bases for levying contributors to the scheme. This is the fifth consultation process.

2 The most recent consultation process, a general review of the ICCL's arrangements for the funding of the investor compensation scheme, commenced in 2006 and culminated in the publication of revised Funding Arrangements in June 2007. As the ICCL has undertaken to carry out a review of its funding arrangements approximately every three years, it is now time to initiate a further review in order to determine appropriate funding levels for the three-year period commencing 1 August 2010.

3 The purpose of this consultation paper is to summarise the outcome of deliberations on key issues affecting the funding of the scheme and, consequently, to set out the ICCL's proposed future funding arrangements which the Board considers are necessary to ensure the continued viability of the scheme.

4 The ICCL is very much aware of the impact on firms of the current uncertain economic climate and market conditions and the significant uncertainties facing financial markets. The ICCL Board have sought to strike a balance between the requirement to have funds available to pay claims, given the economic conditions, and the increased financial pressures on firms funding the Scheme.

5 This paper provides an opportunity for participants in the scheme to make any comments and observations that might be of assistance to the Board of the ICCL in determining what, if any, changes should be made to the way the scheme is operated in relation to funding issues. The concluding part of this document contains details on how participants should make such comments or observations and an indication of the timescale within which this process will be conducted.

2 Key issues affecting the funding of the ICCL scheme

Background

6 The ICCL published its most recent Consultation Paper in November 2006. Arising from this consultation process, the ICCL made a number of submissions to the Department of Finance, the Central Bank and Financial Services Authority of Ireland (the Central Bank), the Irish Financial Services Regulatory Authority of Ireland (the Financial Regulator) and the European Commission on issues that affect the operation and sustainability of the scheme.

7 In November 2006, the 'Morrogh' Working Group published its report which included 20 recommendations in relation to legislative and regulatory issues and investor compensation funding issues. (These recommendations are detailed in Appendix 1 of this Paper). The Minister for Finance had established this Working Group in March 2004 to examine legislative and regulatory issues and investor compensation funding arrangements in light of issues arising as part of the W&R Morrogh (Morrogh) case. The ICCL was a member of the Working Group which also included bodies drawn from a wide range of Governmental, financial industry, regulatory and consumer protection interests. The Group was chaired by the Department of Finance.

8 Many of the funding issues raised in the report had already been considered and / or addressed as part of the ICCL's previous funding reviews and the recommendations broadly supported the ICCL position on these matters. Some recommendations, however, fell short of what the ICCL had been seeking. Nonetheless, the ICCL has proactively pursued the implementation of many of these recommendations as outlined below.

(i) Pre-determined client assets distribution rules

9 The 'Morrogh' Working Group report concluded that, in the case of W&R Morrogh, the absence of legal rules regarding the basis upon which pooled assets should be returned to investors considerably contributed to the very significant legal costs that arose. Under the High Court judgement, those costs were defrayed against client assets, leading to very substantial increases in investor compensation claims.

10 The enactment of such pre-determined distribution rules could significantly reduce the timeframe taken by receivers / liquidators to return clients' assets in a default situation as well as the level of funds required to meet the costs of winding up failed investment firms. In addition, it could also reduce the timeframe involved in certifying compensation claims.

11 The Financial Legislation Advisory Forum (the Forum) was established by the Department of Finance in 2007 to advise on the consolidation and modernisation of legislation governing financial regulation. At that time, the ICCL understood that the brief of the Forum included the development of pre-determined rules for the distribution of client assets in circumstances where a shortfall in client assets arises following the failure of an investment firm. In May 2007, the ICCL wrote to the newly established Forum and drew attention to the Morrogh Working Group Recommendations. The ICCL were subsequently advised that this was not part of the remit of the Forum.

12 Early in 2008, following discussions with the Department of Finance, the ICCL carried out a preliminary scoping exercise to ascertain the level of resources necessary to undertake the development of pre-determined distribution rules and to assess the extent to which the ICCL could contribute. Subsequently, in the absence of any other party agreeing to do so and with the support of the Department of Finance, the ICCL agreed to engage legal advisors to develop the pre-determined distribution rules. The ICCL undertook a focussed consultation process on the draft rules towards the end of 2008, following which, Senior Counsel's Opinion was sought. The final legislative amendments, together with Senior Counsel's opinion were submitted by the ICCL to the Department of Finance in July 2009. The Department of Finance has undertaken to include these amendments for consideration under the next Miscellaneous Provisions Bill which is due in the latter half of 2009.

(ii) Review of Certifications of Claims Process

13 The ICCL completed a comprehensive review of the certification of claims process in 2007. Arising from that review, the ICCL identified a number of operational and strategic changes which could lead to more timely return of clients' assets and certification of compensatable losses. The enactment of

pre-determined distribution rules to facilitate the return of clients' assets has already been discussed in paragraphs 9 to 12 above. Other significant changes are outlined below.

14 The Morrogh Working Group recommended that a set of principles should be prepared by the Financial Regulator and the ICCL to guide and inform the certification of claims by the Administrator. In December 2007, the ICCL prepared and issued initial draft guidelines to the Financial Regulator for consideration. The ICCL have raised this matter with the Financial Regulator in the intervening period seeking their views on the draft guidelines. The ICCL understands that a response has been delayed due to other Financial Regulatory work priorities. The ICCL expects to receive a response in the coming months.

15 Following consideration of the findings of its own review of claims handling in 2007, the Board of the ICCL is in favour of facilitating, if possible, the early certification of low value claims, e.g. claims under €1,000 (which constituted a small claim in the context of Morrogh) on the basis of a less stringent level of checking than is currently required.

16 The ICCL recommends the use of an indemnity to facilitate the early certification of claims by the Administrator on the basis of a less stringent standard of checking, if it is legally feasible. This would be on the basis that it can be implemented at the discretion of, and to the extent determined by, the ICCL on a case-by-case basis. It is proposed that, under the direction and approval of the ICCL, and subject to an agreed level of checking of data contained in the claim forms and in the records of the failed firm, the Administrator may certify claims in accordance with the Investor Compensation Act, 1998, on the basis of certain criteria as defined by the ICCL. For example, the criteria may include any one or several of the following options:

- a) certify a certain defined percentage of estimated losses, say 50%, to a defined group of claimants, e.g. claimants defined by the value of their losses, claimants defined as having cash only claims, claimants defined as having certain shareholdings etc.;
- b) certify a certain defined percentage of estimated losses to all claimants;
- c) certify the full amount of estimated losses to a defined group of claimants;
- d) certify the full amount of estimated losses to all claimants;
- e) following the closing of the classes of lawful claimants to the pools of shares by the Receiver, certify all claims for shares on the basis of the calculation of an estimate of minimum losses arising for each client;
- f) certify low value claims in full, e.g. where the estimated compensatable loss is a specified amount (e.g. less than or equal to €1,000, which would have been deemed low value in the case of Morrogh).

