



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

**Settlement Agreement between the Central Bank of Ireland**

**and**

**The Governor and Company of the Bank of Ireland**

**The Governor and Company of the Bank of Ireland fined €3,150,000 by the Central Bank of Ireland  
in respect of anti-money laundering and terrorist financing compliance failures**

The Central Bank of Ireland (the 'Central Bank') fined The Governor and Company of the Bank of Ireland ('BOI') €3,150,000 and reprimanded it for twelve breaches of the Criminal Justice (Money Laundering & Terrorist Financing) Act, 2010 (the 'CJA 2010'). The breaches occurred from the enactment of the CJA 2010 in July 2010 and persisted on average for over three years. These breaches have been admitted by BOI.

The Central Bank's enforcement investigation identified significant failures in BOI's anti-money laundering and counter terrorist financing ('AML/CFT') controls, policies and procedures. They included failures by BOI relating to:

- **Risk assessment:** assessment of money laundering/terrorist financing ('ML/TF') risks specific to its business and the relevant mitigating systems and controls.
- **Suspicious transaction reports:** reporting of six suspicious transactions to An Garda Síochána and the Revenue Commissioners without delay.
- **Correspondent banking:** conduct of enhanced customer due diligence ('CDD') on one correspondent bank situated outside of the EU.

The Central Bank also identified areas of non-compliance with the CJA 2010 in relation to BOI's trade finance business, CDD measures and its reliance on third parties to conduct CDD.

Director of Enforcement, Derville Rowland, said:

*“Financial services firms have a duty to protect, not only themselves, but also the wider financial system, from money laundering and terrorist financing. The ever-changing nature of the risks presented by money laundering and terrorist financing, require financial services firms to continuously monitor and enhance the systems and controls they use to combat money laundering and terrorist financing.*

*The high volume and range of breaches uncovered as part of the Central Bank’s investigation into Bank of Ireland point to significant weaknesses in the strength of Bank of Ireland’s implementation of anti-money laundering and counter terrorist financing legislation. Such behaviour is unacceptable and falls far short of the standard expected of one of Ireland’s largest retail banks.*

*Reporting suspicious transactions to the authorities without delay is a fundamental component of an anti-money laundering and counter terrorist financing framework. It is particularly disappointing that another large retail bank failed to submit six time-critical suspicious transaction reports to An Garda Síochána and the Revenue Commissioners promptly.*

*Furthermore, it is concerning that Bank of Ireland did not identify deficiencies in its processes and procedures relating to enhanced customer due diligence for its non-EU correspondent banking relationships. Correspondent banks are specifically recognised under the anti-money laundering regime as presenting a high money laundering risk.*

*This case marks the Central Bank’s third enforcement action in an extensive and rigorous programme of investigation of anti-money laundering and counter terrorist financing failures within Ireland’s banking sector.*

## **BACKGROUND**

BOI is authorised to carry on banking business in Ireland as a credit institution under Section 9 of the Central Bank Act 1971.

BOI is one of the largest banks in Ireland with over 250 branches, over 1.7 million consumer banking customers and in excess of 200,000 business banking customers. Its principal activities consist of retail and commercial banking.

The Central Bank has responsibility for monitoring and enforcing the compliance of credit and financial firms with the CJA 2010.

During 2013, the Central Bank conducted a review of BOI's compliance with the CJA 2010. This review identified a number of issues concerning suspected non-compliance with the CJA 2010. The Central Bank subsequently engaged with BOI on remediation of the issues identified and an investigation into suspected breaches of the CJA 2010 commenced.

## **PRESCRIBED CONTRAVENTIONS**

The Central Bank's investigation identified twelve breaches of the CJA 2010, namely:

### **Risk Assessment**

A thorough assessment of ML/TF risk exposure is fundamental to a robust AML/CFT framework. It allows a firm to identify the particular ML/TF risks to which it is exposed due to its business model. It informs the development of appropriate AML/CFT policies and procedures and the design of proportionate systems. The risk assessment must be proportionate to the nature, scale and complexity of a firm's activities. Insufficient or absent ML/TF risk management policies, procedures and processes exposes firms to significant risks, including not only financial, but also reputational, operational and compliance risks.

For the year 2012, the Firm's risk assessment was inadequate as the risk rating for certain categories of customers, products and channels was not included in every instance although that information was identified as necessary for the evaluation of risk for those categories. Furthermore, for the years 2012 and 2013, BOI did not address geographical and sectoral risks in its risk assessments.

### **Reporting of Suspicious Transactions**

Effective detection and prevention of ML/TF depends on timely identification and reporting of suspicious transactions within the financial services sector. Delays in reporting suspicions to An Garda Síochána and the Revenue Commissioners have the potential to undermine the investigation of ML/TF offences.

Under Section 54 of the CJA 2010, firms are required to have policies and procedures which address their obligation to identify, investigate and report suspicious transactions as soon as practicable. These policies and procedures must ensure that sufficient management information is provided to a firm's senior management on suspicious transaction reporting.

