



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

**ENFORCEMENT ACTION**

**CENTRAL BANK OF IRELAND**

and

**INSURE4LESS TEORANTA T/A KERRY INSURANCE GROUP**

**Insure4Less Teoranta t/a Kerry Insurance Group reprimanded and fined €8,400 by the Central Bank of Ireland for breaches of fitness and probity pre-approval requirements**

On 1 March 2022, the Central Bank of Ireland (the “**Central Bank**”) reprimanded and fined Insure4Less Teoranta t/a Kerry Insurance Group (the “**Firm**”) €8,400 in respect of three breaches of fitness and probity (“**F&P**”) obligations under the Central Bank Reform Act 2010 (the “**2010 Act**”). The Firm has admitted to the breaches.

The Central Bank determined the appropriate fine to be €12,000, which was reduced by 30% to €8,400 in accordance with the settlement discount scheme provided for in the Central Bank’s Administrative Sanctions Procedure.

Under Section 23(1) of the 2010 Act, all regulated firms must obtain Central Bank approval for individuals that they propose to engage in pre-approval control function (“**PCF**”) positions. Under the Fitness and Probity regime, the Central Bank acts as a gatekeeper for individuals proposed for PCF positions and will assess the honesty, integrity and competence of candidates before taking up these roles.

The Central Bank’s investigation, which began in September 2021, found that the Firm failed to obtain the Central Bank’s prior approval before appointing three individuals as directors of the firm; senior positions that are designated as PCF positions. The directors were appointed in

January 2018 and the Firm did not first submit any application forms for approval of the individuals until February 2019. At no stage in the process did the Firm bring to the attention of the Central Bank that the three individuals had in fact already been appointed. In January 2020, as a result of its own enquiries, the Central Bank became aware that the three directors had been appointed in January 2018 without approval. As such, the matter was not self-reported.

The Firm is authorised as a retail intermediary that operates in the commercial and retail insurance market and is regulated under the European Union (Insurance Distribution) Regulations 2018. The Firm has three employees and its audited accounts for the year end 2020 show a turnover of €337,831.

The Central Bank's Director of Enforcement and Anti-Money Laundering, Seána Cunningham, said:

*"The F&P regime is central to the Central Bank's role as a gatekeeper for the financial system, and in ensuring that we can assess whether the most senior people working in the financial services industry are competent and capable, honest, ethical and of integrity and also financially sound. This is a critical element of protecting consumers and investors and ensuring that there is public trust and confidence in the financial system.*

*The Central Bank issued a 'Dear CEO Letter' to industry in April 2019, as a reminder of firms' obligations under the F&P regime. This letter made clear that the Central Bank would hold firms responsible for non-compliance in circumstances where a person is appointed to a PCF role without the prior approval of the Central Bank. Firms were again reminded of their F&P obligations in a second 'Dear CEO' letter issued in November 2020.*

*The breaches, when discovered by the Firm, were not reported and came to light only following the Central Bank's interrogation of a number of deficient applications submitted by the Firm long after it had committed the breaches.*

*As well as acting as a deterrent to this firm, this enforcement action serves as a reminder to all regulated firms, in all sectors and regardless of size, of the importance which the Central Bank attaches to F&P compliance. We are committed to following through to hold firms accountable for F&P failures and to raising compliance standards in this critical protection for customers of regulated firms."*

## **PRESCRIBED CONTRAVENTIONS**

Section 23 (1) of the 2010 Act provides that a regulated financial services provider shall not appoint a person to perform a pre-approval controlled function unless the Central Bank has approved in writing the appointment of the person to perform the function.

The Central Bank's investigation found that the three new directors were appointed by the Firm in January 2018, following the resignation of the then PCF holders at the Firm. At the time of the appointments, the Firm had not submitted any applications to the Central Bank to seek pre-approval for the new role holders.

Consequently, each of the three appointments, being made without the prior written approval of the Central Bank, amounted to a separate prescribed contravention of Section 23 of the 2010 Act.

## **REMEDIATION**

The Central Bank is satisfied that the Firm has now remediated the failings identified during this investigation. The Central Bank has since approved three individuals for PCF roles in the Firm.

## **PENALTY DECISION FACTORS**

In deciding the appropriate penalty to impose, the Central Bank considered the ASP Sanctions Guidance issued in November 2019. The following particular factors are highlighted in this case:

### **Nature, seriousness and impact of the contraventions**

- The actions of the Firm were reckless as they were aware or ought to have been aware that appointing individuals to PCF roles without approval would result in a breach of their regulatory requirements.
- The impact of the contraventions - the failure of the Firm to apply for PCF approval for the three individuals resulted in the Firm trading with no approved PCF holders for a significant length of time.
- The risk to customers where persons in senior management positions have not been subject to the Central Bank's F&P approval process.

**Aggravating Factor**

- The contraventions were not self-reported, despite the Firm becoming aware of its failure to have obtained approval for the appointment of the three individuals to PCF positions.

**Other Considerations**

- The financial position of the Firm and the need to impose a proportionate level of penalty.

The Central Bank confirms that the investigation into the Firm is now closed.

## NOTES

1. This is the Central Bank's 146<sup>th</sup> settlement since 2006 under its Administrative Sanctions Procedure, bringing the total fines imposed by the Central Bank to over €191 million.
2. The fine imposed by the Central Bank was imposed under Section 33AQ of the Central Bank Act 1942. The maximum penalty under Section 33AQ is €10,000,000, or an amount equal to 10% of the annual turnover of a regulated financial service provider, whichever is greater.
3. Funds collected from penalties are included in the Central Bank's Surplus Income, which is payable directly to the Exchequer, following approval of the Statement of Accounts. The penalties are not included in general Central Bank revenue.
4. The penalty reflects the application of an early settlement discount of 30%, as per the discount scheme set out in the [Central Bank's Outline of the Administrative Sanctions Procedure 2018](#).
5. A copy of the ASP Sanctions Guidance November 2019 is available [here](#). This guidance provides further information on the application of the sanctioning factors set out in the Outline of the Administrative Sanctions Procedure (see link above) and the Inquiry Guidelines prescribed pursuant to section 33BD of the Central Bank Act 1942 (a copy of which is here: [link](#)). These documents should be read together.
6. A 'Dear CEO' letter is an industry wide communication used by the Central Bank to set out matters of concern, interest or the findings of thematic reviews. It is an important tool in instigating action or reflection on the part of regulated firms and to reiterate the expectations of the Central Bank.
7. The Fitness and Probity regime imposes significant obligations on Firms. The Central Bank issued 'Dear CEO' letters to all regulated firms on [8 April 2019](#) and [17 November 2020](#), reminding them of their compliance obligations under the Fitness and Probity Regime.
8. The Fitness and Probity Regime was introduced by the Central Bank Reform Act, 2010 to ensure that regulated firms and individuals who work in these firms are committed to high standards of competence, integrity and honesty and are held to account when they fall below these standards.

9. Section 21 of the 2010 Act sets out the ongoing obligations on firms to ensure that they do not allow a person to perform a controlled function roles unless they are “...*satisfied on reasonable grounds...*” that the person complies with the [Fitness and Probity Standards](#).
10. As well as assessing the fitness and probity of the individuals proposed for PCF roles the Central Bank may, pursuant to Section 25 of the 2010 Act, also investigate individuals in controlled function (“**CF**”) roles, including PCFs, if it suspects their fitness and probity to perform their role. The outcome of these investigations may result in the individual being prohibited from performing certain or all CF roles for a specified or indefinite period.