17 Reduction in the standard of accuracy required for certification purposes

The Report of the Morrogh Working Group indicated that, in relation to the Administrator's certification of claims, "*complete accuracy cannot be achieved until such time as the liquidator/receiver confirms accuracy*" of the books and records of the failed firm as they relate to client assets. In order to facilitate speedier certification of claims, that report suggested that the Administrator could, in advance of confirmation of the accuracy of the books and records of the failed firm, adopt a less stringent standard of checking and certify claims on that basis.

The Working Group Report set out certain risks associated with this approach as follows:

- an overpayment could be made;
- it may be difficult and / or operationally cumbersome and uneconomic to recover the overpayment from the client subsequently;
- Administrator fees could increase given that each client would require more than one certification to be made in respect of their claim.

18 The ICCL's subsequent analysis of the accuracy of the data contained in the Morrogh claim forms revealed that, in the vast majority of cases, this data could not have been relied upon for the purposes of certifying claims, either in full or in part.

Furthermore, even if the facts supported the adoption of a less stringent standard of checking, the ICCL's experiences in relation to the certification of claims, suggest that an Administrator would be unwilling under existing conditions to certify any claim on the basis of, for example, the data contained in the claim form and / or on a *prima facie* review of the records of the firm.

19 Despite the obvious barriers to the early certification of claims, and given its objective of avoiding, if possible, a repeat of the long delays in the certification of claims, the ICCL undertook further analysis. This further analysis sought to determine if there were any conditions, under which the objective of certifying claims at an early stage of the Receivership process in advance of confirmation of the accuracy of the books and records, could be met. From the analysis undertaken, the following statistics and observations emerged:

- 1) Some 6% of claims gave rise to compensation of less than €100, 20% were for amounts between €101 and €500 and 14% were for amounts between €501 and €1,000. When rejected claims were factored in, our analysis indicated that some 53% of all claims certified to date related to amounts of less than €1,000. The total compensation paid in respect of these claims amounted to some €416k.
- 2) While the work performed by all relevant parties¹ to bring an individual claim with compensatable loss of less than €1,000 to a conclusion has not been formally costed, it is likely that the cost would exceed the compensation actually paid in respect of each of these claims.

¹ Primarily the Administrator and his staff and the ICCL Executive.

- 3) In these circumstances, and in order to avoid delays in certification that might arise, one could make the case, on efficiency and economic grounds, that compensation amounts under a certain value, say €1,000, should be certified at an early stage of the process.
- 4) However, given the level of inaccuracy found in the data contained in Morrogh claim forms, there are significant risks and possible legal and operational difficulties attaching to the certification of claims on the basis of a less stringent standard of checking than currently applied. For example,
 - a) it may be uneconomic / impossible to retrieve from the claimant any overpayment, particularly within the €1,000 range, as they would be of such a relatively low value;
 - b) if, in the case of Morrogh, 'rejected' claims (which represented 371 claimants or some 14% of the population of claims) had been certified as within the €1,000 range, a maximum erroneous payment of €371,000 would have arisen;
 - c) the Administrator may not be in favour of certifying claims on the basis of a less stringent standard of checking without the protection of an indemnity from an appropriate party;
 - d) in the absence of any other party providing such an indemnity, this responsibility would fall on the ICCL;
 - e) the ICCL would bear all the risks and costs associated with providing an indemnity to the Administrator and with the possibly incorrect certification of claims.

20 Taking all these factors into account the ICCL has decided that it could only operate a system which facilitates the early certification of claims, on the basis of a less stringent standard of checking and the provision of an indemnity to the Administrator, if

- 1) the standard of checking which would be applied was determined by the ICCL on a case-by-case basis;
- 2) the ICCL could introduce some formal and legally binding method of ensuring that claimants who receive overstated compensation payments would be obliged to return the excess upon the ICCL's discovery of this fact;
- 3) the use of an indemnity was supported through legislation; and
- 4) the indemnity could be applied at the discretion of, and to the extent determined by, the ICCL on a case-by-case basis; (in determining whether such an indemnity could be implemented, the ICCL must bear in mind its principal statutory responsibility to maintain a financially sound Scheme for its claimants and contributors alike.)

21 The ICCL must strike a balance between the need to facilitate early payment of compensation, especially to small investors, on the one hand and to minimise the costs to contributors on the other. In relation to this proposal, and given that the ICCL ultimately relies on contributing firms to fund the Scheme, the ICCL is seeking your views on whether you are in favour of this proposal. If you are in favour, your views on the following are also requested:

- 1) The nature of controls over standards of checking which should be applied.

- 2) The conditions to apply in determining whether early certification is warranted.
- 3) The implications of overpayments – on the one hand, the practicalities of retrieval of overpayments and, on the other hand, the acceptability of not pursuing overpayments.
- 4) Financing the exposure arising from operation of an indemnity.
- 5) Possible legal difficulties in implementing an indemnity.
- 6) Possible political ramifications for the operation of other compensation schemes.

(iii) The ICCL's ability to borrow funds in the event of an exceptional default situation arising

22 The Investor Compensation Directive laid down certain basic requirements for investor compensation schemes in order to provide a harmonised minimum level of investor protection across the European Community. It was left to each individual Member State to implement an appropriate scheme and to determine the most appropriate way of organising and financing such schemes within their own jurisdiction. Thus, while all current Member States have implemented the Directive, the manner in which the Directive has been interpreted and applied varies quite considerably.

23 The EU Directive, under which the investor compensation scheme was established, states that the cost of financing investor compensation must, in principle, be borne by investment firms. The W&R Morrogh experience demonstrated how reserves can be depleted quickly and emphasised the requirement for alternative funding options to enable the scheme to swiftly put in place the funds required to meet the legislative requirements of the Compensation Scheme.

24 In these circumstances, the ICCL developed a 'cascade' model as the framework for funding the scheme in the event of a default situation. The 'cascade' represents a prioritised approach to be taken by the ICCL, depending on the seriousness of the collapse, to access funds for the purposes of making compensation payments. This approach is supported by the finding in the EU Commission's study that the availability of multiple sources of funding, even if never activated, enhances the viability of the schemes. The ICCL model consists of the following funding elements:

- the reserve of funds built up in Fund A or Fund B as appropriate;
- additional top-up payments collected from contributors;
- inter-fund borrowing; and
- other borrowing facilities.

