



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean

Financial Services and
Pensions Ombudsman

Understanding the Financial Services Industry Levy 2021



The FSPO is funded through two distinct sources – the financial services complaints are funded by a levy on the financial services industry and the pensions complaints are funded by the Exchequer.

This publication provides information on how the levy on the financial services industry is determined, calculated and collected.

March 2021

Mission

The Financial Services and Pensions Ombudsman, as an independent public body, enhances the financial services and pensions environment, by using its powers to resolve disputes in a way which is fair, transparent and accessible to all.

Vision

A financial services and pension environment where the relationship between parties is built on mutual trust, fairness and transparency.

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Role of the Financial Services and Pensions Ombudsman

The Financial Services and Pensions Ombudsman (FSPO) was established on 01 January 2018 to resolve complaints from consumers, including small businesses and other organisations, against financial service or pension providers.

We provide an independent, fair, impartial, confidential and free service to resolve complaints through either informal mediation or formal investigation and adjudication. When a consumer is unable to resolve a complaint or dispute with a financial service or pension provider they can refer their complaint to the FSPO.

We deal with complaints informally at first, by listening to both parties and engaging with them to facilitate a resolution that is acceptable to both parties. Much of this informal engagement takes place by phone. For complaints where these early interventions do not resolve the dispute, the FSPO formally investigates the complaint and issues a decision that is legally binding on both parties, subject only to an appeal to the High Court.

The Ombudsman has the power to direct a provider to pay compensation of up to €500,000 to a complainant. He can also direct that a provider rectify the conduct that is the subject of the complaint. There is no limit to the value of rectification he can direct. During the formal investigation of complaints, documentary and audio evidence, and other material, together with submissions from the parties, are gathered by this office and exchanged between the parties.

Following detailed consideration of all of the evidence and submissions made, a preliminary decision is issued to the parties and they are advised that certain limited further submissions

can be made prior to the issuing of a legally binding decision. The financial service or pension provider must implement any direction given by the Ombudsman in his legally binding decision.

Powers

The Oireachtas has given the Ombudsman wide-ranging statutory powers to deal with complaints against financial service and pension providers. These include the power to:

- Collect evidence, enter a business premises, summon witnesses and examine them under oath in order to investigate complaints and make legally binding decisions;
- Direct compensation of up to €500,000 for financial service complaints, €52,000 per year for complaints about annuities, and unlimited rectification for both financial service and pension complaints;
- Publish decisions in relation to financial service complaints and case studies in relation to pension complaints;
- Publish the names of financial service providers who have more than three complaints upheld, substantially upheld or partially upheld in a year;
- Bring matters of concern to the attention of the Central Bank of Ireland or the Pensions Authority.

Who sets the Financial Services Industry Levy?

The Financial Services and Pensions Ombudsman Council (FSPOC) sets the financial services industry levy. The FSPOC consists of a Chairperson and six members, all of whom were appointed by the Minister for Finance following a recruitment process by the Public Appointments Service.

Part 4 of the Financial Services and Pensions Ombudsman Act 2017 sets out the role of the FSPO Council. The FSPO Council is responsible under the legislation for setting the levy to be paid by financial service providers.

The Council has other oversight responsibilities in relation to the work of the FSPO, including its responsibilities in relation to:

- Approval of the FSPO's annual budget;
- Approval of the FSPO's strategic plan; and
- Keeping under review the efficiency and effectiveness of the Ombudsman

Determining the Overall Levy Requirement

The FSPO Council approves the FSPO's annual budget which is linked to the organisation's Strategic Plan. This annual budget is then funded through two distinct sources; the financial services complaints are funded by a levy on the financial services industry and the pensions complaints are funded by the Exchequer, through the Department of Finance.

In September 2018, the FSPO Council agreed a methodology whereby the apportionment of the shared costs to be funded by the Exchequer are based on the ratio of pensions-related mediation and investigation complaints completed to the overall number of all complaints. This ratio is 6% for 2021, meaning that once Council approved the Office's budget for the year, and the overall budget was reduced by the surplus carried forward from the previous year, 6% of the total budget was drawn down from the Exchequer directly, with the remaining funding collected through the financial services industry levy.

