

**REPORT**

**SURVEY OF  
REGULATED  
ENTITIES**

---

**11 July 2006**

**PREPARED FOR:**

**Financial Services Consultative  
Industry Panel**

**BY:**

 Millward Brown IMS

**41104775/AS/GP**

# TABLE OF CONTENTS



	<b>Page No.</b>
<b>1. Introduction</b>	
1.1 Background and Objectives.....	(i).
1.2 Methodology .....	(ii).
<b>Executive Summary</b>	
<b>2. Industry Regulation and the Financial Regulator</b>	
2.1 General Attitudes Towards Regulation.....	1.
2.2 Attitudes to the Financial Regulator .....	4.
2.3 Performance Against Main Objectives .....	6.
2.4 Overall Effectiveness of Financial Regulator .....	7.
2.5 Relationship with Smaller Firms .....	9.
<b>3. Cost</b>	
3.1 Attitudes to Costs .....	10.
3.2 Estimate of Compliance Costs .....	12.
3.3 Opinion on Costs .....	13.
3.4 Effect of Cost of Compliance .....	14.
3.5 Impact of Cost of Compliance .....	15.
3.6 Financial Regulator Funding .....	16.
<b>4. Relationship with the Financial Regulator</b>	
4.1 Overall Satisfaction with Financial Regulator.....	18.
4.2 Trend in Relationship.....	20.
4.3 Consultation Process.....	21.
4.4 Communicating Views .....	24.
<b>5. Dealing with Financial Regulator</b>	

5.1	Satisfaction with Ease of Dealing .....	25.
5.2	Level of Contact.....	26.
5.3	Satisfaction with Main Contact.....	28.
5.4	General Administration.....	29.
5.5	Provision of Guidance .....	31.
5.6	Satisfaction with Helpfulness of Guidance.....	33.
5.7	Staff Performance .....	34.
<b>6.</b>	<b>Supervision and Investigation</b>	
6.1	Satisfaction with Supervision .....	36.
6.2	Opinion on Supervision .....	37.
6.3	Recency of Last Visit.....	39.
6.4	Opinion on Supervisory Staff .....	40.
<b>7.</b>	<b>The Wider Environment</b>	
7.1	Financial Regulator and International Issues.....	43.
7.2	Participation in the International Market .....	44.
<b>8.</b>	<b>The Financial Services Consultative Industry Panel</b>	
8.1	Awareness of FSCIP .....	46.
8.2	Opinion on Panel .....	47.

## 1. Introduction

### 1.1 Background and Objectives

In 2003 the Irish Financial Services Regulatory Authority (more recently known as the Financial Regulator) was established. This body has wide-ranging powers and, largely from a desire to ensure some sort of review mechanism in relation to its operation, two consultative panels were established the following year, one representing consumer interests (including the interests of business consumers of financial services) and the other representing the interests of the financial services industry - the Financial Services Consultative Industry Panel (FSCIP).

In September 2005, the FSCIP invited tenders for a Survey of Regulated Financial Entities, and Millward Brown IMS was appointed to undertake this research, to assess industry views and opinions of regulation and the Financial Regulator. As the first such piece of research conducted in Ireland, this survey will form a benchmark for future monitoring of the regulatory environment and the perceived performance of the Financial Regulator.

Two principal objectives of this research are as follows:

- To provide an understanding of industry perceptions of the current Irish climate of financial regulation: the impact this has on business, for good or ill; the direction which it has taken and desirable directions for the future; the difficulties which it may have caused and may be expected to cause for the sector; the benefits which have arisen from it.
- To provide specific feedback on the operation of the Financial Regulator to date: efficiency, effectiveness, fairness and even-handedness, imposed requirements, openness to dialogue, appropriateness of priorities, use of penalties etc.

It is intended that the findings will form a critical part of the FSCIP's input into the Financial Regulator's Strategic Plan 2007 – 2009.

---

## 1.2 Methodology

While an important objective of this research was to provide a benchmark, replicable measure of attitudes across the industry, there was also a sense that it would be helpful and potentially illuminating to allow a number of key industry figures to express their views and perceptions in a more open-ended manner. For this reason, it was agreed that there should be qualitative (i.e. in-depth, free-ranging) as well as a quantitative (i.e. structured, numerical) aspects to the research.

### Qualitative Phase

In total, 24 in-depth interviews were conducted with chief executives/senior managers of 20 distinct entities throughout the financial services industry. Our sample included representatives from:

- Retail Banks
- Wholesale banks
- Insurance (domestic and international)
- Funds and investment management
- Credit Unions
- Professional Advisors
- Insurance intermediaries

### Quantitative Phase

The main survey was conducted using a self-completion questionnaire. The questionnaire was mailed out to the Chief Executive of all entities on the Regulator's list.

As a result of the unique nature and operational structure of their business, a separate questionnaire was sent to Credit Unions. The same general issues as for other institutions were covered, but the questions were tailored specifically to their business.

In total, over 4,000 questionnaires were sent to respondents on 13<sup>th</sup> March 2006 and final acceptance of completed questionnaires was 15<sup>th</sup> May 2006. There were 1,116 questionnaires returned, yielding a response rate of approximately 27%. So as to maintain confidentiality, all questionnaires were sent from and returned directly to Millward Brown IMS.

Please note that throughout this report, the terms “firm”, “company”, “practitioner” and “regulated entity” are used interchangeably to refer without distinction to the regulated entities surveyed.

The questionnaire consisted mainly of 7 point rating scales. In many instances, for the charts contained in this report, “Net scores” have been presented, rather than the complete frequency distribution for each question, as this can be difficult for the eye to follow. In the case of agreement scales, “Net Agree” is the aggregate of ratings 7+6, “Neutral” is the aggregate of 5+4 and “Net Disagree” is the aggregate of 3+2+1. This represents an industry standard method of summarising such data. A similar procedure was applied to the excellent/poor rating scale, with “Net Positive” (7+6), “Neutral” (5+4) and “Net Negative” (3+2+1).

All of the findings shown in the report are presented based on those who responded to the particular question, and exclude “No Response”. Again, this is the normal procedure adopted for self-completion surveys.

The next section of this report contains a summary of the key findings that emerged from the research, along with conclusions that can be inferred from the data. The findings have been divided into two main sections, in line with the original objectives of the research:

- Attitudes toward regulation and the Financial Regulator, including:
  - General attitudes to regulation
  - Performance against objectives
  - Effectiveness of Financial Regulator
  - Views on the cost of compliance
  - Financial Regulator funding
- Relationship with the Financial Regulator, including:
  - Overall satisfaction with the Financial Regulator
  - Consultation process
  - Dealings with Regulator
  - Provision of guidance
  - Supervision and Investigation

In addition, there are two further sections in the report dealing with:

- The Wider Environment, and
- The Financial Services Consultative Industry Panel.

**For further information please contact Alan Sheehy-Skeffington or Guy Perrem at Millward  
Brown IMS.**



**20 Upper Pembroke Street, Dublin 2  
Tel 6761196**

# Executive Summary

## Executive Summary



- This report details the results of the first survey of the Financial Regulator's performance in the eyes of regulated entities, conducted on behalf of the Financial Services Consultative Industry Panel in the first half of 2006.
- The survey represents the views of 1,116 senior executives and principals of regulated entities who filled out and returned a self-completion questionnaire, combined where appropriate with the comments of 24 key individuals who were personally interviewed at length by a Director of Millward Brown IMS.
- There was widespread agreement that strong regulation is for the benefit of the financial services industry as a whole, and indeed a sense that this is essential to retain the credibility of service providers.
- However, many believe that the burden which regulation places on the industry is heavier than it should be, and a minority even believe that this is to the detriment of consumer interests.
- In spite of a perception that there are many areas for improvement, overall satisfaction with the Financial Regulator is at a reasonable level, more being satisfied than dissatisfied and a strong majority believing that their relationship with the Financial Regulator has either stayed the same or improved over the last two years. Nevertheless, there is a core of 18% who are dissatisfied and it would be important to aim to reduce this score.
- The industry believes that the Financial Regulator focuses more on consumer protection than on innovation and competitiveness, to the extent that the development of new products and services has been hindered.
- Views are mixed as to whether the Financial Regulator has succeeded in achieving its stated objectives.
- A key perceived deficiency is in the Financial Regulator's knowledge and understanding of individual firms. This is coupled with a lack of a sense of partnership or of attention to industry views when formulating policy.
- There is felt, both by large and small firms, to have been inadequate recognition of the situation of smaller firms in particular, with this feeling being more acute among smaller firms (1-49 employees).

- When both the levy and the internal costs of compliance are taken into consideration, most feel that the cost of compliance is high and more than one-third think it is excessive. Half of all firms believe that the cost of compliance represents 5% or more of their total business costs.
- Between a quarter and a third of respondents believe that the cost of compliance has been detrimental to their business; to innovation in the industry; and to international competitiveness. As many as one-third have either sold or exited some part of their business as a direct result of the cost of compliance. Regulatory impact assessment to date is judged to have been inadequate.
- There is foreboding that costs will continue to rise but doubt as to whether this is really necessary. It is believed that future regulatory initiatives should be subject to rigorous cost-benefit analysis and there is strong resistance to the idea that the industry should have to increase its share of the contribution.
- There are concerns about the equity, and to some extent the transparency with which the burden of the levy is distributed.
- There is a sense that the process of consultation with the industry could be considerably improved and in particular that more feedback from consultation exercises should be provided.
- More than half of all companies surveyed believe that representative bodies are an effective way to communicate their views to the Financial Regulator, though four out of ten would be happy to communicate directly. More than a quarter select surveys such as this one as their preferred method of communication.
- Generally firms do not appear to find the Financial Regulator too difficult to deal with, although there remains room for improvement here. However, contact with even frontline Financial Regulator staff has been less than would have been expected and with policy makers has been minimal. Nevertheless, satisfaction with what contact there has been is quite high. It is also seen as one of the strong points of the Irish regulatory environment that it is comparatively open and that informal discussion is more possible than it is in other jurisdictions.
- On the whole it is believed that there is much room for improvement in the efficiency of the administrative processes within the Financial Regulator, and one in five claim to have experienced administrative difficulties to an extent which warranted making a complaint.
- Half of all firms have received guidance from the Financial Regulator, and satisfaction with the clarity and consistency of this guidance is reasonably high, though showing room for improvement. More find it helpful than unhelpful.