The implementation sequence of the individual elements of the cascade model would be determined by the Board of the ICCL depending on circumstances prevailing at that time.

25 The 'Morrogh' Working Group report, while supporting the ICCL model, also acknowledged the significant difficulties for the ICCL in gaining access to 'other borrowing facilities'. These difficulties can be summarised as follows:

Commercial Borrowing

- i) Under current legislation, the ICCL is permitted to borrow² from commercial lending institutions. Such borrowing would be required in extreme circumstances where compensation payments could not be met through a combination of reserves, top-up contributions or inter-fund borrowing.
- ii) Following a comprehensive tender process, in 2007, the ICCL was successful in negotiating and putting in place a €50 million standby credit facility. The annual charge for this facility, which extends to 2017, is €65,000. Market conditions have changed significantly since 2007 and the ICCL's ability to negotiate an equivalent facility in the current environment is highly unlikely. The ICCL carries out regular reviews of this facility to ensure that it continues to meet ICCL requirements.

State Guarantees for ICCL borrowing

- i) The Investor Compensation Act, 1998 (as amended), which governs the conduct of the ICCL, does not provide statutory authority for State guarantees. In discussions with the Department of Finance and the Central Bank, Article 86 (1) of the EC Treaty was highlighted as prohibiting the granting of State guarantees to a public undertaking to underwrite commercial borrowings.
- ii) Since 2006, the ICCL has raised with the EU Commission the problems posed for Investor Compensation Schemes of managing the open-ended liability of firms to fund the schemes, especially schemes with small numbers of contributor firms. Specifically, in January 2007, the ICCL sought clarification from the Commission on whether restrictions apply to investor compensation schemes establishing back-stop borrowing facilities³, in extreme cases, which would allow schemes to spread the funding burden for firms over reasonable timeframes. The response of the Commission, in July 2007, indicated that State guarantees might contravene articles 87 and 88 of the EC Treaty but suggested that the specific circumstances of each case would have to be looked at before making a final determination.
- iii) The latter half of 2008 has witnessed unprecedented turmoil in financial markets worldwide with State intervention becoming a common feature. In the UK, the Financial Services Compensation Scheme (FSCS) paid substantial amounts of compensation during the year ended 31 March 2009. This extraordinary level of compensation was funded by borrowing from the Bank of England with subsequent refinancing by HM Treasury.

² Subject to the approval of the Financial Regulator.

³ underpinned by State guarantee

- iv) The ICCL has continued to raise with the EU Commission and the Department of Finance the issue of the need for State guarantees for borrowing to enable the ICCL to manage the unlimited liability of firms to fund the scheme. For example, in March 2009, the ICCL responded to the EU Commission's call for evidence on the review of the application of the Investor Compensation Directive and, again, in June 2009, the ICCL responded to further specific questions raised by the EU Commission.

26 The ICCL remains committed to finding workable solutions to issues relating to establishing borrowing facilities, which would allow the Scheme to manage the unlimited liability of the ICCL's contributors in extreme circumstances.

Related Issues

(i) Inter-fund Borrowing

27 In circumstances where the ICCL considers it necessary to make use of the inter-fund borrowing facility, the Board of the ICCL continues to believe that the following criteria should be applied:

- no margin rates should apply (i.e. the commercial rate referred to for inter-fund borrowing should be no greater than the inter-bank rate);
- the amount available for borrowing should be a maximum of one third of the funds held in the Fund; and
- the maximum repayment timeframe should be three years.

(ii) Insurance cover

28 The ICCL has regularly explored in detail the option of purchasing insurance to cover compensation events as one method of capping the exposure of participants in the scheme.

29 To date, however, it has not been feasible for the ICCL to obtain insurance cover. The main factor for this has been that, in order to secure a quotation, the ICCL would be required to undertake an actuarial assessment and a very detailed risk analysis of the firms covered by the scheme which, as set out in paragraphs 57 – 64 (Risk assessment and funding forecasting model) below, has proved difficult to achieve.

30 Furthermore, in February 2006, an insurance consultant indicated that the eight years of the ICCL's existence was too short a timeframe to facilitate event frequency forecasting.

31 As part of the current review, the ICCL is once again re-visiting this option. The ICCL is currently exploring, with an insurance consultant, the possibilities of the consultant preparing a suitable submission, on behalf of the ICCL, for consideration by insurers and their forensic and actuarial consultants.

3 Proposed funding levels (effective 1 August 2010)

Introduction

32 At present there are some 229 firms in Fund A, which is comprised of Section 10 firms (17%), MIFID investment firms (61%), Licensed Banks and Building Societies (21%) and members of accountancy bodies and UCITS Managers (1%). Some 172 of the total number of Fund A firms (whose authorisation requires them to be a member of the scheme because it permits them to have eligible clients) currently have no eligible clients and, therefore, make a basic flat rate contribution. As a result, the main obligation for contributing to Fund A falls on the remaining 57 Fund A participants.

33 Fund B currently comprises some 4,781 contributors which are split into contributor levels based on the Financial Regulator's current authorisations. These include Insurance Intermediaries (21%), Tied Insurance Intermediaries (17%), Authorised Advisors (10%) and Multi-Agency (non-RAIPs and RAIPs) Intermediaries (52%).

Contribution Categories

34 The Board of the ICCL believes that the current structure of the scheme, divided into Fund A and Fund B, provides an appropriate level of segmentation between participants and that any further sub-division would not be in the best interests of the scheme as a whole.

Current funding levels

35 The Board of the ICCL considers that the claims history experienced by the scheme has demonstrated that funds can be quickly absorbed when claims arise (both in the payment of compensation and in meeting costs associated with the claims). Therefore, the Board continues to believe that current levels of reserves in Fund A and Fund B are inadequate and need to be progressively increased to provide acceptable levels of cover in the event of any future defaults. The continued payment of contributions is the best way of building up the level of funds available. This document sets out proposals to enable the overall level of funding to be built up further over time.

36 Tables 1 & 2 below set out the funding levels of Fund A and Fund B over the life of the scheme⁴.

⁴ All figures have been converted, where appropriate, and, are expressed in Euro.