The FSPO Council undertook a consultation with key stakeholders within the financial services industry and agreed a revised model for future collection of the financial services industry levy.

The table below illustrates the methodology used in calculating the financial services industry levy.

This process included the commissioning by Council of an independent examination of the levy system used by the previous body. The objective of the examination was to have a simple levy system that could be easily maintained and updated and that is acceptable and transparent to financial service providers. Having considered the findings of this examination, Council undertook a public consultation which ran from July to August 2018 where views were sought from the public and particularly from financial service providers pertaining to the manner in which the FSPO collects its financial services levy.

Following the public consultation, the FSPO Council agreed a number of changes to the financial services industry levy, which have been applied since 2019.

The most significant changes to how the levy was applied include:

- a rebalancing of the apportionment of the levy charged across sectors to reflect the recent complaints handling experience;
- a change to the allocation base for specified categories of financial service providers; and
- a rationalisation of the flat fees and minimum levies.

Budget 2021	€	€
Approved Funding Requirement		10,329,207
Less:		
Anticipated Carry-over of Surplus from 2020	-873,857	1,441,178
Funding from Department of Finance	-567,321	
Total to be collected by way of Financial Services Industry Levy		8,888,029

Apportioning the Levy by Category

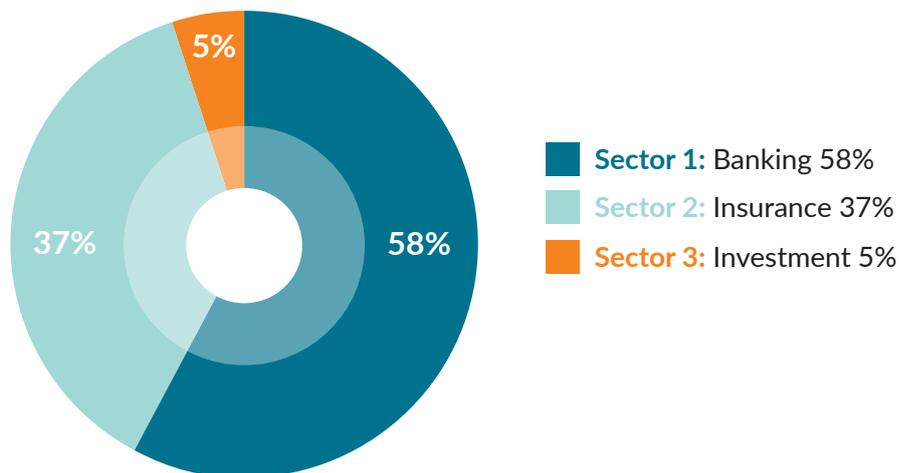
The categories of financial service provider subject to a levy by the FSPO are based on authorisations held by each entity with the Central Bank of Ireland and as prescribed in the Financial Services and Pensions Ombudsman Act 2017. The FSPO does not have a role in relation to the authorisation held by financial service providers with the Central Bank of Ireland.

To ensure standardisation and ease of comparison, the labelling of categories of financial service providers used by the FSPO match the Central Bank register.

In order to ensure an equitable distribution of the levy among financial service providers, a rebalancing exercise was carried out ahead of the issuing of the levy in 2021. This exercise, which occurs on an annual basis, ensures that the proportion of the levy applicable to each category reflects the recent complaints handling experience.

The complaints handling experience for the three-year period from January 2017 to December 2019¹ across the three major sectors of Banking, Insurance and Investment is depicted in the graph below.

Aggregated Total of Complaints Received (2017, 2018 and 2019)



For those categories of financial service providers which cannot be readily categorised under Sectors 1, 2 or 3, or which may fall across sectors, arrangements in relation to the appropriate allocation base are set out per category in the schedule to the relevant Statutory Instrument.