- Among those who have sought guidance from the Financial Regulator, there is reasonable satisfaction with the performance of the staff providing it, with the exception of a belief that staff have insufficient knowledge properly to understand the business of regulated entities.
- Similarly, there is more satisfaction than dissatisfaction with business supervision by the Financial Regulator, except with the level of understanding of the business. The relationship is much more likely to be described as co-operative than adversarial.
- Half of all entities, to date, have received a supervisory or regulatory visit, with such visits having been much more common among larger firms. The main complaints about supervisory staff are that they fail to take account of the commercial realities of the business, and again that they lack understanding of the technicalities of it.
- Many have no opinion on the extent to which the Financial Regulator has met the international as well as the domestic agenda, and few have participated themselves in this process. However, there is a sense that the Financial Regulator's resources have been stretched in coping with the volume and complexity of EU directives, and as a result has a tendency to implement these too rigidly.
- Only one-third have any awareness of the Consultative Industry Panel and although there is optimism and goodwill towards its intentions and activities, there is clearly room better to publicise its role and achievements.
- In summary, the industry shows a reasonable level of goodwill towards the Financial Regulator's office, which is perceived to be performing an important function quite well under difficult circumstances. However, there is believed to be room for considerable improvement in understanding of the needs and constraints of individual industry sectors, and in communication and consultation with the industry, and it is hoped that a perceived recent trend towards a more prescriptive style of regulation will be reversed. The burden of regulation is heavy and must not get any heavier, and although it is important to protect consumer interests these will not be served by undermining the competitiveness of the industry.

## 2. Industry Regulation and the Financial Regulator

### 2.1 General Attitudes towards Regulation

A key theme emerging from the qualitative research is that regulation of the financial services industry is necessary and is of benefit to the industry as a whole.

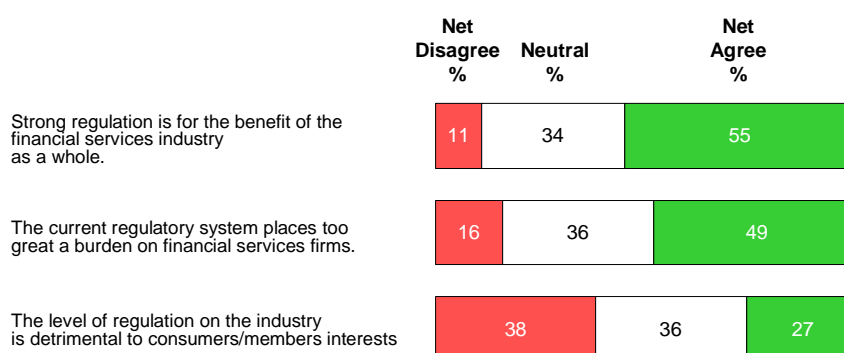
*“Regulation is the lifeblood of what we do. We exist because we’re a regulated industry.”*  
**(Investment Management/Funds)**

There was also some acceptance that the industry had fallen behind in meeting its consumer obligations and that it had certainly been time for some checks to be put in place.

*“There’s no doubt we were behind, and consumer protection or holding us accountable for our consumer and customer obligations, that was overdue”* **(Retail banking)**

Support for this view was confirmed in the quantitative survey, with over half of practitioners supporting the principle of strong regulation, and as few as 1 in 10 expressing a negative view in regards to the statement “Strong regulation is for the benefit of the financial services industry as a whole”. Reflecting perhaps the relatively greater financial impact on their organisation, it may not be surprising that smaller firms (less than 50 employees), tend to be less convinced of the benefits of strong regulation than those in larger organisations.

## General Attitudes Towards Regulation



Despite recognising the potential benefits of strong regulation, there is general agreement that the current regulatory system places too great a burden on financial services firms. Half of all firms felt this to be the case, with just 1 in 6 feeling that the regulatory implications of the current system were not overly burdensome.

*“I’d say we’re going through the biggest change I’ve ever seen in the regulatory environment in Ireland. The pace of change is enormous and we as an institution have severe difficulty keeping up with it.” (Retail banking)*

In the qualitative interviews there was some mention of the Government White Paper “Regulating Better” and of the encouragement within this of the practice of carrying out Regulatory Impact Assessments. Too little of this was felt to have been done in the financial area, and there was a sense that what had been done was not very satisfactory.

*“They talk about regulatory impact statements, I feel they’re the ones doing the regulatory impact statements and that’s not right. You don’t get the sense that this is going to be a kind of a thorough process. The work the Company Law Review Group did on the famous directors compliance statement was a wonderful piece of work. I think the honesty of it and the integrity of it is the model here and I would love to see what they’ve done, being taken and imposed quite honestly as the formula for all these things. That would give me*

*great confidence but I don't believe the Regulator is serious about this. I think they're just ticking boxes. There's a tokenism about it."* **(Retail banking)**

*"I know they've carried out, at least an attempt to carry out an impact analysis say with the introduction of the new consumer code, but having read through it I was disappointed because the theme running through it for every specific provision in the code, the regulator's response was well guys you should be doing that anyway, so there's no incremental cost to you. That doesn't reflect the reality of the situation"* **(Insurance)**

Opinion is divided as to the overall effect of the level of regulation on the industry. Just over one in four practitioners felt the level of regulation is detrimental to consumers' interests, with 38% disagreeing that this is the case. Thus it would appear that the balance of opinion is positive overall regarding the impact of regulation to the benefit of consumers. This is clearly a complex issue to which there is no simple answer, and on which there are very mixed views. Certainly, we know from the qualitative research that one of the concerns about the possible negative effect from the point of view of the consumer is that it risks being anti-competitive.

*"There's a lot of restriction on us now about being able to contact customers, a lot of restriction about being able to promote products to customers and again I see the requirement for that in some respects, it's not fair that customers should be harassed with products. That's not right, but there are many customers who want that and again the legislation just seems to me is missing that point also. There's a danger here that again you pass the point of what is protection and you begin to head into stuff that is competitively restrictive."* **(Retail banking)**

*"McCreevy said it very well in some recent interviews and discussions also that he'd had with regulators that you can't try to generate a completely risk averse environment and if you do that then people won't be able to carry out their business, won't be able to be competitive and the one person that'll suffer in the end is the consumer. I mean if you want guarantees it means returns go through the floor and the only people that make money are the people in the middle."* **(Advisory)**

## 2.2 Attitudes to the Financial Regulator

### General Attitudes Towards Financial Regulator

	Net Disagree %	Neutral %	Net Agree %
The Financial Regulator focuses more on consumer protection than on innovation and competitiveness.	6	41	54
The Financial Regulator exercises the principle of fairness in its dealings with the financial services industry.	25	50	25
The Financial Regulator has delivered in the way that the industry hoped it would	40	49	12
The working practices of the Financial Regulator do not hinder the development of new financial products and services	41	42	17

Consistent with one of the themes emerging from the qualitative study, there was general agreement in the quantitative survey that the “Financial Regulator focuses more on consumer protection than on innovation and competitiveness”. 54% of practitioners felt this to be the case, with as few as 6% disagreeing with this statement. In the qualitative research, there was certainly agreement that the industry had brought some of its troubles on itself, in that there had undoubtedly been some incorrect practices and it was quite right that checks should have been put in place to guard against this. However, there was some sense that regulation had gone so far in the direction of protecting the consumer that it now risks stifling innovation in the industry.

*“As in all of these things the pendulum swings too far before it swings back. We’re certainly in the too far space now, there’s a consumerism that drives their agenda they’re too obviously driven by what goes on in the media and the press. It doesn’t have the sense of something on occasions that’s done for the right reason, it’s done to be seen to be doing, to be seen to be responding and to be seen to be tackling, in our case, the big bad banks and all that they represent. It fuels their sense of these ogres around the corner doing all sorts of horrible and awful things.” (Retail banking)*

*“It’s a known fact that industry has not behaved as it should have. It has brought a degree of this on itself. It has overcharged, it has not treated customers fairly. So against that*

*backdrop it must be extremely difficult for a regulator to strike the right balance, but the balance is not right so we need to work together to figure out what is the appropriate balance” (Retail banking)*

Similar to the situation in the UK, concerns expressed in the qualitative research regarding the extent to which the Financial Regulator is fair in its dealings with the financial services industry are reflected in the quantitative survey results. One in four firms feel that the Financial Regulator is fair in its dealings, with an identical proportion of firms disagreeing that this is the case, with the remaining half neutral on this issue. Smaller firms are generally less convinced that the Financial Regulator exercises the principle of fairness, perhaps reflecting the perception, which arises elsewhere, that regulation does not take sufficient account of the specific needs of smaller businesses.

Clearly there are issues within the industry in terms of perceptions of the performance of the Financial Regulator. 40% of firms do not feel the Financial Regulator has delivered in the way the industry had envisaged it would. It is of particular concern that almost half of larger firms (50+ employees) do not feel it has delivered versus expectations. However, the situation in Ireland is better than in the UK, where 63% of firms feel the FSA has not delivered. As is the case in the UK, and as was substantiated in the qualitative research, the perceived failure to deliver is partly linked to the perception that current legislation places too great a burden on organisations. However, in the qualitative research it also emerged that hopes that visible regulation would increase levels of public confidence have not been fulfilled.