TABLE 1

FUND A					
Funding levels for the funding years ended 31 July 1999 to 2009 inclusive.					
Year	Contributions/Interest Income	Top Up	Compensation & Related Costs	Administration Expenses	Fund Reserve (at end of period)
1999 – 2001	3,459,023	Nil	(1,190,293)	(415,119)	1,853,611
2002 - 2004	5,722,341	5,070,178	(11,544,239)	(717,093)	384,798
2005	1,920,468	(144,948)	272,189*	(313,938)	2,118,569
2006	2,434,787	Nil	(246,653)	(326,371)	3,980,332
2007	2,781,897	Nil	1,855,888	(344,330)	8,273,787
2008	3,464,626	Nil	335,580	(419,117)	11,654,876
2009**	3,509,491	Nil	42,376	(452,624)	14,754,119

* A decrease in the provision in bad & doubtful debts gave rise to a positive 'cost' figure

TABLE 2

FUND B						
Funding levels for the funding years ended 31 July 1999 to 2009 inclusive.						
Year	Contributions / Interest Income	Top Up	Compensation & Related Costs	Administration Expenses	Other Costs	Fund Reserve (at end of period)
1999 - 2001	3,494,481	Nil	(40,289)	(809,862)	(263,894)	2,380,436
2002 - 2004	5,579,350	Nil	Nil	(889,201)	(77,925)	6,992,660
2005	1,595,363	Nil	Nil	(377,530)	(36,918)	8,173,575
2006	1,851,594	Nil	Nil	(363,165)	(56,738)	9,605,266
2007	1,988,088	Nil	Nil	(423,161)	(33,482)	11,136,711
2008	2,318,736	Nil	Nil	(446,951)	(42,095)	12,966,401
2009**	2,494,888	Nil	Nil	(491,995)	(195,900)	14,773,394

** Based on draft Financial Statements.

Fund A - Funding criteria and levels

(i) Basis for contributing

37 During the past two years, the ICCL has extensively explored options for developing a pragmatic and cost-effective risk-based funding model. In summary, this has involved engaging leading consultants in Ireland to assess the feasibility of this project, reviewing the model which has successfully been implemented by the Canadian Investor Protection Fund (CIPF), reviewing proposals from the leading Canadian consultants who advised the CIPF and discussing these developments with the Financial Regulator and other stakeholders. The work undertaken by the ICCL is explained more fully in the section under the heading ‘Risk assessment and funding forecasting model’ in paragraphs 57 – 64 below and Appendix 2. The absence of robust, consistent and comparable risk-relevant data on member firms has proved to be a significant hurdle to this objective. Following this exploration, the ICCL has concluded that the only sensible and workable approach to developing a risk-based funding model requires allocation of considerable resources and close co-operation between the ICCL, the Financial Regulator and member firms.

38 Despite the ICCL’s considerable efforts to progress the development of a pragmatic and cost effective risk-based funding model in time for this funding review, this has not been possible and, in the absence of such a model, the Board of the ICCL continues to believe that the best basis of allocating contributions for Fund A firms is the use of eligible clients. Furthermore, in respect of Fund A firms which have self-assessed themselves as having zero eligible clients, the basic flat rate contribution and special top-up rules⁵ will continue to apply. Therefore, no amendment to the contribution basis is envisaged. Table 3 below sets out the existing band structure and rates for Fund A contributors.

TABLE 3

<u>FUND A</u>				
Existing contribution band and rate structures for 2009/2010				
Band	No. of Eligible Clients	Flat Rate (€)	Variable Rate (€)	Total Rate (€)
0	Zero	3,873	0	3,873
A	1 - 9	8,741	878	9,619
B	10 - 499	13,176	2,203	15,379
C	500 - 2,499	19,037	12,341	31,378
D	2,500 - 4,999	21,960	43,920	65,880
E	5,000 - 24,999	21,960	83,016	104,976
F	25,000 - 49,999	21,960	88,027	109,987
G	Over 50,000	21,960	153,893	175,853

⁵ For details refer to section 16 of the Funding Arrangements (June 2007) available on www.investorcompensation.ie

(ii) Band structure

39 The eligible client ranges established in 2004, which determine the contribution rates applicable to Fund A firms, appear to have the support of participants and have not given rise to any material issues in the interim. In the circumstances, the Board of the ICCL does not intend to make any amendment to the ranges.

(iii) Cap on contributions

40 In light of the relatively small number of Fund A participants who are required to contribute to the majority of the funding, the Board of the ICCL recognises the potential benefit (both from a financial planning and a cash flow point of view) of a cap on the maximum level of contribution to Fund A that can be required in any one year. In this context, the ICCL policy would be to introduce a cap on the amount that may be raised in any one year, in the event of a top-up call on Fund A contributions, which would be equal to twice the annual contribution rate. However, the Board considers that a cap could only be introduced if, for example, watertight, last resort borrowing arrangements were in place that would guarantee the ability of the Scheme to make its statutory compensation payments on time.

(iv) Marginal relief

41 Marginal relief, which came into effect on 1 August 2004, and which provides relief for firms which move to a higher band due to a relatively small and temporary increase in eligible client numbers, will remain in force.

(v) Funding level

42 The Board acknowledges the support of Fund A contributors in rebuilding the Fund A reserves following the failures of Money Markets International Stockbrokers Limited (MMI) and W&R Morrogh Stockbrokers (Morrogh). Nonetheless, Table 1 highlights that reserves in Fund A are still relatively low at present. MMI and Morrogh were small firms and it is clear that another failure or sequence of failures would put serious strain on the Scheme's capacity to fund compensation. Therefore, on that basis alone, it would appear prudent for the ICCL to continue to build up its reserves to somewhere approaching €30m so as to be in a position to deal with a similar event should it arise (Table 6 and 7 below refer). The ICCL considers, however, that the actual level of reserves required to ensure that Fund A is adequately funded could be significantly (possibly in excess of €50m) more than this amount. (This issue is dealt with later on in this section under the heading 'Risk assessment and funding forecasting model' in paragraphs 57 - 64 and Appendix 2) The ICCL Board considers that, in order to achieve the higher level of reserves within the current funding cycle, very significant increases to annual contributions would be required which could represent a very heavy funding burden for many firms. In those circumstances, and having regard to the €50 million standby credit facility which is now in place, the Board considers that a funding target of the order of €30m is reasonable and achievable within the three-year period commencing 1 August 2010.

43 The proposed contribution rates for the 3-year funding cycle commencing 1 August 2010 seek to strike a balance between the requirement to have funds available to pay claims, given the economic conditions, and the increased financial pressures on firms funding the Scheme.