The share-out of the total levy among the categories of regulated entities being charged is set out in the table below:

Financial Services Industry by Sector	
Sector 1: Banking	€4,686,233
Sector 2: Insurance	€3,045,800
Sector 3: Investment	€437,746
All other categories of financial service provider	€718,250
	€8,888,029

Within each sector, the funding required is apportioned across the categories of financial service provider included in each sector as regulated by the Central Bank of Ireland.

¹ 2020 complaints were not included in the 2021 levy exercise as the calculation of the levy was completed before year end. As such, complete data for 2020 was not available.

Funding Breakdown per Sector 2021

Sector 1: Banking	% of Complaints	Levy
Credit Institutions	97%	€4,545,646
Credit Unions	2%	€93,725
Moneylenders	1%	€46,862
		€4,686,233

Sector 2: Insurance	% of Complaints	Levy
Life Assurance	29%	€883,282
Non-Life Insurance	55%	€1,675,190
Accident and Health Insurance	16%	€487,328
		€3,045,800

Sector 3: Investment	% of Complaints	Levy
Firms regulated under the provisions of either the Investment Intermediaries Act, 1995 or European Union (Markets in Financial Instruments) Regulations 2017 [S.I. No. 375 of 2017] or any amending or replacing legislation) including: designated fund managers; entities engaged in the receipt and transmission of orders and/ or the provision of investment advice; entities engaged in portfolio management and the execution of orders; entities engaged in own account trading and underwriting; and Stock Exchange member firms	100%	€437,746
		€437,746

All Other Financial Service Providers	Levy
Category C - Intermediaries and Debt Management Firms	€589,437
Category H - Approved Professional Bodies	€1,125
Category J - Bureaux de Change	€3,375
Category M - Retail Credit Firms, Home Reversion Firms and Credit Servicing Firms	€13,125
Category N - Payment Institutions and E-Money Institutions	€13,500
Category O - Pawnbrokers	€1,125
Category U - Credit Intermediaries	€96,563
	€718,250

Calculating the Levy for each Financial Service Provider

The calculation of the financial industry levy for each category of financial service provider is specific to that category and the table below details the specific basis for assessment under each category.

Category	Basis for Assessment
A - Credit Institutions	Consumer Numbers
B - Insurance Undertakings	Net Premiums Earned
C - Intermediaries and Debt Management Firms	Central Bank Levy
D - Investment Firms	Central Bank Levy
F - Credit Unions	Flat Rate
H - Approved Professional Bodies	Flat Rate
J - Bureaux de Change	Flat Rate
L - Default Assessments	Flat Rate
M - Retail Credit Firms, Home Reversion Firms and Credit Servicing Firms	Flat Rate
N - Payment Institutions and E-Money Institutions	Flat Rate
O - Pawnbrokers	Flat Rate
P - Business Transfers	As per transferee
Q - Creditors	Flat Rate
R - Owners of Goods Subject to Hire Purchase	Flat Rate
S - Owners of Goods Subject to Consumer Hire	Flat Rate
T - Mortgage Lender	Flat Rate
U - Credit Intermediaries	Flat Rate

Financial service providers under Category A are issued a self-declaration form, which they must complete and return by a prescribed date, which confirms their consumer numbers, and this declaration is used to calculate the relevant levy. A similar process is undertaken in relation to Category B to collect details of their net premiums earned. The declarations for Category B are used to calculate the relevant levy, and are subsequently cross-checked against published data contained in the relevant Solvency and Financial Condition Report (SFCR) submitted to the Central Bank of Ireland. For all other categories, the levy for individual financial service providers can be readily calculated based on information available in the public domain, or provided by the Central Bank of Ireland.

Preparing a Statutory Instrument

Each year, a statutory instrument is prepared by Council with the consent of the Minister for Finance and laid on the statute book. This is a very detailed document which governs the collection of the financial services industry levy. The accompanying schedule to this statutory instrument for 2021 has been reproduced as Appendix A and details the specifics of the levy to be collected from each category of financial service provider.