*“No that’s not being achieved at all, partly because industry has surfaced so many issues of its own making, it has discredited itself in the eyes of the public and I don’t think that the public differentiates between one institution and another. But I think the Regulator has not helped. I think in fact the opposite, some of the comments that have been made have been not as considered as perhaps they should have been and there’s not a great sense of the Regulator seeing that as being an important part of their role in restoring a level of confidence. It’s kind of like a them and us nearly public approach.” (Retail banking)*

Consistent with the earlier perception of a greater focus on consumer protection than innovation, it is not surprising that over 4 in 10 firms felt that the working practices of the Financial Regulator hinder the development of new products and services. As few as one in six firms did not consider these practices to be hindering product/service development.

## 2.3 Performance Against Main Objectives

A number of statutory objectives were set down when the office of the Financial Regulator was established. It was felt that this survey would provide an appropriate opportunity to assess the extent to which practitioners within the industry felt these objectives are being met.

### Performance vs Objectives

	Net Negative %	Neutral %	Net Positive %
Helping consumers make informed choices through education and codes of practice in a fair financial services market	23	58	19
Having a regulatory system that fosters safe and sound financial institutions while operating in a competitive and expanding market of high reputation	19	55	26
Continuously enhancing and developing the regulatory system	19	60	22

At best, opinion tended to be fairly neutral regarding whether or not the Financial Regulator has performed versus these objectives. 19% of practitioners agreed that the Financial Regulator is “helping consumers to make informed choices through education and codes of practice in a fair financial services market”, with 23% having a negative opinion on its performance in this regard.

Opinion was slightly more positive in terms of “having a regulatory system that fosters safe and sound financial institutions while operating in a competitive and expanding market of high reputation”. Just over 1 in 4 firms felt that this was being achieved. However, discontent with the system is further evidenced by the fact that 1 in 5 firms did not feel that the Financial Regulator’s performance was living up to expectations in this regard.

Attitudes towards the extent to which the Financial Regulator is seen to be “continuously enhancing and developing the regulatory system” can, at best, be described as lukewarm,

with 60% of firms giving a neutral assessment in this regard, only one in five responding positively. On the other hand, there did emerge from the qualitative phases some sympathy on the basis that the Financial Regulator's office is seen to be shouldering an enormously heavy burden of work emanating both from the EU and from rapidly expanding sectors such as funds, which has put a huge strain on resources.

*“Part of the problem is that the infrastructure within the Regulator is creaking under the demands the industry is placing on it, and they are struggling to keep pace with the demands of the industry.” (Investment Management/Funds)*

*“The implementation of EU directives is the one area where they're clearly labouring a little bit.” (Retail banking)*

## 2.4 Overall Effectiveness of Financial Regulator

Practitioners rated the performance of the Financial Regulator on a 7-point scale, ranging from Poor to Excellent. Overall, the most positive rating that emerged was in relation to “encouraging the education of the public about financial products and services” and the most negative in terms of “knowing and understanding your firm and its situation”. This echoes a recurring theme from both the quantitative and qualitative research that the Financial Regulator's balance of priorities in favour of consumer protection and education is not being matched by a sufficient commitment to gaining a detailed understanding of the specific issues facing the firms within the industry being regulated.

### Overall Effectiveness of Financial Regulator

	Net Negative %	Neutral %	Net Positive %
Listening to industry views when deciding policies and procedures	44	47	9
Distinguishing sufficiently in its policies between the regulation of wholesale and retail businesses	40	52	8
Looking at the behaviour of the business as a whole, rather than focussing on small details	38	49	13
Being efficient and economic in use of its resources	32	57	12
Putting in place effective operational systems	27	59	13
Fostering a sense of partnership with the financial services industry	46	43	11
Knowing and understanding your firm and its situation/The CU movement	51	37	12
Facilitating innovation and competitiveness within Ireland	41	47	12
Placing responsibilities on firms' senior management/ CU business directors which are clear and reasonable	31	51	18
Encouraging the education of the public about financial products and services	19	48	32

This is further highlighted by the fact that almost half of all practitioners gave the Financial Regulator a negative rating in terms of “fostering a sense of partnership with the financial services industry”. Over 4 in 10 do not feel the Financial Regulator is “listening to industry views when deciding on policies and procedures” and 41% were negative regarding its’ “facilitating innovation and competitiveness within Ireland.

Although some firms hold the Financial Regulator in a positive light on these issues, overall these results suggest a deficiency in the perceived relationship between the Financial Regulator and the regulated, whether or not this is a fair and accurate reflection of how the Financial Regulator actually operates. More specific questions about this relationship arise later.

Putting effective operational systems in place, being efficient and economic in use of its resources and placing clear and reasonable responsibilities on firms’ senior management all attracted slightly less criticism, but were no more likely to be positively perceived. These are probably the most practical issues where changes could have a visible effect.

## 2.5 Relationship with Smaller Regulated Entities

Given the nature of business in Ireland, and the relatively large numbers of smaller firms, the importance of these organisations to the health of the financial services sector cannot be overlooked. For this reason, two questions were included in the quantitative survey to assess industry opinion of the relationship of the Financial Regulator with smaller firms.

Almost 2 in every 3 firms disagreed that the Financial Regulator “shows understanding of

### Recognising Smaller Regulated Entities

	Net Disagree %	Neutral %	Net Agree %
Shows understanding of smaller firms/credit unions in the development of regulatory policy and operation	63	30	7
Recognises the impact of regulation on smaller firms/credit unions and seeks to accommodate them appropriately	67	26	7

smaller firms in the development of regulatory policy and operation”. As might be expected, this negative stance was more prominent among smaller firms, although approaching one third of larger firms also felt that the Financial Regulator is displaying a lack of understanding in this regard.

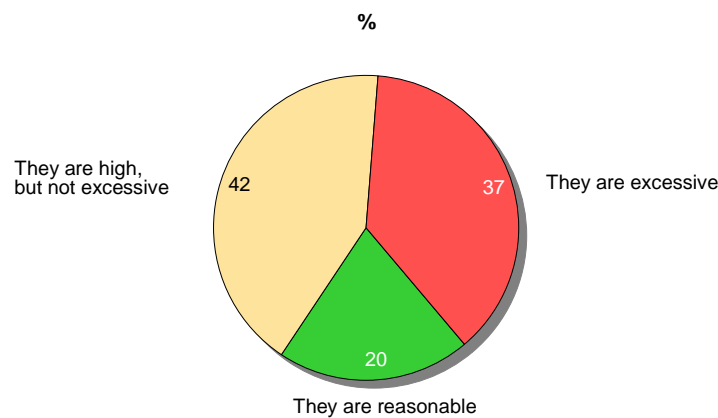
Two thirds of practitioners did not accept that the Financial Regulator recognises the impact of regulation on smaller firms and seeks to accommodate them appropriately, with as few as 7% feeling such accommodation is being made. Given that such a high proportion of Irish firms fall into this category, this finding highlights a gap that exists between the perceived requirements of the industry and the service being provided by the Financial Regulator.

### 3. Cost

#### 3.1 Attitudes to Costs

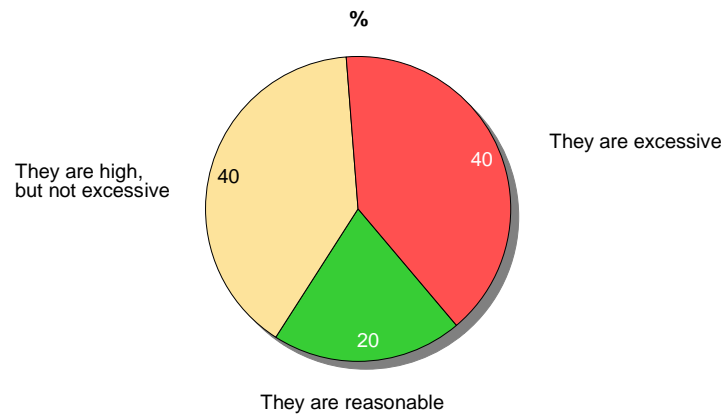
The cost of regulation encompasses both the levy imposed on firms and the internal cost associated with the task of compliance, such as investment in systems, training, general administration, legal fees etc. As in the UK, very few found the overall cost of compliance reasonable.

#### Opinion on Costs of Compliance



On balance, the total costs of compliance with Financial Regulator requirements were felt to be high and bordering on excessive. 42% of firms felt they were high but not excessive, with 37% feeling they are excessive. Not surprisingly, smaller firms were more likely to feel this to be the case than their larger counterparts. On the other hand, although it may be limited comfort, this result is at least not as negative as it was in the UK, where 58% saw the cost as excessive.

### Opinion on Costs of Compliance with EU Financial Services Action Plan



A similar picture emerged in terms of attitudes to the total costs of compliance with the outputs of the EU's Financial Services Action Plan, with 4 in 10 firms feeling these to be excessive and a similar number holding the view that they are high but not excessive.

### 3.1 Estimate of Compliance Costs

#### Estimated Costs of Compliance

	%
Less than 2%	20
2% - less than 5%	31
5% - less than 10%	25
10% - less than 15%	12
15% or more	12

Half of all firms estimated that the total internal and external identifiable current costs of compliance with Financial Regulator requirements represented 5% or more of their total business costs. 12% estimated that compliance represented over 15% of their overall costs. There is a marked difference between small and large firms in respect of the costs of compliance. Over half (57%) of small firms claim that compliance costs represent 5% or more of their total business costs, while among large companies, the proportion staking the same claim stands at one third (35%). It is interesting to note that a relatively small proportion of firms were unable to estimate the cost of compliance, indicating that this is an issue firms are very conscious of.