44 Tables 4 & 5 below set out the ICCL's proposals for consideration.

TABLE 4

FUND A					
Proposed contribution (flat & variable) rates for the 3-year funding cycle commencing 1 August 2010/2011/2012					
PROPOSAL A:1					
Annual uplift of 10% year-on-year for all bands except 'Band 0' firms.					
Annual uplift of 1.5% year-on-year for firms in 'Band 0'					
Band	Number of eligible clients	Existing rate	Proposed rate effective 1 August 2010	Proposed rate effective 1 August 2011	Proposed rate effective 1 August 2012
0	Zero	3,873	3,930	3,990	4,050
A	1 – 9	9,619	10,580	11,640	12,800
B	10 – 499	15,379	16,920	18,610	20,470
C	500 – 2,499	31,378	34,515	37,965	41,765
D	2,500 – 4,999	65,880	72,470	79,715	87,685
E	5,000 – 24,999	104,976	115,475	127,020	139,725
F	25,000 – 49,999	109,987	120,985	133,085	146,395
G	Over 50,000	175,853	193,440	212,780	234,060

TABLE 5

FUND A					
Proposed contribution (flat & variable) rates for the 3-year funding cycle commencing 1 August 2010/2011/2012					
PROPOSAL A:2					
Annual uplift of 5% in 2010/11, 10% in 2011/12 and 15% in 2012/13 for all bands except 'Band 0' firms.					
Annual uplift of 1.5% year-on-year for firms in 'Band 0'					
Band	Number of eligible clients	Existing rate	Proposed rate effective 1 August 2010	Proposed rate effective 1 August 2011	Proposed rate effective 1 August 2012
0	Zero	3,873	3,930	3,990	4,050
A	1 – 9	9,619	10,100	11,110	12,775
B	10 – 499	15,379	16,150	17,765	20,425
C	500 – 2,499	31,378	32,950	36,240	41,680
D	2,500 – 4,999	65,880	69,175	76,090	87,505
E	5,000 – 24,999	104,976	110,225	121,245	139,435
F	25,000 – 49,999	109,987	115,490	127,035	146,090
G	Over 50,000	175,853	184,645	203,110	233,575

45 Tables 6 & 7 below set out the projected funding levels for Fund A under proposal A:1 and proposal A:2. The assumptions underlying the projections are:

- Interest Income on the Fund of 0.5% during the funding years ending 31 July 2011 to 2013 at 0.5%. The forecasted interest rate is prudent given uncertain market conditions.
- Administrative Expenses of € 500K per annum
- No failures arise during the funding years ending 31 July 2010 to 2013 and accordingly no top-up contributions required from contributors.

TABLE 6

Fund A: Projected funding levels under funding proposal A:1

Year	Contributions (€ million)	Interest Income (€ million)	Fund Reserve (€ million)
2009*	-	-	14.754
2010	3.978	0.071	18.289
2011	3.978	0.109	21.876
2012	4.317	0.128	25.822
2013	4.689	0.150	30.161

* reference made to actual year-end fund reserve

TABLE 7

Fund A: Projected funding levels under funding proposal A:2

Year	Contributions (€ million)	Interest Income (€ million)	Fund Reserve (€ million)
2009*	-	-	14.754
2010	3.829	0.071	18.140
2011	3.829	0.107	21.577
2012	4.153	0.126	25.356
2013	4.680	0.148	29.684

* reference made to actual year-end fund reserve

46 As part of the ICCL's normal consultation process, the funding target established and the rates proposed will be reviewed every three years. However, the Board would consider carrying out such a review within the three-year timeframe in the event, for example, of a major default situation arising or of a significant change in the categorisation of authorised / regulated firms by the Financial Regulator.

Fund B Funding criteria and levels

(i) Basis for contributing

47 The work undertaken by the ICCL to develop a pragmatic and cost-effective risk-based funding model is outlined in paragraphs 57 - 64 and Appendix 2 below. The lack of available risk-relevant data is an even bigger challenge when it comes to Fund B, which covers a much larger population and range of entities. Despite the ICCL's considerable efforts to progress the development of such a funding model in time for this funding review, this has not been possible and, in the absence of such a model, the Board of the ICCL believes that the use of income⁶ continues to be the most appropriate basis upon which annual contributions are allocated to Fund B contributors.

48 Following the implementation of the European Communities (Insurance Mediation) Regulations 2005 (IMR 2005), insurance intermediaries who conduct insurance mediation on an ancillary basis e.g. garages offering payment protection, retailers offering payment protection, must be registered with the Financial Regulator and, consequently, these entities fall within the scope of the Scheme. The ICCL understands that the IMR 2005 is currently under review by the Department of Finance and the Financial Regulator. At this stage, the ICCL is not aware of any proposed amendments which could affect the ICCL's treatment of insurance intermediaries. The ICCL will continue to monitor developments and will advise contributors of any changes affecting the ICCL's treatment of insurance intermediaries.

(ii) Band structure

49 As the current band structure has been broadly supported by contributors, the ICCL considers that significant changes to the current band structure are not required. Please note that the Fund B scenarios under consideration do involve changes to the lower and higher income bands and contribution rates.

50 Table 8 sets out the existing band structure and rates for Fund B contributors:

TABLE 8

<u>FUND B</u>	
Existing contribution band and rate structures for 2009/2010	
Existing income band structure	Existing rates(€)
Up to €75,000	300
€75,001 - €150,000	350
€150,001 - €700,000	550
€700,001 - €1,500,000	950
€1,500,001 - €3,000,000	1,650
€3,000,001 - €6,000,000	3,000
€6,000,001 - €15,000,000	6,600
Over €15,000,000	10,800

⁶ Income, for these purposes, will be the total income of a firm from investment and insurance business.

(iii) Funding level

51 Given the impact of two failures on Fund A, the ICCL continues to consider that the current level of reserves may not be adequate should an equivalent case arise in Fund B. Therefore, the ICCL Board believes that it is necessary to continue to build up the reserves of Fund B to a target level of some €22m within the three- year funding cycle (Table 11 and 12 below refer).

52 The proposed contribution rates for the 3-year funding cycle commencing 1 August 2010 seek to strike a balance between the requirement to have funds available to pay claims, given the economic conditions, and the increased financial pressures on firms funding the Scheme.

(iv) Rate structure

53 The ICCL has reviewed the rate structure on the basis of continuing to (i) provide an appropriate basis upon which to levy firms, (ii) provide an appropriate level of proportionality between bands and (iii) ensure that, for the majority of firms, any changes from existing rates do not appear to create an unreasonable burden for firms. It will be noted that, under proposals B:1 and B:2 below, contributions from all bands up to income levels of €6m do not increase over the three funding years ending 31 July 2013. For the highest two bands the proposed rate increases provide a greater level of proportionality over the same period.

54 Therefore, the ICCL is proposing to apply the following contribution rates with effect from 1 August 2010 for the three-year period ending 31 July 2013. However, the Board would consider carrying out a review of these rates within the three-year timeframe in the event, for example, of a major default situation arising or of a significant change in the categorisation of authorised / regulated firms by the Financial Regulator.

