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Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland and Irish Taxi Owners' Co-Op Credit Union Limited

Central Bank imposes fine of €5,000 on Irish Taxi Owners' Co-Op Credit Union Limited in respect of breaches of its obligations under the Credit Union Act 1997

The Central Bank of Ireland (“the Central Bank”) fined Irish Taxi Owners’ Co-Op Credit Union Limited (“the Firm”) €5,000 and reprimanded it in relation to breaches of its obligations under the Credit Union Act 1997 (as amended) (“the 1997 Act”). The Central Bank also on 14 October 2015, entered into a settlement agreement with a person concerned in the management of the Firm.

This is the first enforcement case to be taken against a credit union since the Administrative Sanctions Procedure became fully applicable to the credit union sector on 1 August 2013.

The enforcement action relates to the Firm’s failure to comply with its prudential regulatory returns requirements. The information reported in Prudential Returns is key to the Central Bank exercising its supervisory functions as it informs the Central Bank in its assessment of the financial position and regulatory compliance of credit unions. It provides essential regulatory information on the assets and liabilities including the key risk indicators such as reserves and liquidity positions.

In particular it was found that the Firm failed to:

- (1) submit its Prudential Returns within the required timelines in respect of the quarters ending 30 September 2013 to 30 September 2014 inclusive;**
- (2) have adequate systems and controls in place to ensure that the Prudential Returns were submitted within the required timelines; and**
- (3) ensure the accuracy of the information contained in certain of the Prudential Returns once submitted to the Central Bank**

The Central Bank's Director of Enforcement, Derville Rowland said:

"The Central Bank's mission is to safeguard stability and protect consumers, including members of credit unions. Through its enforcement function it seeks to deter breaches and promote a strong compliance culture within all firms. The Central Bank will utilise its enforcement powers where the seriousness of non-compliance with regulatory requirements merits it, irrespective of a regulated entity's scale or complexity. Specific resources have been allocated for enforcement actions against firms categorised as low impact within the Central Bank's PRISM supervisory framework where breaches are discovered.

This is the first enforcement case which the Central Bank has taken against a credit union since the Administrative Sanctions Procedure became fully applicable to credit unions in August 2013. The fine and reprimand demonstrates that the Central Bank will take enforcement cases against credit unions where deemed appropriate, to ensure the highest standards of regulatory compliance across the sector.

It is important for all credit unions to comply with regulatory reporting requirements as it is one of the Central Bank's key supervisory tools. The provision of accurate and timely information is essential in focusing our supervisory action in how we regulate and supervise credit unions, to enable the Central Bank to fulfil its mandate in protecting members' funds and safeguarding the financial stability of the sector.

The Central Bank's enforcement priorities in 2014 and 2015 identify our on-going focus on ensuring that all firms comply with their regulatory requirements in a timely, complete and accurate way and have sound and tested internal systems and controls to support full compliance."

Background:

This investigation was initiated following failures by the Firm to comply with the requirement imposed upon it to submit Prudential Returns within certain timelines, despite reminders being issued by the Central Bank to the Firm for these Prudential Returns to be submitted. The investigation focused on (1) the Firm's failure to submit its Prudential Returns within the timelines set out in a notice served on it pursuant to section 91(2) of the 1997 Act (the "Notice"); (2) its failure to have adequate systems and controls in place to ensure that its Prudential Returns were submitted within the timelines set out in the Notice; and (3) its failure to ensure the accuracy of the information contained in the Prudential Returns.

(1) Failure to Submit Prudential Returns on Time

The Notice was served on the Firm on 25 April 2012 under section 91(2) of the 1997 Act, requiring it to submit Prudential Returns electronically to the Central Bank using the Online Reporting System, within 21 calendar days of the end of each reporting date set out in the Notice. Notwithstanding the service of this Notice, the Firm failed to submit its Prudential Returns in respect of the 5 quarters ending 30 September 2013 to 30 September 2014 (inclusive) within the timelines set out in the Notice. All of these Returns were submitted substantially late, ranging from 28 days late up to 252 days late.

This breach is underpinned by a failure to comply with section 91(2) of the 1997 Act which requires a credit union to provide the Central Bank with periodic financial statements if required to do so by a notice in writing served on it by the Central Bank.

(2) Failure to have adequate systems and controls in place to ensure that Prudential Returns were submitted within the required timelines

The second breach relates to the Firm's failure to have adequate systems and controls in place in the period 1 August 2013 to 21 October 2014 to ensure that its Prudential Returns were submitted within the timelines required by the Notice.