### 3.3 Opinion on Costs

#### Opinions on Costs

	Net Disagree %	Neutral %	Net Agree %
The overall costs of compliance with the Financial Regulator's requirements will continue to rise for the foreseeable future	14	37	50
Effective compliance could be achieved at lower cost	8	37	55

Despite a general feeling that compliance costs are already too high, practitioners clearly do not see any light at the end of the tunnel. Half estimated that costs would continue to rise for the foreseeable future, which will place an even greater burden on their organisation.

Consistent with the somewhat negative view observed earlier regarding the efficiency of the Financial Regulator, over half of all firms felt that effective compliance could be achieved at a lower cost

### 3.4 Effect of Cost of Compliance

#### Effect of Cost of Compliance

Cost has a negative impact on....	Net Disagree %	Neutral %	Net Agree %
My business/my credit union	24	45	31
Innovation in the industry/the movement	21	50	29
The international competitiveness of the Irish financial services industry	21	53	26

Opinion regarding the impact of the costs of compliance with the Financial Regulator was mixed. A slightly greater number of firms agreed that it has a negative impact on their business than felt this not to be the case. Similarly, there is a marginally stronger view that compliance costs have impacted negatively on innovation within the industry than feel that this has not been a consequence of the impact of the requirements imposed.

Opinion is also divided as to the effect of the cost of compliance on the international competitiveness of the Irish Financial services industry, with 1 in 4 firms feeling that it has had a negative impact. In the qualitative interviews some expressed a worry that the cost of doing business here is rising, and that if this continues we could be at risk of losing business, particularly in relatively mobile types of business such as funds.

*“I know it’s a typically Irish mentality, we probably sit behind closed doors saying you need more of this and then when it comes to the payment, no one is very good. I know in the funds industry, I can’t remember what the levy is but it’s like we have about a trillion in assets here and the cost of the regulation, I think it might be subvented to the tune of 5 million which does seem quite a small amount. Having said that I can see exactly the reason why having a bigger amount passed onto the industry would be an issue because people then say Luxembourg doesn’t charge me anything...” (Advisory)*

### 3.5 Impact of Cost of Compliance

#### Effect of Cost of Compliance

Cost has resulted in....	Net Disagree %	Neutral %	Net Agree %
Reducing the types of business we conduct	29	39	32
Selling or exiting some parts of the business	32	38	30
My business being put at a disadvantage compared to our competitors based abroad, when competing for international business	20	59	21
Improvements in the operational management of my business	26	57	18
A better service for my clients	35	44	20

Clearly, complying with Financial Regulator requirements is having a tangible impact on the conduct of business for a relatively sizeable portion of the industry. One third of firms claim to have reduced the types of business they conduct as a consequence of the cost of compliance, and only slightly fewer claim to have sold or exited some parts of the business. Larger firms are more likely than their smaller counterparts to have escaped such an impact. This is a very clear indication of the burden being placed on firms by the requirement to comply with the Financial Regulator's requirements.

This burden may be considered more acceptable if it were felt to have some positive side effects, but this does not appear to be the case. Only 18% of firms acknowledged that the cost of compliance had resulted in improvements in the operational processes of their business, with over a quarter stating that the opposite of this has been experienced. Over one third of practitioners disagreed that the costs of compliance have resulted in them providing a better service for their clients, presumably reflecting the impact compliance has on their internal resources. For both of these issues, larger firms appeared to be feeling the impact more than smaller organisations.

Opinion was fairly evenly split as to whether the cost of compliance is resulting in businesses being put at a disadvantage compared to foreign-based competitors when competing for international business.

### 3.6 Financial Regulator Funding

#### Opinion on How Regulator is Funded

	Net Disagree %	Neutral %	Net Agree %
The proportion of funding contributed by the industry/movement as a whole is currently reasonable	30	54	15
I would be unhappy if the proportion contributed by industry/movement were to rise	16	17	67
The way in which the levy is distributed is transparent <b>by</b> industry sector	20	56	24
The way in which the levy is distributed is transparent <b>within</b> industry sector	22	55	23
The way in which the levy is distributed is equitable <b>by</b> industry sector	29	58	13
The way in which the levy is distributed is equitable <b>within</b> industry sector	28	57	15

Reflecting the level of discontent evident regarding the cost of compliance, it is not surprising that, in general, practitioners would be unhappy if the proportion of Financial Regulator funding contributed by industry were to increase. This view was held by two thirds of all firms. Relatively few firms held the view that the proportion of funding contributed by the industry as a whole is currently reasonable.

*“I think the industry would be mad to let them increase it past the 50%. I don’t see why they should because the industry pays its taxes like everybody else.” (Retail banking)*

Perceived transparency in terms of the distribution of the levy both by and within industry sector achieved a mixed reaction, with roughly equal numbers of firms (approximately one in five) agreeing and disagreeing that this is the case.

However, the equality with which the levy is distributed both by and within industry sector is not as well regarded. Twice as many firms felt that this was not equitable as were happy with the distribution of the levy. This may itself, in fact, be an issue of transparency, and these concerns might be lessened by a clearer understanding as to the manner by which the distribution of the levy by industry sector is decided.

One complaint in the qualitative interviews was more about the manner in which changes in the allocation of the levy were communicated.

*“There is an issue over the cost of the Regulator and I feel that they have just been frankly far too high-handed in the way in which it’s been allocated. The initial process was of allocating the cost across the industry groups. There were very significant changes in the allocations as between industries and indeed then in turn as between companies. The first I knew of that was when I got the invoice. That’s just not good enough and I think one of the single biggest things they need to do, and I keep coming back to these service standards, like they have to treat us like they expect us to treat our customers and that really is just not good enough. We’re talking quite large amounts of money here. We’re paying for the regulation but there’s little, we have little insight into how efficient the organisation is and that’s where again I feel they really do need to benchmark themselves and create sort of service standards, so that we as an industry can determine whether a lot of our money is being wasted.” (Insurance)*

## 4. Relationship with the Financial Regulator

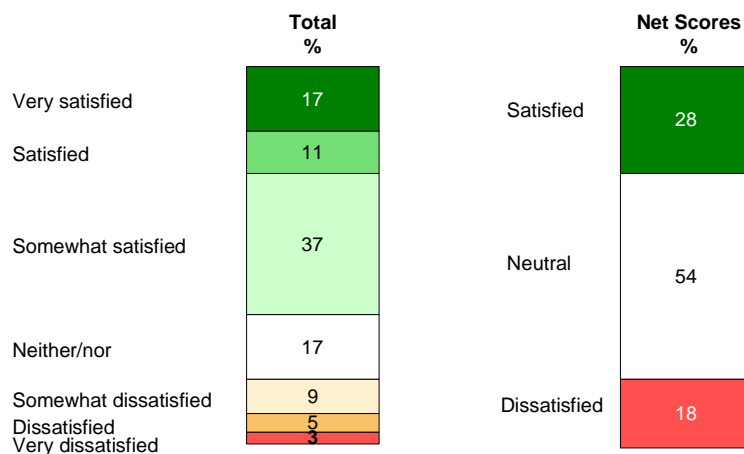
### 4.1 Overall Satisfaction with Financial Regulator

The qualitative research presented a fairly consistent picture in terms of satisfaction with the Financial Regulator. It acknowledges the regulatory burden facing firms, while also appreciating the task facing the Financial Regulator. There appears to be an acceptance that operational difficulties exist within the Financial Regulator's office, particularly in terms of handling the volume of work they are presented with, but that possibly the Financial Regulator has not geared up quickly enough or with a suitably skilled staff base to handle these demands.

Given that the establishment of the Financial Regulator is still a relatively recent occurrence, it was felt that this would be an appropriate time to measure numerically the satisfaction of practitioners with the relationship between the Financial Regulator and their business. This will then form a benchmark against which future measurements can be compared.

#### Overall Satisfaction

Base: All Respondents (Excl No Response)



Despite the fact that a number of fairly serious issues emerged throughout the survey results, less than one in five practitioners expressed dissatisfaction with this relationship. Over 1 in 4 were either satisfied or very satisfied, taking into account all their business'

dealings with the Financial Regulator. The level of satisfaction expressed was marginally higher among small firms than larger organisations.

The significance of these figures should not be underestimated, since although a dissatisfaction figure of 18% is higher than one would wish, it is far from disastrous, and acts as a useful counterpoint to the complaints made by firms on specific issues.

On the other hand, this score does not compare favourably with the UK rating of 12% dissatisfaction.

### 4.2 Trend in Relationship

Although the majority of firms did not perceive there to have been a change in their business relationship with the Financial Regulator over the previous 2 years, among those giving an opinion the balance was very much in the direction of an improvement. Fewer than one in ten practitioners had seen deterioration in their relationship. As might be expected, due to their greater levels of contact, larger firms were more likely to have seen an improvement than smaller firms – had this not been the case then presumably satisfaction levels might have been lower than reported.

**Relationship Trend in Past Two Years**



These figures are overall quite encouraging. Among the minority who reported a disimprovement, there are some clues from the qualitative research as to why this might be: some referred to the lengthening response time which is attributed to pressure on resources, and others regretted what they saw as a shift towards rules-based rather than principles-based regulation. Both of these issues arise again at other points in this report.

### 4.3 Consultation Process

It was clear from the qualitative interviews that firms expect and hope that the Financial Regulator will both seek and actively take into account industry views before finalising its directives.