55 Tables 9 & 10 below set out the ICCL's proposals for consideration.

TABLE 9

FUND B					
Proposed contribution rates for the 3-year funding cycle commencing 1 August 2010/2011/2012.					
PROPOSAL B:1					
Proposal B:1 Maintain contribution rates effective 1 August 2009, however progressively increase the contribution rates in the top two income bands each year					
Band	Existing income band structure (€)	Existing Rate (€)	Proposed Rate effective 01/08/2010 (€)	Proposed Rate effective 01/08/2011 (€)	Proposed Rate effective 01/08/2012 (€)
1	< 75,000	300	300	300	300
2	75,001 - 150,000	350	350	350	350
3	150,001 - 700,000	550	550	550	550
4	700,001 - 1.5m	950	950	950	950
5	1,500,001 - 3m	1,650	1,650	1,650	1,650
6	3,000,001 - 6m	3,000	3,000	3,000	3,000
7	6,000,001 - 15m	6,600	8,250	9,900	11,550
8	> 15m	10,800	13,500	16,200	18,900

TABLE 10

FUND B						
Proposed contribution rates for the 3-year funding cycle commencing 1 August 2010/2011/2012.						
PROPOSAL B:2						
Proposal B:2 Revise the existing lower income Bands and progressively increase the contribution rates in the top two income bands each year						
Band	Existing income band structure (€)	Existing Rate (€)	Proposed income band structure effective 01/08/2010 (€)	Proposed Rate - effective 01/08/2010 (€)	Proposed Rate - effective 01/08/2011 (€)	Proposed Rate - effective 01/08/2012 (€)
1	< 75,000	300	< 60,000	250	250	250
2	75,001 - 150,000	350	60,001 - 150,000	300	300	300
3	150,001 - 700,000	550	150,001 - 700,000	550	550	550
4	700,001 - 1.5m	950	700,001 - 1.5m	950	950	950
5	1,500,001 - 3m	1,650	1,500,001 - 3m	1,650	1,650	1,650
6	3,000,001 - 6m	3,000	3,000,001 - 6m	3,000	3,000	3,000
7	6,000,001 - 15m	6,600	6,000,001 - 15m	8,250	9,900	11,550
8	> 15m	10,800	> 15m	13,500	16,200	18,900

56 Tables 11 & 12 below set out the projected funding levels for Fund B under proposal B:1 and proposal B:2. The assumptions underlying the projections are:

- Interest Income on the Fund of 0.5% during the funding years ending 31 July 2011 to 2013 at 0.5%. The forecasted interest rate is prudent given uncertain market conditions.
- Administrative Expenses of € 500K per annum
- No failures arise during the funding years ending 31 July 2010 to 2013 and accordingly no top-up contributions required from contributors.

TABLE 11

Fund B: Projected funding levels under funding proposal B:1

Year	Contributions (€ million)	Interest Income (€ million)	Fund Reserve (€ million)
2009*	-	-	14,773
2010	2.150	0.073	16.736
2011	2.150	0.092	18.478
2012	2.209	0.090	20.277
2013	2.268	0.099	22.143

* reference made to actual year-end fund reserve

TABLE 12

Fund B: Projected funding levels under funding proposal B:2

Year	Contributions (€ million)	Interest Income (€ million)	Fund Reserve (€ million)
2009*	-	-	14,773
2010	1.783	0.073	16.527
2011	1.783	0.088	18.059
2012	1.841	0.086	19.648
2013	1.900	0.093	21.303

* reference made to actual year-end fund reserve

Risk assessment and funding forecasting model

57 It is the objective of the ICCL to arrive at a situation, in the future, where it believes that the scheme is adequately funded and that the level of contributions may then be adjusted to reflect this. To this end, the ICCL has reviewed its experiences to date in relation to the default cases which it has handled and has considered issues, for example, in relation to the size of the defaulting firms in the market, the level of compensation paid and the level of

legal fees associated with the defaults. The ICCL has also carried out stress-testing exercises and scenario analyses, making use of risk rating data, where available, in order to determine what appears to be a prudent and reasonable funding target level.

58 Having taken into account these elements and considered all relevant information, the Board currently believes that the long-term funding target for Fund A is between €30m and €50m. As indicated in paragraph 42 above, the level of funding required may possibly exceed €50m. The large difference between the minimum and maximum target values is due primarily to the absence of or inconsistencies in available data upon which to make a judgement and the potential for more than one default situation to arise within a relatively short timeframe. Due primarily to the absence of risk data for the Fund B market, it has not been possible to date to determine an equivalent, appropriate funding level for Fund B.

59 The ICCL remains committed to the ongoing development and refinement of its current risk assessment and funding forecasting model so as to gain a better understanding of the relevant business risks associated with member firms and to apply a more risk-based approach to determining appropriate funding levels and contribution rates.

60 The ICCL does not underestimate the challenge which the development of risk assessment and a funding forecasting model presents. As outlined in the previous consultation process, the Oxera report, the research study of EU schemes undertaken in 2005 on behalf of the European Commission, confirmed that no other EU scheme had developed such a model to determine 'foreseeable funding requirements' due primarily to the difficulty for schemes in accessing relevant and up-to-date data on which to base a model to assist in determining the adequacy of fund reserves.

61 The Financial Regulator clarified that the information it collects for regulatory purposes is not compatible with that required by the ICCL in attempting to forecast future failures and that, in any event, confidentiality restrictions apply to sharing such information.

62 Since the previous consultation process, the ICCL has been actively exploring possibilities for the development of a cost-effective and pragmatic risk-based funding model. The main challenges in developing a model relate to the unavailability of current and historic risk-relevant quantitative and qualitative data on firms covered by the Scheme. In addition, the ICCL considers that the costs associated with proposals received to date on collecting this data, developing a model and populating and testing the model on an ongoing basis do not offer sufficient value for money. Furthermore, the experience of the Canadian Investor Protection Fund (CIPF), which has operated a risk-based funding model in conjunction with the Canadian Regulator for the past number of years, demonstrates that firms expect consistency and transparency in the risk assessments carried out by the CIPF

and the Canadian Regulator. Progress to date is outlined in more detail in Appendix 2.

63 It is clear from Appendix 2 that the ICCL has dedicated much time and resources to considering possibilities for developing a pragmatic and cost effective risk-based funding model. Arising from this review, the ICCL has concluded that this objective is achievable but requires a co-ordinated effort and allocation of resources on the part of the Financial Regulator and the ICCL. The ICCL has outlined this in a submission to the Financial Regulator for its consideration.