Collecting Payment

The FSPO aims to be as efficient and cost effective as possible in the collection of its levies. Invoices are issued once the regulations come into effect. Payment is to be made within the 30 days allowed and this greatly facilitates the work and minimises the cost incurred in debt collection. Payments not received within the 30 day period will be subject to the FSPO's Levy Debtors Policy, outlined below.

The FSPO requests that all payments are made directly to the following bank account:

Bank Name Bank of Ireland, College Green, Dublin 2
Bank Account 86443442
Sort Code 90 00 17
IBAN IE89BOFI90001786443442
BIC BOFIE2D

Appealing the Levy

A financial service provider who receives a levy notice may, within 21 days, appeal to the Ombudsman to change the amount of the levy assessed for that financial service provider where it considers that the amount assessed is incorrect.

Any such appeals must be in writing to the Ombudsman, setting out the grounds of the appeal in detail and must be accompanied by the amount of required levy contribution that is not in dispute. Where relevant the appeal should include any supporting documentation or representations. Such a written appeal must be addressed to the Ombudsman.

The Ombudsman, after considering any such appeal, shall advise the appellant and the Office in writing of his decision and his reasoning for that decision. Where appropriate, any amount of required levy contribution not already paid shall be payable by the financial service provider to the Office within 7 working days after the date of issue of the notification of the decision of the Ombudsman to the appellant.

Levy Debtors Policy

The FSPO Council approved a Levy Debtors Policy in October 2020, which gives effect to the legislative provision outlined in Section 43 of the Financial Services and Pensions Ombudsman Act 2017 ('the Act') that the Council regulations may prescribe –

- (a) having had regard to one or more of the following:
 - (i) the amount of the outstanding levy or annual charge;
 - (ii) the length of delay in payment of the outstanding levy or charge;
 - (iii) a pattern, if any, of failure to pay, or to pay on time, the levy or charge,

the penalties that shall be payable in cases of failure to pay the financial services industry levy or failure to pay the annual charge on time.

The Financial Services Industry Levy Regulations 2021 state:

'Where an amount of required levy contribution becomes payable under these Regulations and is not paid by the due date, the financial service provider shall become liable to a penalty of interest on the amount of the required levy contribution outstanding, to be calculated on a simple interest basis. Such interest shall be calculated from the date on which the outstanding amount became payable in accordance with the Prompt Payment of Accounts Act, 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations 2012 - S.I. 580 of 2012 for each day or part of a day during which the outstanding amount remains unpaid.'

The FSPO Levy Debtors Policy sets out how the FSPO will apply the proportionate penalties prescribed in the 2021 Council regulations and the escalation procedures that will be implemented in respect of 2021 levies that are not paid within the 30 days payment term.

In cases where the amount of an invoice is disputed or if a financial services firm disputes the application of the levy regulations, these procedures will not be implemented until such time as the matters have been clarified and a decision is reached by the FSPO in relation to the amount of the levy that is due to be paid. Once this has been clarified to the firm in question, the 30 days payment term will begin.

Note that where a firm appeals the levy, a separate set of procedures applies and is outlined above.

Calculation of penalties:

The calculation of penalties shall be in accordance with the Prompt Payment of Accounts Act, 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations 2012 - S.I. 580 of 2012:

- The Regulations provide that the interest rate will be the European Central Bank main refinancing rate (as at 1 January and 1 July in each year) plus 8 percentage points.
- The ECB rate in force on 1 January and 1 July apply for the following six months in each year.
- Penalty interest due for late payments should be calculated at a daily rate.
- With effect from 1 January 2021, the late payment interest rate is 8.00% per annum (that is based on the ECB rate as at 1 January 2021 of 0.00% plus the margin of 8%). This rate equates to a daily rate of 0.022%.

31 days from the date of invoice, an invoice becomes **1 day overdue**. Thereafter, the FSPO will make contact with the firm by telephone and with a follow up email, informing them that their payment is outstanding and outlining that late payment interest will be incurred from 91 days from the date of the invoice.