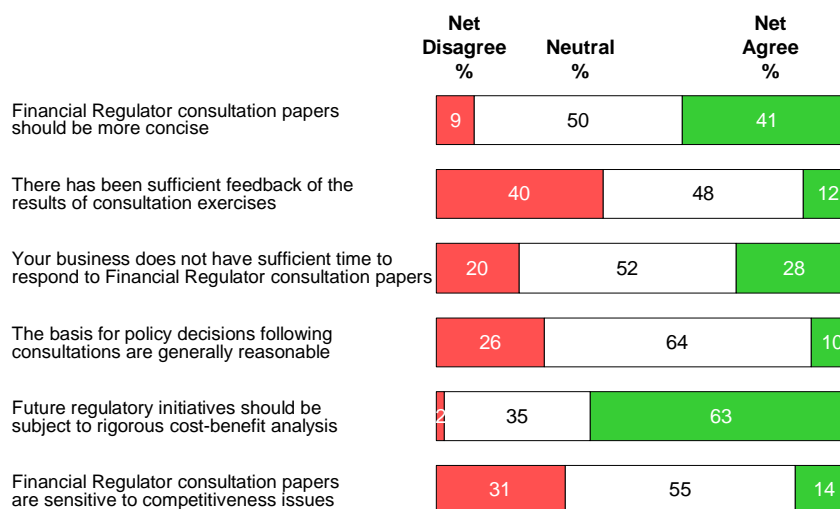
#### Satisfaction with Consultation Process



The results of the quantitative research indicate that the Financial Regulator’s consultation process leaves considerable room for improvement. As many as 3 in 10 practitioners expressed dissatisfaction with the effectiveness of the consultation processes and only 18% were satisfied.

One clear message emerging from this survey is that future regulatory initiatives should be subject to rigorous cost-benefit analysis, with almost two thirds of practitioners holding this view. This is hardly surprising, given the concerns observed earlier regarding the financial burden of compliance with current regulations on organisations within the industry.

## Opinions on Consultation



Relatively few practitioners agreed that sufficient feedback had been given on the results of consultation exercises or that the basis for policy decisions following consultations was generally reasonable.

There was general agreement that consultation papers should be more concise, which might improve the situation where only 20% of firms felt they had sufficient time to respond to Financial Regulator consultation papers. Admittedly this may be due to other business issues, but more concise papers can only help.

Evidence points to the Financial Regulator needing to be more sensitive to competitiveness issues in the context of consultation papers if possible. As few as 14% of practitioners felt that consultation papers were sufficiently sensitive in this regard. This resonates with the recurring theme that the Financial Regulator is not seen to show sufficient understanding of the real business needs and concerns of the regulated entities.

Feedback from the qualitative interviews tended to focus on specific instances where this consultation process was felt to have either succeeded or failed. A commonly mentioned example of the former was CP10 on Fitness and Probity, while an example of the latter was said to CP14 on Minimum Competency.

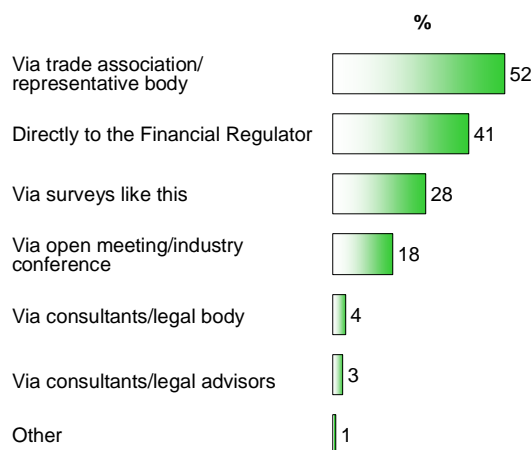
*“I think they’ve learnt their lesson, they’ve issued consultation papers without consulting beforehand and they made a mess of them. The number of responses to CP10 I think absolutely amazed them and they ranged from 2 pages to 2 lever arch binders that some people sent in. Now on a consultation paper you’d expect it to be close to being right. Fitness and probity they had to take back, whereas minimum competency I think they’ve learnt a lesson. I would say it’s 98-99% correct on what they’re proposing. They do need to pre-consult more.”* **(Retail banking)**

*“Now the fitness and probity thing I think has stalled slightly because I think they’ve become genuinely worried that they were going to the extremes with what they were trying to do. I went to a meeting which was thrown open to all the industries, banking, asset management, life assurance and general insurance and re-assurance and there was one guy there from a Luxembourg bank and on his board of directors he had 2 former ministers, a finance minister of Luxembourg and a governor I think of the Central Bank of Luxembourg and the idea that these guys will have to go down to the local gendarmerie station to get the policeman to verify that they were who they were, you know really is taking things to an extreme.”* **(Insurance)**

## 4.4 Communicating Views

Just over half of firms within the industry would have a preference for communicating their business's views to the Financial Regulator via trade associations or representative bodies. This method of contact emerged slightly ahead of communicating directly to the Financial Regulator. Not surprisingly, large firms were considerably more likely to express a preference for direct contact than smaller organisations, presumably being more likely to have direct access.

### Preference for Communicating Views to Financial Regulator



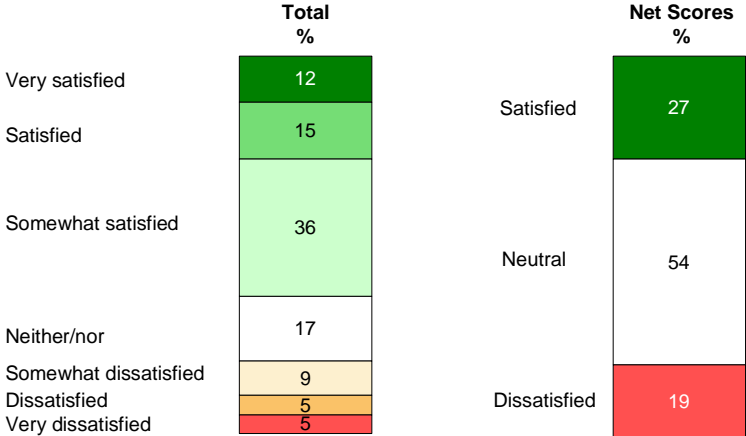
Industry surveys such as this clearly have a role to play as a feedback mechanism to the Financial Regulator – 28% of practitioners considered this to be an appropriate method of communication. However, as is the case for any customer satisfaction survey it is important that the results are seen to be acted on, if participation in future surveys of this nature is to be ensured.

Open meetings and industry conferences would appear to represent a secondary method of communicating with the Financial Regulator.

## 5. Dealing with Financial Regulator

### 5.1 Satisfaction with Ease of Dealing

**Satisfaction with Ease of Dealing with Financial Regulator**



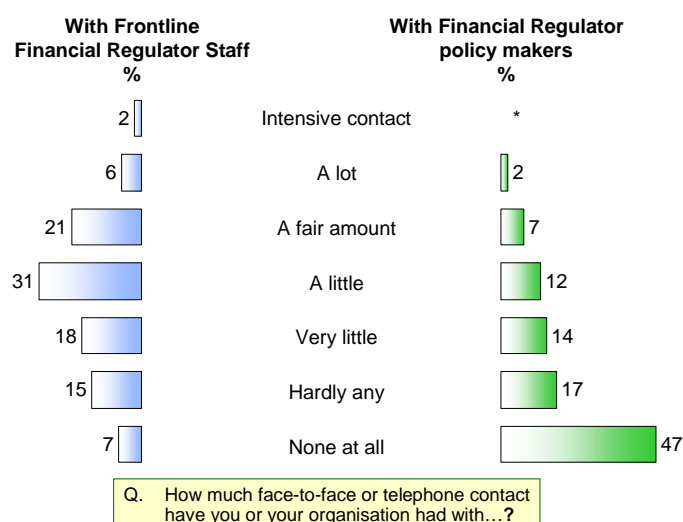
While a significant minority of practitioners are dissatisfied with the ease of dealing with the Financial Regulator, a greater number expressed satisfaction in this regard. Although one would hope to be able to improve on a dissatisfaction level of 19%, this is again on the whole a positive result.

## 5.2 Level of Contact

Three years after the establishment of the Financial Regulator's office, 78% of practitioners said that they or their organisation had had at least some face to face or telephone contact with frontline Financial Regulator staff. Not surprisingly, this is much more a feature of the larger than the smaller companies, 95% of them responding in this fashion compared to 76% of smaller firms.

Of these, approximately 3 in 10 firms overall, or 7 in 10 large firms, felt that they have intensive, a lot or a fair amount of contact.

### Level of Contact



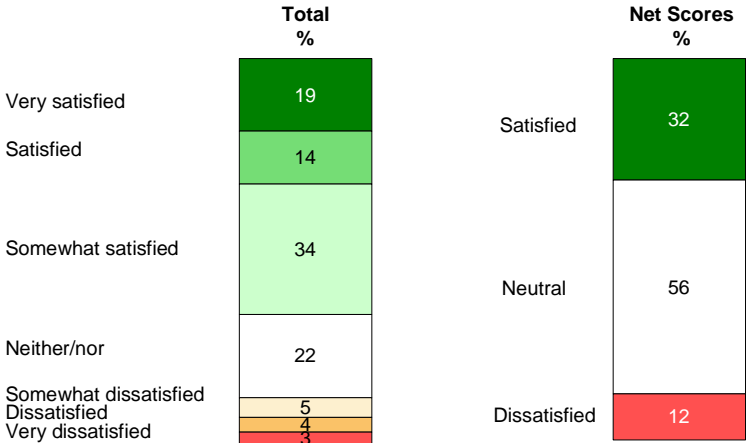
As few as one in five practitioners reported that their organisation has any degree of contact with Financial Regulator policy makers, with almost half having had no contact at all. More than half of small firms say they have had no contact, but even among larger companies the figure is over 1 in 10. It is perhaps less surprising that the degree of contact at this higher level has been less, although one wonders whether a greater sense of accessibility at senior level might raise perceptions of the success of communication in general.

