



October 2019

Prohibition Notice issued for providing misleading information in an IQ

The Central Bank of Ireland (the “CBI”) has recently published a Prohibition Notice prohibiting an individual (“Mr. A”) from performing any controlled function in any regulated financial service provider for a period of two years. The Prohibition Notice relates to the fact that the individual provided misleading information to the CBI in an Individual Questionnaire (“IQ”).

Background

An IQ was submitted to the CBI concerning Mr. A’s proposed appointment to the pre-approval controlled function role (“PCF”) of executive director of an entity. In the IQ Mr. A provided details of his employment with a previous firm and under the “*reason for leaving*” heading he stated “*Unfair Dismissal*”.

The CBI sought further information from Mr. A about why he had left his previous employment, including requesting a letter from Mr. A’s solicitors about an unfair dismissal case which Mr. A had stated that he had taken against his previous employer. The information which was provided in response to that information request did not refer to the circumstances surrounding Mr. A’s dismissal.

The CBI ultimately approved Mr. A’s appointment to the PCF role.

Subsequently, the CBI became aware of an Employment Appeals Tribunal determination (“EAT”) relating to Mr. A’s unfair dismissal

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



Muireann Reedy

DD: +353 (0)1 674 1002

Muireann.reedy@dilloneustace.ie

case against his former employer, which indicated that Mr. A had been dismissed by his former employer for gross misconduct.

Rationale for Prohibition Notice

The CBI found that in completing his IQ and in subsequent correspondence with the CBI, Mr. A had provided information to the CBI which he knew, or ought to have known, was false or misleading. This included answering “no” to a question in the IQ which asked whether Mr. A had ever been dismissed from any previous employment.

The CBI stated that honesty and integrity are explicit requirements for those seeking regulatory approval and that individuals who seek to be appointed to PCF roles must understand “*the unambiguous requirement for truthfulness, and candid and accurate information.*”

The CBI said it was necessary to issue a Prohibition Notice in this case for two reasons. Firstly it wanted to demonstrate to Mr. A that the CBI views the provision of false and misleading information as a very serious matter and to deter Mr. A from any similar behaviour in the future. Secondly it believed that a Prohibition Notice was necessary to demonstrate to regulated entities and to those occupying controlled functions within them - as well as to people who were applying to come into the financial services industry - of the gravity of providing false and/or misleading information to the CBI.

Commentary

In the CBI’s “Dear CEO” letter to industry concerning fitness and probity earlier this year, it reminded individuals who were seeking approval to perform PCF roles (“**Proposed PCFs**”) that it was for the CBI to determine whether a fact is material to a PCF application, noting that some Proposed PCFs stated that they had failed to disclose certain facts because they did not believe them to be material. The CBI stated that in certain instances it had challenged Proposed PCFs because of their failure to make full disclosure to the CBI.

This Prohibition Notice serves as a reminder to Proposed PCFs to ensure that they disclose all material facts to the CBI in their IQ and to update the CBI of any subsequent material changes to the information contained in their IQ.

Contact information

If you have any queries about the information contained in this article, please contact Muireann Reedy of our Regulatory Investigations Unit at Muireann.Reedy@dilloneustace.ie or at 01-674 1002. A previous article about a Prohibition Notice can be found [here](#).



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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