61 days from the date of invoice, an invoice becomes **31 days overdue**. Thereafter, an escalation letter will be issued by the FSPO, reminding the firm of penalties for late payment.

If payment remains outstanding after 91 days from the date of invoice, and therefore becomes **61 days overdue**, the Director of Corporate and Communication Services will write to the firm outlining that late payment interest is accruing from that date.

Thereafter, monthly communications will be issued to the firm, outlining the revised invoice amount, taking into account the interest accruing.

Following 90 days of interest accruing, interest will cease to accrue and a decision will be taken as to the next steps to be taken in relation to the debt. Debts considered collectable will be collected using one of the following methods:

- (a) As permitted under Section 43(8) of the Act, “The financial services industry levy shall be recoverable by the Office as a simple contract debt in any court of competent jurisdiction”.
- (b) using the services of a debt collection agency

A debt will be only considered to be not collectable in very limited circumstances and the decision to determine a debt as being not collectable will be taken by the Financial Services and Pensions Ombudsman Council, the Council’s Finance Committee, or the FSPO Senior Management team, in accordance with certain financial thresholds.

Queries

Specific queries in relation to the financial services industry levy should be directed to levy@fspo.ie or by telephone to (01) 567 7000.

APPENDIX A

Schedule to Statutory Instrument 117 of 2021

Category A - Credit Institutions	
(i)	Each credit institution as registered under Section 1 of the Credit Institutions Register – Authorisations issued to Credit Institutions to carry on banking business in the State under Irish Legislation or Section 2 (a) of the Credit Institutions Register European Credit Institutions authorised in another Member State of the European Economic Area (EEA) and operating in the State either on a branch or a cross-border basis, shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated at the rate of €0.594 cent per consumer as at 31 December 2019. A minimum levy of €375 is payable by each credit institution.
(ii)	Each credit institution as registered under Section 2 (b) of the Credit Institutions Register – Credit Institutions from other Member States of the European Economic Area (EEA) which have notified the Bank of their intention to provide services in the state on a cross-border basis and where a complaint has been lodged against the institution in the previous financial year, shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375 payable by each credit institution.
(iii)	Any other credit institution not registered under the above headings where applicable shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated at the rate of €0.594 cent per consumer as at 31 December 2019. A minimum levy of €375 is payable by each credit institution.

Category B - Insurance Undertakings	
(i)	B1: Each life assurance undertaking shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 0.0131% of its total net premiums earned for the year ending 31 December 2019, but excluding Class VII premium income, written on Irish risk business. A minimum levy of €375 is payable by each life assurance undertaking.
(ii)	B4: Each non-life insurance undertaking with the exception of captive insurance undertakings shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 0.0642% of its total net premiums earned written on Irish risk business for the year ending 31 December 2019 save that, in respect of that portion of the undertaking's net premium income which is derived from accident and health insurance business, the levy in relation to that portion shall be calculated in accordance with paragraph (iii) below. A minimum levy of €375 is payable by each non-life insurance undertaking.
(iii)	B8: Each accident and health insurance undertaking (including non-life insurance undertakings providing accident and health insurance) shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 0.0302% of its total net premiums earned derived from accident and health risk insurance business for the year ending 31 December 2019. A minimum levy of €375 is payable by each health insurance provider.

Category C - Intermediaries and Debt Management Firms

Intermediaries (including Investment Product Intermediaries and Mortgage Intermediaries who hold authorisations under the Consumer Credit Act 1995 and Mortgage Credit Intermediaries who hold authorisations under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016); Insurance/Reinsurance Intermediaries registered under the EC (Insurance Mediation) Regulations 2005; Debt Management Firms authorised under the Central Bank Act, 1997.

Each intermediary and Debt Management Firm, shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 15% of the levy payable to the Bank in 2019. A minimum levy of €125 is payable by each intermediary and debt management firm. Intermediaries who are members of the Society of the Irish Motor Industry ("SIMI") will not be required to pay the levies stated above in this Category C. The SIMI shall pay a flat rate levy of €12,000 for and on behalf of its members who are intermediaries as described in this Category C, and such a payment will discharge those intermediaries' obligation to pay a levy pursuant to these Regulations.