It should be pointed out that in the qualitative interviews, appreciation was expressed for the fact that any significant direct contact is possible at all, which is one of the things which makes Ireland a more pleasant place to do business than either the US or the UK.

*“One thing I would say that I really appreciate about the Financial Regulator, that is direct access. I prefer the style a whole lot more in Ireland. I mean the SEC is a faceless name, it’s almost impossible to talk to people at the SEC. In the UK I think it’s much more akin to what you have in Ireland but the UK is a much bigger marketplace and access is more difficult. I think the style of regulation in Ireland is very positive and I wish that other countries would emulate it, certainly the US being one jurisdiction that could benefit from that.”* **(Investment Management/Funds)**

### 5.3 Satisfaction with Main Contact

#### Satisfaction with Service Provided by Main Contact



In spite of the relatively low level of contact with frontline staff generally, satisfaction with the service provided by the main contact person in the Financial Regulator is reasonably good. While only one in five claimed to be very satisfied, and a good few were in the neutral zone, only 12% expressed any level of dissatisfaction. This is one of the more positive ratings.

## 5.4 General Administration

### Opinions on General Administration

	Net Disagree %	Neutral %	Net Agree %
Operates straightforward and efficient processes for dealing with authorisation and approval issues	30	53	17
Handles other administrative functions satisfactorily	24	59	18
Has the necessary IT capabilities for delivering effective regulation	18	64	17

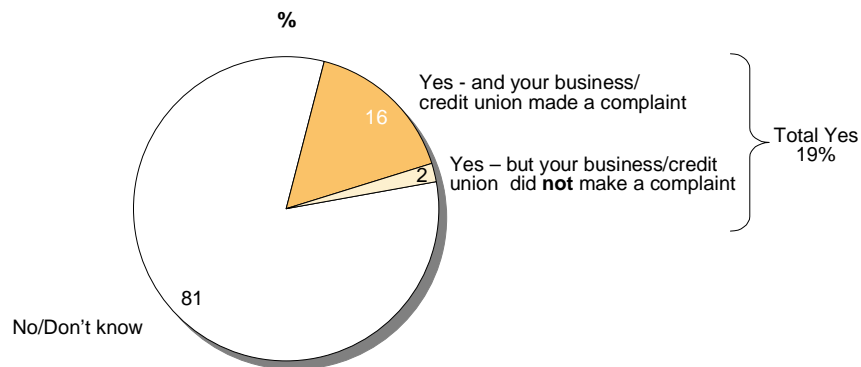
In relation to general administration issues, it would appear that practitioners feel there is room for some improvement. Only 1 in 6 practitioners felt that the Financial Regulator operates straightforward and efficient processes for dealing with authorisation and approval issues. In the qualitative interviews, one comment relating to the funds area suggested that approval is efficient enough for the standard case, but can become bogged down by anything out of the ordinary.

*“There’s an approval process for funds and in fairness now that does work. It has worked quite effectively and efficiently and that has been I would say a very positive achievement from the Regulator but any time you ask to diverge or change an investment policy or change the form of language because we don’t think it’s appropriate to the type of investment there appears to be less and less ability for individuals within the Regulator to process those changes once you’re going outside the parameters.”* **(Investment Management/Funds)**

Reflecting a general theme running through both the qualitative and quantitative surveys, there was relatively little agreement that the Financial Regulator handles other administrative functions satisfactorily. This is perhaps associated with the perception that the organisation is under-resourced.

Conviction that the Financial Regulator has the necessary IT capabilities for delivering effective regulation was limited, again highlighting the perceived need for more effective and efficient processes and procedures in the administration of the regulatory function.

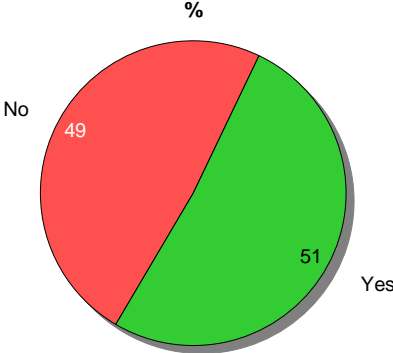
### Incidence of Administrative Difficulty



In the quantitative survey, as many as 19% of firms claimed their business had experienced an occasion where it considered that administrative difficulties with the Financial Regulator provided a valid basis for making a complaint, with the majority of these going on to make such a complaint. It should be noted, however, that no attempt was made to measure how serious or significant these administrative errors may have been.

### 5.5 Provision of Guidance

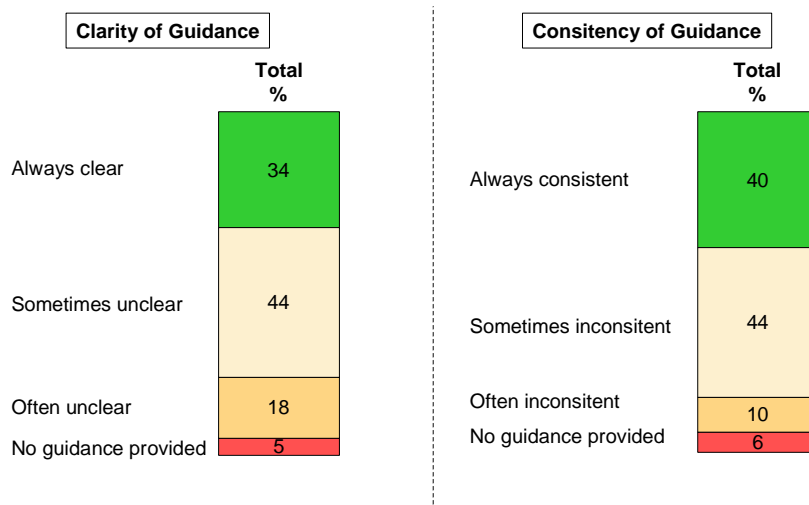
#### Incidence of Seeking Guidance



Half of all firms reported having any experience of seeking guidance on rules or regulatory policy from the Financial Regulator. Larger organisations were significantly more likely to have done so.

## Views on Guidance Given

Base: All Sought Guidance



Of those who had experience of seeking guidance from the Financial Regulator only one in three said that it was “always clear”. The Financial Regulator was slightly more likely to be seen to provide consistent guidance – 40% of firms’ felt that the guidance provided was “always consistent”.

However, this leaves the majority of practitioners with something of an issue regarding the clarity and consistency of guidance received from the body charged with providing this information.

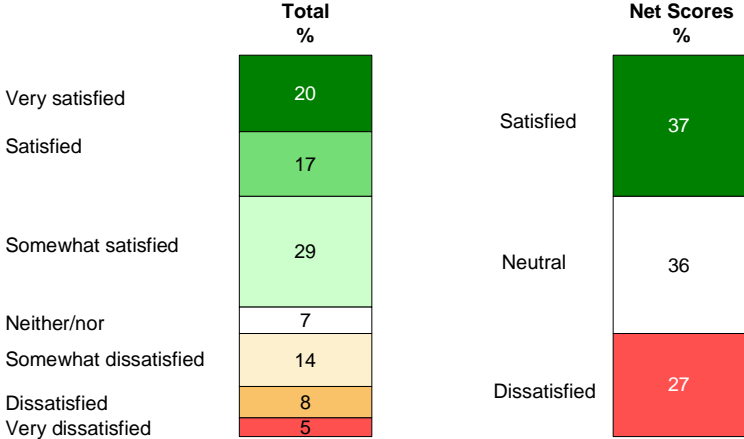
*“Americans understand yes, no, maybe. Yes means you’re allowed to do it. You’ve positively tested that fact. No means you are not allowed to do it and maybe means that we will consider an outcome, there may be a positive outcome, whereas in Ireland maybe means no tomorrow, and it’s very difficult to explain to a client who says can I do the following things in Ireland and you say well on the one hand you could, on the other hand you mightn’t be able to. They say well that’s not an acceptable answer.”* **(Investment Management/Funds)**

*“The Financial Regulator is immensely approachable, never a problem if you ring them up, they always give you time, now they mightn’t be consistent in what they say. You might have different people saying different things, but they are approachable and that’s very important.”* **(Advisory)**

### 5.6 Satisfaction with Helpfulness of Guidance

#### Satisfaction with Helpfulness of guidance

Base: All Sought Guidance



Reflecting the extent to which firms felt they are provided with clear and consistent guidance, it is not surprising that as few as 37% of organisations expressed satisfaction with the helpfulness of the Financial Regulator’s guidance. Perhaps reflecting the complexity of the issues at hand, smaller firms were more likely to feel satisfied with the helpfulness of the guidance provided than their larger counterparts.

## 5.7 Staff Performance

The experiences of organisations when approaching the Financial Regulator for guidance appear to be fairly mixed, with generally a smaller number having had positive experiences than those who have come away with a negative view.

One of the key issues to emerge from both the qualitative and quantitative research is the extent to which staff are seen to be sufficiently knowledgeable to understand a firm's business. Resourcing issues was one of the themes that emerged from the qualitative study, both in terms of the ability to respond and the quality and competence of staff.

*“I do think increasing the practical knowledge of what happens in the marketplace would be an enormous benefit to the regulator.” (Investment Management/Funds)*

### Opinions on Staff Performance

Base: All Sought Guidance

	Net Disagree %	Neutral %	Net Agree %
The Financial Regulator's emphasis is on preventing problems arising rather than enforcement	23	50	27
It is possible to be open and frank in discussions with the Financial Regulator	27	40	33
The Financial Regulator is open and frank in discussions with us	25	43	32
It is difficult to work through things informally with the Financial Regulator without involving legal people	41	40	20
Financial Regulator staff generally give definitive guidance	35	39	26
Financial Regulator staff generally give guidance promptly	29	40	31
Financial Regulator staff have sufficient knowledge to understand my business	43	39	18
Staff have the authority to answer my questions	34	47	19
There is consistency of guidance from different members of staff	29	53	18
There is co-ordination of response and action by the Financial Regulator across departments and teams	28	55	17

As many as 43% of practitioners felt there is an insufficient level of understanding to enable staff to provide adequate guidance. Other issues where a negative response prevailed were on the authority of staff to answer questions, consistency of guidance from different members of staff, co-ordination of response and action across Financial Regulator departments and teams, and staff generally giving definitive guidance.