64 Just prior to publication of this document, the ICCL received a response from the Financial Regulator which clarified that, in the coming years, the Financial Regulator will have to dedicate its resources to its own priorities. The Financial Regulator has indicated that it should be in a position to assist the ICCL in providing access through automated systems to relevant information on the majority of Fund A firms and that it would be happy to engage with the ICCL to identify more precisely how they can be of assistance to the ICCL. However, in relation to Fund B firms, the Financial Regulator does not propose to provide electronic reporting for these firms in the foreseeable future⁷. The ICCL will more thoroughly consider the Financial Regulator's response and decide the impact of their response on the ICCL's ability to advance this strategic objective and your views on this matter are welcome.

⁷ In recognition of the burden this would impose on firms, the vast majority of which are small

4 Request to contributors for comments

65 The Board of the ICCL invites participants to consider the contents of this paper and to respond to the issues and proposals set out by **20 November 2009** at the latest. In responding, participants are requested to bear in mind the statutory responsibilities which are imposed upon the ICCL by the Investor Compensation Directive and the Investor Compensation Act. Accordingly, the Board of the ICCL will only be in a position to give serious consideration to suggestions and proposals that will not compromise its ability to operate a viable scheme in accordance with its statutory obligations.

66 All comments and observations should be made in writing, so as to be received by **20 November 2009**, and should be addressed to:

Chief Operations Officer,
The Investor Compensation Company Limited,
c/o: Central Bank & Financial Services Authority of Ireland,
P.O. Box 11517
3 Upper Mayor Street
Spencer Dock
Dublin 1

or

by e-mail to info@investorcompensation.ie

and should be clearly marked 'Funding Consultation'. In particular, your views on paragraph 21, relating to the certification of claims, are welcomed. It would assist the ICCL greatly if, where appropriate, any comments or observations provided by participants were cross-referenced with the relevant sequence number which precedes each paragraph of this Consultation Paper.

67 It is our intention that responses to this document would be published on our website.

68 If it is felt to be helpful, representatives from the ICCL will be available for meetings with relevant representative parties on foot of submissions received.

69 Following this, the ICCL will consider the submissions and representations and decide upon any changes that it believes are appropriate to the manner in which the scheme is operated and any alterations to the bases upon which it is funded. As a number of issues relating to the funding of the scheme have an impact on other organisations, it may only be possible to implement certain changes with the agreement and co-operation of these parties. Consequently, the ICCL may, where it has sole responsibility for the areas affected, seek to "fast track" certain changes arising from this review to make them effective as soon as possible. The ICCL will then pursue the implementation of other changes as quickly and effectively as possible within

the time constraints necessary to reach agreement with other parties on the relevant issues.

70 The Board intends to complete the consultation element of the review of its funding arrangements by January 2010. Subsequently, the revised funding arrangements will be drafted for approval by the ICCL Board before being submitted to the Financial Regulator for approval. In these circumstances, new funding arrangements should be published by May 2010. These arrangements will take effect from 1 August 2010.

71 This consultation document is also available on the ICCL website at www.investorcompensation.ie.

9 October 2009

APPENDIX 1

November 2006 Recommendations of the 'Morrogh' Working Group

Legislative and regulatory issues

1. Pre-determined rules should be developed for the distribution of client assets in circumstances where a shortfall in client assets arises following the failure of an investment firm.
2. The proposed pre-determined rules should have a statutory basis and take account of case law and international developments.
3. The word "controlled" should be removed from section 52(5) (b) of the Stock Exchange Act, 1995 and section 52(7) of the Investment Intermediaries Act 1995.
4. The approach to funding receiver/liquidator costs in section 52(5) of the Stock Exchange Act, 1995 should remain unchanged.
5. A set of principles should be prepared by the Financial Regulator and the ICCL to guide and inform the certification of claims by the Administrator. The principles should be supported by regulatory and legislative changes as necessary.
6. Following the certification of the majority of the Morrogh claims, ICCL should carry out an analysis of the claims with the objective of:
 - identifying any efficiencies that could be introduced into the certification process;
 - assessing the reliability of the information contained in the claim forms; and
 - informing the preparation of practical guidelines to support certification of compensation claims on a speedier basis.
7. Details of the claims and their reconciliation with client records should be made available by the Morrogh Administrator to ICCL to facilitate their analysis of claims.
8. The Group noted the range of other measure being taken to protect investors and, in particular, welcomed the proposals in relation to dematerialisation which will strengthen investor protection. The Group recommended that work on the dematerialisation of shares be progressed with a view to implementation at the earliest possible date.

Investor Compensation Funding

9. The current requirement, whereby industry meets the cost of investor compensation following the failure of a firm should continue. The Group supports ICCL's 'cascade model' as the structured funding framework for investor compensation.
10. The ICCL should continue to review its target levels of reserves for each compensation fund to ensure that reserves in each fund are adequate to meet what might be regarded as reasonably foreseeable funding requirements for investor compensation.
11. A cap should be placed on calls which may be made on industry for additional top-up funding in any one year. The Group considers that the cap recommended by the ICCL at twice the annual firm contribution is appropriate. The imposition of a cap cannot be considered in isolation from the issue of borrowing, or the level of annual contribution and the appropriate target level of reserves to underpin the sustainability of the funding structure.
12. The existing policy of ICCL in relation to inter-fund borrowing should be continued.
13. The difficulty in providing repayment assurances to secure commercial borrowing facilities is recognised. It is recommended that the ICCL and the Department of Finance further examine the international experience on the provision of the repayment assurances sought by commercial lenders.
14. The difficulties faced by ICCL in accessing commercial borrowing, including the requirement to clarify the legal position regarding State support for investor compensation, should be brought to the attention of the EU Commission in the context of its work on investor compensation schemes.
15. A range of legislative, risk management and operational difficulties would need to be considered further before borrowing from the Deposit Guarantee Scheme or the Central Bank. In view of these difficulties this option is not favoured at this stage. Recognising that some jurisdictions have such borrowing arrangements in place, the Group agreed that this matter be brought to the attention of the EU Commissioner in the context of its work on deposit guarantee schemes, in conjunction with those issues referred to in recommendation 14.
16. The amalgamation of the investor compensation scheme and the Deposit Guarantee Scheme is not recommended.

17. While the matter should be kept under review by the ICCL in consultation with the fund contributors, the amalgamation of the two funds maintained by ICCL is not recommended at this time.
18. As no conclusion could be reached, the introduction of a product levy on relevant transactions and alternative sources of funding are not recommended.
19. ICCL should continue to carry out assessments of the potential investor compensation funding needs. While it is difficult and complex to estimate the risk of firm failures, there is scope for undertaking further modelling and scenario analysis. Simple stress testing could produce useful results.
20. The purchase of insurance to cover compensation events is not considered to be economically viable and it is not recommended on that basis.