Category D - Investment Business Firms (other than Investment Product Intermediaries)

Firms regulated under the provisions of either the Investment Intermediaries Act, 1995 or European Union (Markets in Financial Instruments) Regulations 2017 [S.I. No. 375 of 2017] or any amending or replacing legislation) including: designated fund managers; entities engaged in the receipt and transmission of orders and/or the provision of investment advice; entities engaged in portfolio management and the execution of orders; entities engaged in own account trading and underwriting; and Stock Exchange member firms.

Each of the financial service providers in Category D shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 5.979% of the annual industry funding levy payable to the Bank by the financial service provider in 2019. A minimum levy of €375 is payable by each provider.

Category F - Credit Unions

Each credit union shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category G - Moneylenders Approved by the Bank ("Approved Moneylenders")

Each approved moneylender shall pay, in respect of its liability for the year ended 31 December 2021, a levy calculated on the basis of a sum no greater than 5.4% of the annual industry funding levy payable to the Bank by the approved moneylender in 2019. A minimum levy of €375 is payable by each moneylender.

Category H - Approved Professional Bodies

Each approved professional body shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category J - Bureaux de Change

Each provider shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category L - Default Assessments

Each financial service provider falling within Regulation 9(d) of these Regulations shall pay a flat rate levy contribution of €3,600.

Category M - Retail Credit Firms, Home Reversion Firms and Credit Servicing Firms

Each firm shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category N - Payment Institutions and E-Money Institutions

Each institution shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category O - Pawnbrokers

Pawnbrokers that are required to be authorised by the Competition and Consumer Protection Commission under section 8 of the Pawnbrokers Act 1964.

Each pawnbroker shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category P - Business Transfers

In the case of a financial service provider that is liable to pay a levy under these Regulations, whose financial services business is transferred to another financial service provider, the transferee financial service provider shall be liable to pay that portion of the levy payable by the transferor regulated entity, which has not been paid, and which is notified to the transferee financial service provider by way of a levy notice.

Category Q - Creditors

Creditors with respect to the performance of his or her obligations under the Consumer Credit Act of 1995 and under –

- (i) a contract for the provision of credit to a consumer, and*
- (ii) any contract of guarantee relating to the provision of that credit.*

Each creditor shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category R - Owners of Goods Subject to Hire Purchase

An owner of goods that are subject to hire-purchase under a hire-purchase agreement with respect to the performance of his or her obligations under the Consumer Credit Act of 1995 and under –

- (i) a contract for the hire-purchase, and*
- (ii) any contract of guarantee relating to the hire-purchase agreement or any right to recover the goods from the hirer under the hire-purchase agreement.*

Each owner shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category S - Owners of Goods Subject to Consumer Hire

An owner of goods that are subject to a consumer-hire agreement with respect to the performance of his or her obligations under the Consumer Credit Act of 1995 and under –

- (i) a consumer-hire agreement, and*
- (ii) under any contract of guarantee relating to the consumer-hire agreement or any right to recover the goods from the hirer under the consumer-hire agreement.*

Each owner shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category T - Mortgage Lender

A mortgage lender within the meaning of section 2 of the Consumer Credit Act of 1995.

Each mortgage lender shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €375.

Category U - Credit Intermediaries

Credit Intermediaries that are required to be authorised by the Competition and Consumer Protection Commission under Part XI of the Consumer Credit Act of 1995.

Each credit intermediary shall pay, in respect of its liability for the year ended 31 December 2021, a levy of €125. Intermediaries already included under Category C and mortgage lender and hire purchase concerns that also operate as credit institutions are not covered by this category.





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Pensions Ombudsman

**Teach Lincoln, Plás Lincoln,
Baile Átha Cliath 2, D02 VH29.**

**Lincoln House, Lincoln Place,
Dublin 2, D02 VH29.**

☎ +353 1 567 7000

✉ info@fspo.ie