*“I suppose some of the questions that they come back with, it is evident that the staff wouldn’t have the experience or the knowledge of what we’re trying to do.”* **(Investment Management/Funds)**

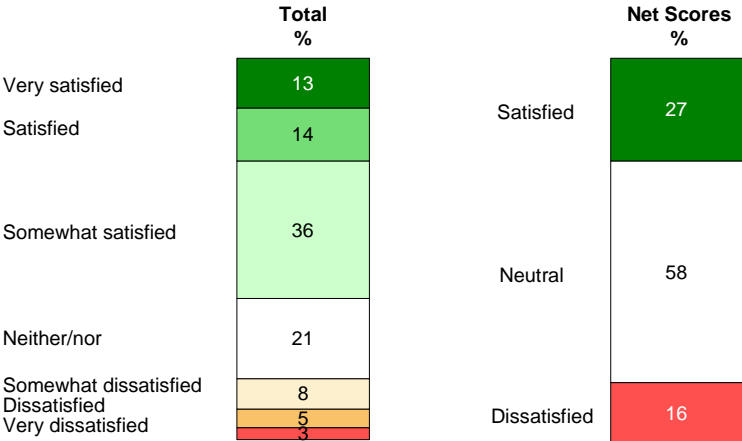
*“To be fair to them they’re really trying to get people in who have their own sort of different experiences in relation to credit unions and I think that that’s fair enough. But I personally think it will take a considerable amount of time for them to become as familiar as they would need to become with how credit unions do their business.”* **(Credit Union)**

Reaction to having open and frank discussions with the Financial Regulator received a relatively more positive response, as did the prompt delivery of guidance. Opinion as to whether the Financial Regulator’s emphasis is on preventing problems arising rather than enforcement was very mixed, with 27% agreeing that this is the case as against 23% disagreeing.

## 6. Supervision and Investigation

### 6.1 Satisfaction with Supervision of Business

Satisfaction with Supervision of Business



The balance of response in terms of the Financial Regulator’s supervision of practitioners’ business was positive, with 27% expressing satisfaction in this regard, and only 1 in 6 saying they were dissatisfied.

## 6.2 Opinion on Supervision

One of the consistent themes emerging from this research is sense that there is a lack of understanding among Financial Regulator staff of the businesses they are dealing with. This is again evident in terms of attitudes towards supervision, with 43% of firms disagreeing that, in supervising their organisation, the Financial Regulator has a good understanding of their business. Opinion regarding the amount of detailed information requested was relatively balanced, with a slightly higher number of firms not feeling that too much information is asked for. Indeed, perhaps if more information about their business was requested and provided, this might lead to a better understanding of the business.

Less than one in four firms felt that the Financial Regulator applies a reasonable level of supervision for a business of their size and type, and this was broadly consistent across both large and small firms, though whether this indicates a need for more, or less supervision is unclear.

### Opinion on Supervision

	Net Disagree %	Neutral %	Net Agree %
Asks for too much detailed information about your business/credit union	28	50	22
Has a good understanding of your business/credit union	43	43	13
Applies a reasonable level of supervision for a business of your size and type	24	54	23
Tends to look at processes rather than outcomes	10	57	33
Is adversarial in approach	30	53	17
Is willing to hold a dialogue with you about compliance issues	19	58	23
Is willing to discuss the findings of any investigation of your business/credit union	12	70	19
Usually gives you the opportunity to put the findings of any investigation into context	12	73	16

There was also a relatively strong feeling that the Financial Regulator is process rather than outcome driven, with three times as many firms feeling this was the case than not.

Practitioners did not generally feel that the Financial Regulator is adversarial in approach, with larger firms more convinced than their smaller counterparts of this view. Perhaps reflecting this, a slightly greater number of practitioners agreed that the Financial

Regulator is willing to hold a dialogue with them about compliance issues than disagreed that this is the case. Presumably as a result of not having been in that situation, relatively few firms had a strong view as to whether the Financial Regulator is willing to discuss the findings of any investigation of their business or usually gives the opportunity to put the findings in context. Where opinion was given, it tended to be positive for the Financial Regulator.

In all of the qualitative interviews, respondents were asked whether they felt that their relationship with the Financial Regulator was on the whole a co-operative or a confrontational one. Encouragingly, all without exception described it as essentially co-operative, and despite all the complaints which were made this was seen as one of the positive features of regulation in this jurisdiction.

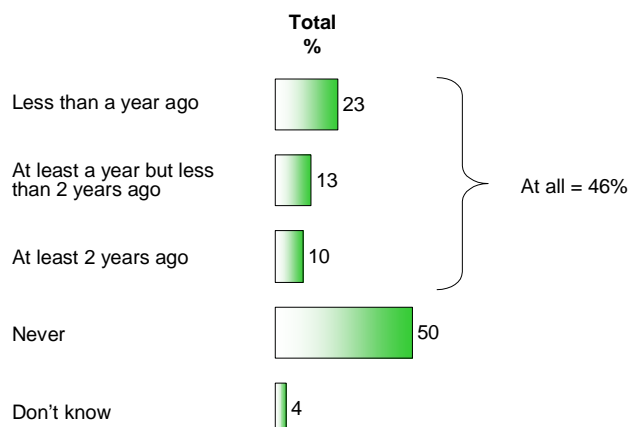
*“Cooperative rather than confrontational and that’s something which is valuable. It’s actually very important that one has the ability to discuss, to meet and to shape. It’s not like that with the UK Regulator and it is a lot more, how would I put it, standoffish in that respect. They’re now beginning to think about moving much more towards a principles based regime which I think will probably bring them into the format of a more collaborate cooperative partnership type approach but heretofore I think it’s been like that here and I’d certainly like to see that continue.” (Retail banking)*

The main reservation on this score, which was expressed more than once, was the perception that the Financial Regulator seems to take the starting position of assuming guilt until innocence is proven.

*“I do think it would help if in some of these negotiations that the Regulator did not adopt such an absolutist approach, that there was some form of recognition that perhaps the practitioners in the marketplace are not trying to pull a fast one.” (Investment Management/Funds)*

## 6.3 Recency of Last Visit

### Occasion of Last Supervisory/Regulatory Visit



Nearly half of all firms, to date, claimed to have had an on-site supervisory or regulatory meeting with or visit from the Financial Regulator. This varied significantly by company size – 78% of large firms versus 41% of small organisations have experienced such a visit. Half of those who have had visits did so within the past year, suggesting an increase in the frequency of such visits.

In the qualitative interviews we encountered both people who felt that site visits had been carried out in an appropriate and professional manner, and others who had a less positive view. However, it was at least recognised that in principle, site visits can only help to increase the Financial Regulator’s understanding of a company’s business.

*“The benefit of onsite inspections, they get a much better understanding of what we’re about and it would ease the process on an ongoing basis.”* **(Investment Management/Funds)**

## 6.4 Opinion on Supervisory Staff

Given the high proportion of firms who had not yet had visits, it is not surprising that there was little agreement that site visits are made too frequently.

### Opinion on Supervisory Staff

	Net Disagree %	Neutral %	Net Agree %
Their approach varies depending on the individual	13	65	23
They have good interpersonal skills	13	65	22
They make site visits too frequently	31	65	4
They concentrate on broad issues of principle	14	72	14
They don't really take into account the level of risk arising from your business/credit union	18	61	21
They treat your staff as trustworthy	11	66	23
It is difficult to give feedback to the Financial Regulator on their supervisory staff	16	67	18
They understand the technicalities of your business/credit union	33	56	12
They try to take account of the commercial realities of your business/credit union	37	53	9
The Financial Regulator makes good use of the information we provide to inform its dealings with us	23	65	12

Reflecting a general lack of experience of such visits, opinions on supervisory staff tended to be fairly neutral overall. The greatest level of criticism emerged in terms of Financial Regulator staff not taking account of the commercial realities or understanding the technicalities of their business. To a lesser extent, there was a feeling that the Financial Regulator does not make good use of the information provided to inform its dealings with organisations.

The staff themselves tended to attract more positive comment than negative in terms of their interpersonal skills and treating firms' staff as trustworthy. However, the quantitative study confirmed that, to a certain degree, the approach varies by the individual.

Opinion as to whether supervisory staff concentrate on broad issues of principle was equally balanced between those feeling that this is and case, and those who do not. This raises the issue of principles-based as opposed to rules-based regulation, which although not directly addressed in the quantitative survey arose quite often as an issue in the qualitative interviews. There was widespread awareness that it is a stated objective of the Regulator to lean towards the principles-based model, and agreement that this is as it

should be. However, very commonly it was felt that regulation recently has tended to become more prescriptive. Although there was some understanding that this is partly an inevitable consequence of the volume and detail of EU directives, it was still widely regretted. Ironically, there was a perception that concurrently, the FSA in the UK, which had long been regarded as the epitome of prescriptive regulation, is now starting to engage in a lot more dialogue and is shifting towards a more principles-based approach.