APPENDIX 2

DEVELOPMENT OF A RISK-BASED FUNDING MODEL WORK UNDERTAKEN BY THE ICCL 2007-2009

SUMMARY

In December 2007, consistent with its Strategic objective of advancing the development of a risk based funding model, the ICCL engaged leading Irish consultants to assess the feasibility of developing a pragmatic and cost effective risk-based funding model for the ICCL. A summary of their findings and recommendations are:

- Defining funding adequacy and the risk-weighted contribution levy require the estimation of probability and impact of business bankruptcy.
- While the consultants expressed confidence in the availability of 'sample data'⁸, they stated that the availability and accessibility of the 'required data'⁹ could not be tested prior to the completion of the model development.
- Appropriate methodologies were identified for developing the model.
- Costs for developing the model ranged from just over €300k to €550k with an approximate 1 year timeframe required for the project.
- No costs were estimated for ongoing maintenance and updating of the model.

After detailed interaction with the consultants, consideration of their report and having consulted with a selection of markets participants in June 2008, the ICCL Board decided that it would not proceed with the development of the model as outlined by the consultants, at that stage, due primarily to the following factors:

- Significant uncertainties relating to the availability of sample data and required data to build and, subsequently, populate the model,
- Significant costs associated with the model development, and,
- Lack of confidence that a useful funding model could be developed, given an absence of such models in other EU investor compensation schemes.

During the first half of 2009, the ICCL engaged in detailed discussion with the management of the Canadian investor compensation scheme. The Canadian Investor Protection Fund (CIPF) and the Investment Industry Regulatory Organisation of Canada have developed a joint system for collating and using risk relevant data on the firms falling under their remit. Their success in developing a risk-based funding model appears to rest on a number of factors, namely:

- A sound technology platform;
- Data availability (both historical and current);

⁸ Used for developing a risk model: Firm-specific data from a number of defaulted and non-defaulted firms in Ireland as well as across Europe

⁹ To populate the model

- Consensus on the risk methodology (between the Regulator and the CIPF);
- Strong co-operation between the regulatory authorities as well as member firms, and,
- Adequate resources to maintain and operate the model and to deal with the issues which arise from its implementation.

In June 2009, the Canadian consultants who developed CIPF's risk-based funding model, which sits on top of the Financial Regulator's risk-model, advised the ICCL on how a general model could be developed to quantify the ICCL scheme's exposure. This proposed model would look at sectoral risk-weightings for Fund A only but would not look at individual firm risk-weightings. The cost of developing such a model could be in the region of €150k. Once again, the Board concluded that this proposal did not offer value for money.

DETAILED TIMELINE

Q3 2007 - Following initial research and assessment undertaken by the ICCL, the Funding Committee (FSC) agreed to undertake a tender process to engage consultants to assist the ICCL in assessing the feasibility of developing a pragmatic and cost-effective risk-based funding model.

Q4 2007 - Following a tender process involving five consultancy firms, the ICCL Board engaged a leading consultancy firm to undertake the project.

Q1 2008 - The project was undertaken in three stages:

Stage 1: Data audit and analysis

Stage 2: Risk grouping analysis

Stage 3: Exposure and pricing analysis.

Interviews were undertaken with five key industry representatives of the ICCL and with 14 of their member firms across all industries (Fund A and Fund B) as well as with personnel from three EU Schemes (UK, Germany, Portugal). Discussions were also held with the Financial Regulator on the possibility of support, data acquisition and knowledge sharing with the ICCL. Academic researchers in the field of business, bankruptcy, prediction and risk experts were consulted and academic literature and research studies were reviewed. National regulations governing compensation arrangements as well as relevant published documentation were also reviewed. Extensive analysis was conducted on the ICCL funding arrangements and profiles of member firms and studies were undertaken of similar approaches in other industries and other schemes (EU and North America). Possibilities for data acquisition were discussed with the Financial Regulator, the Irish Companies Registration Office, three EU compensation schemes and five commercial data providers.

Q2 2008 - The report of the consultants was considered by the ICCL Board. A sub-committee of the Board was asked to review the proposal in more detail and report back to the Board. The Committee considered independent assessments received from risk experts and met with the Consultants. There

was support for the logic and approach adopted in the report. There was also consensus on the ICCL's concern at the high costs especially given the uncertainties surrounding the availability of relevant data to develop and populate a usable model on an ongoing basis. The ICCL concluded that the ICCL should not proceed with the consultant's original proposal at that time, due to the serious level of uncertainty surrounding the availability of data to develop and populate the recommended model and the unknown level of reliability associated with such a model.

Q3 & Q4 2008 - Members of the Committee consulted with member firms in order to assess the availability of data from firms falling under the scope of the scheme¹⁰.

Q1 2009 - The ICCL Board discussed suggestions put forward by the Committee on possibilities for collecting risk-relevant data from member firms. The Board agreed to conduct a brief study on the risk-based funding model which had been implemented by the Canadian Investor Protection Fund and to reopen discussions with the Financial Regulator on possibilities for enhancing the ICCL's understanding of the risk profile of regulated entities that fall under the scope of the scheme.

Q2 2009 - The Board considered the findings of the ICCL's study of the Canadian risk-based funding model and concluded that development of an Irish risk-based funding model required a co-ordinated effort and allocation of resources on the part of the Financial Regulator and the ICCL. The Canadian consultants, who had provided advice in relation to the development of that model, indicated their interest in assisting the ICCL in quantifying the Scheme's exposure and the Board agreed to look at their proposal.

Q3 2009 - The ICCL considered that the proposal received from the Canadian Consultants did not offer value for money for the ICCL as it did not significantly enhance the work and assumptions already adopted by the ICCL in its consideration of funding adequacy for the Scheme. The Board considered that the proposal reflected much of the methodology and approach already adopted by the ICCL in its funding arrangements and that it required the ICCL to provide data which was currently unavailable to the ICCL.

The Board concluded that development of a pragmatic and cost-effective risk-based funding model requires a co-ordinated effort and allocation of resources on the part of the Financial Regulator and the ICCL and outlined its position in writing to the Financial Regulator for consideration.

Q3 2009 - The Financial Regulator responded to the ICCL's proposal as outlined in paragraph 64 of this document.

¹⁰ The Committee's progress in concluding its assessment on the availability of risk-relevant data from members firms was impeded by the world-wide crisis in financial markets which took place in the second half of 2008.

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