The Central Bank identified a number of failures in BOI's policies and procedures, under Section 54 of the CJA 2010, for the reporting of suspicious transactions:

- BOI failed to have adequate checking processes for internal escalation and submission of suspicious transaction reports in circumstances where BOI's group internal audit function indicated such deficiencies.
- BOI failed to ensure that relevant senior management received adequate management information on the volume and duration of alerts awaiting investigation.

In addition and significantly, BOI failed to report six suspicious transactions to An Garda Síochána and the Revenue Commissioners as soon as practicable, as required by Section 42 of the CJA 2010.

### **Correspondent Banking**

The CJA 2010 provides for a risk-based approach to determining the level of CDD required. Additional or enhanced CDD, is required where there is a high risk of ML/TF. The CJA 2010 categorises correspondent banking as presenting a high ML/TF risk and therefore, under Section 38(1), firms are required to conduct enhanced CDD before entering into a correspondent banking relationship with a credit institution situated outside of the EU.

Correspondent banking poses a higher ML/TF risk due to the limited information on the nature and purpose of account transactions that is usually available to the domestic bank who has agreed to receive deposits and make payments on behalf of a foreign bank.

The Central Bank identified the following failures by BOI to comply with the requirements of the CJA 2010:

- BOI failed to document the respective AML/CFT responsibilities with one correspondent banking party when providing banking services to one non-EU bank, as required by Section 38(1)(e).
- BOI failed to adopt policies and procedures, under Section 54 of the CJA 2010, to ensure that enhanced CDD would be applied to correspondent banking relationships with non-EU banks.

### **Trade Finance**

Firms that provide trade finance act as intermediaries to assist buyers and sellers with funding gaps during trade transactions. Trade finance poses a higher inherent ML/TF risk as trade transactions are often complex and involve multiple parties, international jurisdictions and many steps for each transaction. Additionally, paper documents (such as letters of credit) play a major role in trade finance so firms are heavily reliant on manual processing to confirm the content and integrity of those documents. Firms who finance trade products and services must adopt AML/CFT policies and procedures which address and mitigate the unique risks of that business.

The Central Bank identified the following failures under Section 54 of the CJA 2010:

- BOI failed in its procedures to document the inherent ML/TF risks specific to the trade finance business (including identifying potentially suspicious activity i.e. 'trade finance red flags') and the specific operational controls to mitigate and monitor those risks.
- BOI failed to provide sufficient specific training on suspicious activities relevant to the trade finance business.

### **Customer Due Diligence**

The CDD process is at the heart of the AML/CFT control process. It is designed to ensure that firms know their customers and are able to monitor customer activity throughout the business relationship. It also allows firms to identify suspicious activity and to make suspicious transaction reports when necessary.

The Central Bank identified the following failings in relation to BOI's approach to CDD:

- BOI provided banking services to one non-resident PEP customer without applying the enhanced CDD measures, set out in Section 37(4)(b) of the CJA 2010, which required BOI to determine the customer's source of funds ('SOF') and source of wealth ('SOW').
- BOI failed to adopt policies and procedures, under Section 54 of the CJA 2010, to ensure that information and supporting documents in respect of SOF and SOW were routinely: (i) requested from new non-resident PEP customers, and (ii) monitored when such customers were periodically reviewed.
- BOI failed to adopt policies and procedures, under Section 54 of the CJA 2010, to have in place robust controls to ensure any exceptions to the standard CDD process were fully documented.
- BOI failed to adopt procedures, under Section 54 of the CJA 2010, to comply with Section 33(8) of the CJA 2010 where customers had not provided the required CDD information or documentation.

### **Third Party Reliance**

Section 40(4) of the CJA 2010 permits a firm to rely on a third party to conduct CDD under certain conditions. The firm must have an arrangement in place which stipulates that the firm may rely on the third party to conduct CDD and the firm must be satisfied that, when requested, the third party will forward the documents or information obtained when conducting CDD to the firm as soon as practicable.

The Central Bank identified that BOI failed to satisfy the conditions set out in Section 40(4) by relying on a third party to conduct CDD for 178 corporate customers where BOI's contractual arrangements did not satisfy the conditions set out in Section 40(4) of the CJA 2010.

### **PENALTY DECISION FACTORS**

In deciding the appropriate penalty to impose, the Central Bank considered the following matters:

- The seriousness with which the conduct is viewed, particularly given BOI's central role in the financial services system and the high risk nature of retail banking business in terms of ML/TF.
- The extended period of time over which the breaches occurred, spanning the period from 15 July 2010 to 18 December 2015.

- The co-operation of BOI during the investigation and in settling at an early stage in the Central Bank's Administrative Sanctions Procedure.
- The actions taken by BOI to remediate the breaches.

The Central Bank confirms its investigation into BOI in respect of this matter is closed.

- End -

## NOTES TO EDITORS

- The fine reflects the application of the maximum percentage settlement discount of 30%, as per the Early Discount Scheme set out in the Central Bank's 'Outline of the Administrative Sanctions Procedure' which is [here](#).
- This is the Central Bank's 109<sup>th</sup> settlement since 2006 under its Administrative Sanctions Procedure, bringing total fines imposed by the Central Bank to €60.148 million.