



Central Bank Enforcement Division

June 2017

Background

The Central Bank Act 1942 originally provided the Central Bank with powers to hold inquiries into suspected breaches of central bank and financial services regulations (“the Central Bank Regulations”) by regulated financial service providers and/or by individuals concerned with their management. In recent years these powers have been strengthened by the Central Bank and Financial Services Authority of Ireland Act 2004 and, most recently by the Central Bank (Supervision and Enforcement) Act 2013. The Central Bank’s Enforcement Division investigates suspected breaches of Central Bank Regulations using what is known as the Administrative Sanction Procedure (ASP).

Administrative Sanction Procedure

Investigation

If the Enforcement Division is concerned that a regulatory breach has been or is being committed it may commence an investigation into that suspected breach. At this stage the relevant information will be gathered so as to enable the Central Bank to determine whether or not there are reasonable grounds for the suspicion. If, following investigation, the Enforcement Division is satisfied that the suspicion is based on reasonable grounds, and that the matter warrants a potential sanction under the ASP, then it may decide to put the matter forward for inquiry.

Inquiry

An inquiry is a formal hearing held by the Inquiry Panel of the Central Bank, following which, a finding will be made confirming whether or not a breach has occurred. If a breach is found to have occurred, a sanction may be imposed at that stage. The decision of the Inquiry may be appealed to the Irish Financial Services Appeals Tribunal and this decision may subsequently be appealed to the High Court.

For further information on any of the issues discussed in this article please contact:



[John O’Riordan](#)

DD:+ 353 (0)1 673 1792

john.oriordan@dilloneustace.ie

Sanctions

There are a number of sanctions which can be imposed by the Enforcement Division following the commission of a breach of Central Bank Regulations. Common sanctions include the imposition of a fine, the issuing of a warning or the issuing of directions to cease the commission of the breach. The Central Bank (Supervision and Enforcement) Act 2013 doubled the value of the maximum fines that can be levied in respect of regulatory breaches. The current maximum fine pursuant to the 2013 Act is one not exceeding the greater of €10,000,000 or 10% of turnover, where the regulated financial service provider is a body corporate or an unincorporated body, and not exceeding €1,000,000 where the regulated financial service provider is a natural person and for persons concerned in the management of a regulated financial service provider.

Settlement

As an alternative to the imposition of a sanction following an inquiry finding, the Central Bank may agree to impose sanctions by way of a settlement agreement with the other side. Settlements may be entered into at any time before an inquiry is complete, provided there is a continued reasonable suspicion of a breach.

Trends for 2017

Continued Compliance with the Strategic Plan

In 2015 the Central Bank published its [Strategic Plan for 2016 to 2018](#) which details the priorities of the Central Bank for that period. One of the priorities highlighted in the plan is the area of Supervision and Enforcement. It is to be expected that there will be a continued focus on increasing the effectiveness and efficiency of the Central Bank's enforcement powers during the course of this year. As is detailed in the Strategic Plan, the Central Bank will aim to improve and increase its supervision and enforcement procedures through a range of mechanisms including:

- supervisory assessments of individual firms according to the engagement cycles set out under PRISM;
- monitoring of regulatory returns filed with the Central Bank;
- reactive supervisory work on foot of triggers including regulatory returns, market intelligence and whistleblowing complaints;
- approval of persons under the fitness and probity standards;
- processing of requests for authorisation and acquiring transactions; and
- enforcement actions.

Increased Staff

The Central Bank Commission has approved the expansion of its workforce for 2017.

Increased Fines

In recent years the fines imposed by the Central Bank have been on the rise. For example, following an increased number of investigations into alleged breaches of anti-money laundering and terrorist financing regulations, the Central Bank issued a landmark fine to Ulster Bank of €3.3 million in November 2016. In the same month Springboard Mortgages Limited was fined €4.5 million by way of a settlement for breaches of the Consumer Protection Codes 2006 and 2012.

Background Continued Investigation into Tracker Mortgages

In December 2015, following revelations that Permanent TSB had been guilty of failures in managing interest rates on over 1,300 mortgage accounts, the Central Bank decided to launch an investigation into all lenders who had offered tracker mortgages to its customers. On 23 March, 2017 the Central Bank issued a press release reporting the continued examination of the tracker mortgage issue. The report detailed that progress is being made in the review and states that to date approximately €78 million has been paid out in redress and compensation to approximately 2,600 accounts. The continued review of the tracker mortgage issue is stated in the report as being a priority of the Central Bank for 2017. A further update on the investigation is due in Autumn 2017.

Conclusion

Enforcement and supervision remains one of the Central Bank's key priorities for 2017 and consequently an increase in enforcement activities is to be expected. We can expect the Enforcement Division to increase its workforce and continue to exercise its broad range of supervisory and investigatory powers in order to ensure continued strict compliance with Central Bank Regulations.

DILLON EUSTACE

Dublin

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

Cayman Islands

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

New York

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

Tokyo

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

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