This breach is underpinned by contraventions of section 66A(2) and section 109(2)(b) of the 1997 Act which require credit unions to have in place (amongst other things) systems and

controls to: (1) ensure compliance with the requirements of Part IV of the 1997 Act; and (2) to ensure that any information given to the Central Bank is available as and when required by the Central Bank. As the Firm did not have adequate systems and controls in place to ensure that its Prudential Returns were submitted within the timelines required by the Notice, it contravened these provisions.

(3) Failure to Ensure the Accuracy of Prudential Returns

In addition to the Firm's failure to submit its Prudential Returns on time, certain of the Returns submitted contained inaccuracies. Incorrect account numbers were reported in two sets of Returns as well as certain loans being reported in the incorrect category. When inaccurate information is reported in these Returns, the Central Bank cannot accurately and reliably determine if the credit union is meeting its regulatory obligations.

This breach is underpinned by a contravention of section 76F(1)(b)(ii) of the 1997 Act which requires a credit union to ensure records are kept in a timely, accurate and consistent way so that any information furnished to the Central Bank on behalf of the credit union is sufficiently accurate for the purpose for which it is furnished. As certain of the Firm's Prudential Returns contained inaccuracies, it contravened section 76F(1)(b)(ii) of the 1997 Act.

The Firm agreed to implement systems and controls to remediate the three breaches and confirmed on 29 July 2015 that this work had been completed.

The Firm co-operated fully with the Central Bank's investigation.

Penalty Decision factors

This case and the sanctions imposed reflect the importance to the Central Bank of firms having adequate systems and controls in place to ensure compliance with their regulatory obligations and also the importance to the Central Bank of firms ensuring the accuracy and timeliness of information submitted to it.

In deciding the appropriate penalty to impose, the Central Bank has taken the following into account:

1. The seriousness of the breach and the repeated nature of the Firm's failure to submit its Prudential Returns on time;
2. The need to have an appropriate deterrent impact;
3. The size of the Firm; and
4. The fact that the Firm has since implemented systems and control procedures in relation to its Prudential Returns.

The Central Bank confirms that its investigation into the Firm in respect of this matter is now closed.

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Notes to Editors

1. Prior to 1 August 2013 the Administrative Sanctions Procedure only applied to credit unions in respect of their statutory obligations under anti-money laundering and payment services legislation.
2. Since 2012, the Central Bank has published enforcement priorities on its website. These highlight pre-defined themes which are the areas of greatest concern to the Central Bank in a particular year. In 2014, timeliness and accuracy of information submitted to the Central Bank and systems and controls were among two of the enforcement priority areas identified specifically for credit unions. In 2015, systems and controls and the provision of timely, complete and accurate information to the Central Bank were identified as cross-sectoral enforcement priority areas.
3. Section 91(2) of the Credit Union Act 1997 provides that: *"If required to do so by a notice in writing served on it by the Bank, a credit union shall furnish to the Bank a financial statement or periodic financial statements in such form and containing such information as may be specified in the notice and as may reasonably be required by the Bank in the exercise of the powers of the Bank under this Act."*

4. Section 66A(2) of the Credit Union Act 1997 provides that: *“A credit union shall have in place the oversight, policies, procedures, practices, systems, controls, skills, expertise and reporting arrangements to ensure compliance with the requirements set out in this Part.”* Section 66A(2) is contained in Part IV of the Credit Union Act 1997.
5. Section 109(2)(b) of the Credit Union Act 1997 provides that: *“Without prejudice to the generality of section 108(1), the systems of control must be such to secure that the credit union’s business is so conducted and its records so kept that the information obtained by or furnished to the Bank is sufficiently accurate for the purposes for which it is obtained or furnished and is available as and when required by the Bank.”* Section 109(1) states that the systems of controls which are to be established and maintained by a credit union pursuant to section 108(1) are systems for the control of the conduct of its business as required by the Credit Union Act 1997 and in accordance with the decisions of the board of directors and for the control of the accounting and other records of its business.
6. Section 76F(1)(b)(ii) of the Credit Union Act 1997 provides that: *“Without prejudice to sections 108 and 109, a credit union shall ensure that those records are made in a timely, accurate and consistent manner so that any information furnished or caused to be furnished by or on behalf of the credit union to the Bank is sufficiently accurate for the purposes for which it was so furnished and is available as and when required by the Bank”*.
7. The monetary penalty reflects the application of the maximum percentage settlement discount of 30%, as per the Early Settlement Discount Scheme set out in the Central Bank’s *“Outline of the Administrative Sanctions Procedure”*.