*“It says, within the regulator’s own document they say a principles based approach with technical rules applied as appropriate, encouraging adherence to the spirit of sound regulatory standards without being overly bureaucratic, and I think that a principles based approach has corresponded very nicely to the available resource and knowledge resource that they’ve had, but I think that we’re actually abandoning some of the principle based approach, introducing some very prescriptive rules in terms of how the Regulator expects the industry to behave. I’m not sure the statement, without being overly bureaucratic could apply to what’s being proposed to go forward.”* **(Investment Management/Funds)**

*“I don’t think that’s necessarily where they are mentally. I think they’d like to think that that would work, but I do get this sense that they’re very very strongly focused on not making a mistake and that is leading to perhaps a more rigid interpretation than they would have done if they had more faith and trust in themselves.”* **(Insurance)**

*“I think it’s a nice aspiration for the Financial Regulator to be principles based but I think over time, this is my personal feeling, I think over time they will have to become more rules driven than principles based simply because they will be following rules laid down by the European Union.”* **(International Insurance)**

One point which was made was that there was a better chance that a principles-based approach, properly implemented, would guard against inappropriate behaviour.

*“I would argue that a principles based regime which I believe is what the Regulator espouses as well, is a much safer regime than rules based. Rules based regimes encourage Enron’s to my mind. In other words if you put 1,000 pages of rules out you get counsel all over it telling you there’s a gap there, there’s a gap there, you can do that, you can do that.”* **(Advisory)**

There was however some recognition that there can be limitations to the principles-based approach, since principles will ultimately have to be interpreted and at this point it may be inevitable that a prescriptive element should creep in.

*“I would have started by saying that’s sensible, that’s the right way to go. However the practicalities of it and the weaknesses of it are becoming more evident. I mean our relationship with the Regulators defined that you’ll never get a black or white answer for anything and they exploit the grey to their advantage completely, so the minute something happens then it’s an adverse interpretation and that is becoming increasingly problematic. If a principle is something that is going to be revisited in retrospect and then interpreted in the darkest way again, then you’d rather have the rule.” (Retail Banking)*

The drift towards rules-based regulation was seen as one reason why Financial Regulator resources are under pressure, since regulation at a more particulate level inevitably requires more intensive involvement. Although no distinction was made in the survey between the Prudential and Consumer directorates, in the qualitative interviews there was some sense that this tendency to micromanage was more pronounced on the consumer side.

*“Operational errors happen all the time, we’re more concerned with identifying when they happen, refunding the customer and moving on, but if you have say 100 customers that you’ve mischarged, you tell the Regulator which I don’t have a problem with but then they micromanage the whole process of the refund and they can’t keep up with it, they literally can’t keep up and I think they need to stop.” (Retail Banking)*

## 7. The Wider Environment

### 7.1 Financial Regulator and International Issues

We have alluded at various points to the acknowledgement that we are increasingly being influenced by decisions which are being taken at European level, and the strain which keeping up with all this has put both on the Financial Regulator, and on the regulated entities themselves.

*“Regulatory challenges are probably the most significant threat to our business particularly the interpretation of the UCIT’s directive.”* **(Investment Management/Funds)**

These are issues which are clearly of more relevance either to the larger firms, or to those with an international dimension. However, in the survey we asked all (except the credit unions) about their perceptions of the issues here.

In terms of European and International issues, relatively few practitioners felt capable of giving a definite view, indicating a general lack of awareness of the activities (and therefore the performance) of the Financial Regulator in this regard. This was more likely to be true among the smaller companies. Where opinion was given, it tended to be slightly more on the negative side, particularly in terms of the Financial Regulator having improved Ireland’s international competitive position in relation to cross-border and domestic issues, improving Ireland’s ability to innovate and prioritising international issues.

#### Opinion on the Financial Regulator and International Issues

	Net Disagree %	Neutral %	Net Agree %
Has consulted well on EU issues arising from its role within CESR, CEBS and CEIOPS	14	76	10
<b>Has improved Ireland’s international competitiveness position in relation to:</b>			
Cross border issues	18	74	8
Domestic issues	19	73	8
Improving Ireland’s international ability to innovate in financial services	22	65	13
Proportionately prioritising international issues	18	74	8
<b>Has co-ordinated well its activities with regulators in:</b>			
Pan EU institutions	7	85	8
Individual EU jurisdictions	9	84	7
The United States	9	86	5
The UK	8	82	11
The rest of the World	8	86	6

Very few practitioners were able to comment on the extent to which the Financial Regulator has co-ordinated its activities with regulators in other countries.

## 7.2 Participation in the International Market

### Opinion on participation in the international market

	Net Disagree %	Neutral %	Net Agree %
EU and international issues are a top priority, looking forward	16	56	29
Irish regulations and EU standards are too different to be satisfied by a single EU requirement	24	58	18
The Financial Regulator leads developments in international regulation as opposed to responding to them	32	60	8
My firm participates actively in EU consultations	47	45	8
The Financial Regulator's application of directives sometimes exceeds EU requirements	6	67	27

Almost 3 in 10 practitioners agreed that EU and international issues were a top priority for their business in the future, with only half as many not expecting this to be the case. However, despite this anticipated priority, as few as 8% of firms claimed to actively participate in EU consultations. Here again, as expected, there was a difference by size of firm, with only 6% of smaller firms actively participating, but this still only rose to 27% among larger companies.

One third of firms felt that the Financial Regulator responds to developments in international regulation as opposed to leading them. Despite this, among those expressing an opinion, substantially more practitioners felt that the Financial Regulator's application of directives sometimes exceeds EU requirements. On balance, there was more feeling that Irish regulations and EU standards are similar enough to be satisfied by a single EU requirement than not.

Although it was acknowledged that we are to some extent forced to bow to EU pressure, there were those who felt that we bow too readily, to our disadvantage.

*“Well I think a lot of this is response to pressure. I do think that it’s a question of render onto CESR\* that which is CESR’s and there seems to have a kind of a bullyboy approach to the Irish position, to the Luxembourg position, possibly even to the UK position and I think that a lot of the changes are being driven by the impression that we’re going to have to conform to this new standard and what we have currently in place isn’t sufficient to meet that.” (Investment Management/Funds)*

*\*Committee of European Securities Regulation*

Some specifically felt, particularly in the funds area, that a too-literal interpretation of some EU directives risks putting Ireland at a competitive disadvantage.

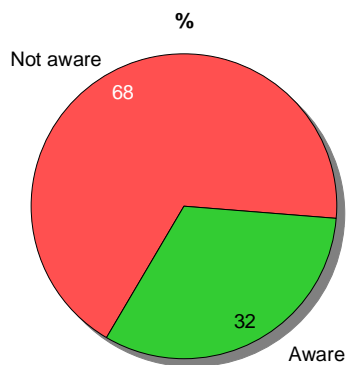
*“Luxembourg when this started to come out too, started to be extremely conservative as to what they would want to do and they talked to us about what we were doing and immediately they went back and they changed all those rules because they didn’t want to be at a competitive disadvantage. We are now at a serious competitive disadvantage to Luxembourg in the regulatory sphere.” (Advisory)*

As mentioned earlier, there was a sense that the Financial Regulator has been overwhelmed by the volume and complexity of the directives emanating from the EU, and has struggled to keep up with developments. In the UK, the FSA were seen to have been much quicker in providing guidance, though this is attributed purely to their much greater resources, and there was sympathy for the difficulties facing the Irish Financial Regulator.

*“I think they are under a heavy workload right now because of the UCITS conversions but hopefully they’re going to be coming out of the tunnel there which again hopefully will lead to things becoming more business as usual. I’m actually amazed that they were able to be as responsive as they were in a commercial context given the amount of work that they had.” (Investment Management/Funds)*

## 8. The Financial Services Consultative Industry Panel

### 8.1 Awareness of FSCIP



In the quantitative survey, practitioners were asked if they had seen or heard anything about the Financial Services Consultative Industry Panel (FSCIP) prior to receiving correspondence regarding the survey. Only one in three practitioners said they were aware of the FSCIP before the survey.

Among those aware of the Panel, almost half agreed that it has an important role to play on behalf of their type of business, with slightly less feeling the FSCIP is helping the Financial Regulator understand the views of industry. It was generally accepted, by those giving an opinion, that the Consultative Industry Panel is independent of the Financial Regulator, which certainly from the qualitative research is regarded as essential.

## 8.2 Opinion on Panel

Base: All Aware of Panel

	Net Disagree %	Neutral %	Net Agree %
The Consultative Industry Panel has an important role to play on behalf of your type of business	3	49	48
The Consultative Industry Panel is independent of the Financial Regulator	7	53	40
The members of the Panel can represent the industry as a whole	13	53	35
The Panel is helping the Financial Regulator to understand industry views	7	51	43
The Panel is able to influence Financial Regulator policies and decisions	17	57	25
It is easy for firms to express their views to Panel members	21	56	23

While one in three practitioners felt that members of the panel can represent industry as a whole, a minority of practitioners did not agree that this was possible. Although the balance of opinion was positive, there was less conviction that the FSCIP is able to influence Financial Regulator policies and decisions. There are also some operational issues to be addressed, as over 1 in 5 practitioners aware of the FSCIP disagreed with the statement that “it is easy for firms to express their views to Panel members”.

*“I can’t say much about the role of the industry panel to be quite honest with you. Apart from being vaguely aware from the odd comment at a council meeting that it existed I nearly wouldn’t be aware that it was there.” (Advisory)*

*“I wouldn’t see them as being approachable or accessible in any way that if you had an issue you wanted to raise. You raise it with the Financial Regulator or we tend to go via the industry body” (Wholesale banking)*

It became clear in the qualitative research that many were unclear or confused about the role of the Panel. For example, some seemed to see the Panel as yet another representative body, which they thought was unnecessary duplication. The view overall was that it is early days yet for the Panel, and they have made a good start, but they could do more to inform the industry of their precise role and the progress that they are making.