December 2016

Springboard Mortgages Limited fined €4.5m by the Central Bank of Ireland

A good example of the increased tendency by the Central Bank of Ireland (the **"Central Bank**"), to use its enforcement powers, in tandem with its supervisory powers is its recent settlement with Springboard Mortgages Limited ("**Springboard**"), announced on 29 November 2016.

The fine of €4.5m which was imposed on Springboard under the Central Bank's Administrative Sanctions Procedure (the "**ASP**") was in addition to a redress scheme which the Central Bank required it to put in place, under which payments of approximately €5.8m have been made by Springboard to affected customers to date.

Background

The settlement with Springboard related to breaches of the Consumer Protection Codes 2006 and 2012, and a failure by Springboard to apply the correct interest rates to 222 customer mortgage accounts over a seven year period between 2008 – 2015.

The fine of €4.5m is the largest fine ever imposed under the ASP, aside from the fines of €5m each which were imposed on Quinn Insurance Limited (Under Administration) in 2013 and on Irish Nationwide Building Society in 2015, which were not collected for public interest reasons.

Fine and Redress

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

The Springboard fine follows the Central Bank's announcement in July 2015, that, as the result of an investigation by its Enforcement Division, permanent tsb plc and Springboard were being required to put in place a comprehensive redress and compensation programme. At the time, the Director of Enforcement stated that the Central Bank's investigation into permanent tsb plc and Springboard was continuing but that their "…*first priority was to address…customer detriment…"* by requiring a redress and compensation programme to be put in place. The recent Springboard publicity statement confirmed that the Central Bank's investigation into Springboard is now closed.

This is not the first case in which a fine has followed – or been accompanied by – a significant redress or customer restitution programme. In 2014, Ulster Bank Ireland Limited ("**Ulster Bank**") was fined €3.5m in respect of IT and governance failings. The fine was in addition to a redress scheme which was required and overseen by the Central Bank, under which Ulster Bank paid approximately €59m to customers. In 2011, the Central Bank fined Combined Insurance Company of Europe Limited €3.35m in respect of various matters, including twenty six breaches of the 2006 Consumer Protection Code. The fine was in addition to a remediation exercise carried out by the firm, which the Central Bank stated was expected to amount to payments of over €2.1m to affected customers.

These cases show that where serious customer detriment has occurred, the Central Bank will use its supervisory powers and order redress. This power may be used on a stand-alone basis or in tandem with some other on-going enforcement action.

Interestingly, the Central Bank (Supervision and Enforcement) Act 2013 states that compliance with a redress direction issued by the Central Bank shall not be taken as an admission of liability by the regulated entity for any purpose. It seems that this provision may be designed to encourage entities to comply with a redress direction, instead of appealing it to IFSAT (the Irish Financial Services Appeals Tribunal), lest their compliance with the direction could prejudice them in any enforcement case, or prejudice them in their defence of any litigation case which may be taken by a consumer.

Tracker Mortgage Examination

It remains to be seen which other lenders, if any, may be required to put redress schemes in place and/or may find that that they are subject to an ASP under the Tracker Mortgage Examination which was announced by the Central Bank in October 2015. Under this Examination, the Central Bank has required lenders to appoint independent third parties to provide assurances to the Central Bank on the adequacy and appropriateness of the reviews the lenders are carrying out in relation to these matters. The Central Bank has stated that where the Examination results in a finding that any customer has suffered detriment, it will require the lender(s) to provide redress, in line with principles determined by the Central Bank.

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.

Dillon Eustace

December 2016

Muireann is a Senior Associate in the Regulatory Investigations Unit of Dillon Eustace. Muireann provides clients with legal advice in respect of all contentious regulatory matters, including investigations by the Central Bank of Ireland under its Administrative Sanctions Procedure. Muireann previously worked for over five years in the Enforcement Division of the Central Bank of Ireland.

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.

Muireann is a Senior Associate in the Regulatory Investigations Unit of Dillon Eustace. Muireann provides clients with legal advice in respect of all contentious regulatory matters, including investigations by the Central Bank of Ireland under its Administrative Sanctions Procedure. Muireann previously worked for over five years in the Enforcement Division of the Central Bank of Ireland.

Dillon Eustace

December 2016

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.