

## **ENFORCEMENT ACTION**

### **CENTRAL BANK OF IRELAND**

and

### **CANTOR FITZGERALD IRELAND LIMITED**

#### **Cantor Fitzgerald Ireland Limited fined €452,790 by the Central Bank of Ireland for breach of the Market Abuse Regulation.**

On 25 February 2025, the Central Bank of Ireland (the **Central Bank**) fined Cantor Fitzgerald Ireland Limited (**Cantor** or the **Firm**) €452,790 pursuant to the European Union (Market Abuse) Regulations 2016 (S.I. No. 349 of 2016) (**the 2016 Regulations**), for a breach of Cantor's obligations under Article 16(2) of the Market Abuse Regulation (596/2014/EU) (**MAR**).

Cantor failed on a number of occasions to report identified suspicious transactions that may have indicated market abuse to the Central Bank. Cantor failed to put in place effective governance arrangements to detect and report suspicious orders and transactions that may have indicated market abuse. Cantor also failed to consistently document its analysis as to whether it considered certain orders and transactions to be suspicious and failed to consistently escalate suspicious transactions internally – during a period of over 6 years between March 2017 and June 2023. Cantor has admitted to the breach.

The Central Bank has determined the appropriate fine to be €646,840, which was reduced by 30% to €452,790 by way of a settlement discount.

Colm Kincaid, the Central Bank's Director of Enforcement, has commented as follows:

*"Under Article 16 of the Market Abuse Regulation, firms are required to identify and report to the Central Bank any suspicious transactions or orders (STORs) that may indicate potential market abuse. This legal requirement is a key safeguard in our system to protect securities markets from abuse and firms must have processes in place that are effective to ensure STORs are reported. The Central Bank has issued clear guidance to firms on this matter and we will continue to enforce compliance with these important requirements."*

*Market abuse includes insider dealing, unlawful disclosure of inside information and market manipulation. It erodes confidence in the integrity of markets and has the potential to increase the cost of trading, distort the playing field and undermine fair competition, to the detriment of both investors and firms looking to securities markets to raise necessary funding.*

*Firms should now review their STOR reporting in light of the Central Bank's findings in this case, to ensure they are reporting all reasonable suspicions to the Central Bank and meeting their responsibilities to safeguard the integrity of our securities markets. "*

## **Background**

Cantor is authorised as an investment firm under Regulation 8(3) and deemed authorised under Regulation 5(2) of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017).

Cantor arranges and executes transactions in financial instruments and is subject to the requirements under Article 16(2) of MAR to establish and maintain effective arrangements, systems and procedures to detect and report suspicious orders and transactions. Whenever Cantor forms a suspicion on reasonable grounds that an order or transaction could amount to market abuse, Cantor is also required under Article 16(2) to notify the Central Bank.

The prompt notification of STORs to the Central Bank by firms in accordance with Article 16(2) provides a means for the Central Bank to supervise markets. The Central Bank identified multiple suspected deficiencies in Cantor's compliance with Article 16(2) during its supervisory engagement with the Firm and commenced an enforcement investigation into the Firm in 2023.

## **The Prescribed Contravention**

The Central Bank investigation evidenced a contravention of Article 16(2) of MAR by Cantor in the period March 2017 to June 2023.

### **1. Failure to report suspicious transactions**

The investigation identified 6 sample occasions of particular concern spanning from September 2017 to May 2022 where Cantor's trade surveillance system detected potentially suspicious

transactions and assessed whether Cantor should report them. On each occasion, based on the information being assessed, Cantor was reckless in failing to submit a STOR to the Central Bank as it knew or ought to have known of the risk it would breach Article 16(2) in not doing so.

## **2. Failure in governance arrangements through implementation of an ineffective STOR committee**

In or around 2012, Cantor established a 'STOR Committee' as part of its governance arrangements. Cantor was not obliged under Irish market abuse law to set up such a committee, and on occasion the operation of the STOR Committee impeded the consistent reporting of suspicious transactions and orders by Cantor to the Central Bank and undermined the role of the compliance function as an effective second line of control.

The STOR Committee's role was to review evidence of transactions, attempted transactions or other conduct and make a determination on whether or not a STOR should be reported to the Central Bank. STOR Committee meetings would occur on an ad hoc basis when so requested by the compliance function. However, this investigation identified a number of critical deficiencies in the operation of the Firm's STOR Committee between March 2017 and June 2023:

### **2.1 Unsound rationales and criteria**

The investigation found that Cantor's STOR Committee applied unsound rationales and criteria in assessing orders and transactions. The Firm attached importance to extraneous factors that influenced the Firm into deciding against reporting to the Central Bank, such as where the client had not been the subject of a previous STOR Committee review or where the client bought two other stocks on the same day, despite the presence of other factors which gave rise to a reasonable suspicion. The STOR Committee also demonstrated unsound reasoning into deciding against reporting to the Central Bank, such as concluding that the client would have invested a higher amount if he possessed inside information.

### **2.2 Reporting threshold**

The legislative threshold for making a STOR is low. Once a relevant person has a "reasonable suspicion" that an order or trade in any financial instrument could constitute market abuse or attempted market abuse, then that person is legally obliged to notify the relevant regulator without delay. Cantor's STOR Committee failed to

consistently apply the “reasonable suspicion” threshold, instead setting a higher threshold resulting in a number of STORs not being reported to the Central Bank.

### **2.3 Inconsistency in approach**

The STOR Committee took an inconsistent approach in its assessment of orders and transactions. Where no link (for example, a personal friendship or professional relationship that might suggest how inside information about the financial instrument could pass between the parties) or no clear link was found between the client and the issuer of the relevant financial instruments, this was a factor in certain decisions not to submit a STOR. However, on other occasions where potential client-issuer links were identified, those connections were dismissed in favour of not submitting STORs.

### **2.4 Role of compliance function**

Prior to December 2020, while the Firm’s Head of Compliance attended STOR Committee meetings, they had no vote on whether or not a STOR would be submitted to the Central Bank. Compliance plays an integral role in ensuring firms meet their legal obligations in detecting and reporting suspicions of market abuse and therefore Cantor’s approach was not appropriate.

## **3. Failure to document the Firm’s analysis as to whether it considered certain orders and transactions to be suspicious**

Accurate record keeping of why a decision was made not to report a transaction or order is an important procedural requirement for firms. Such records demonstrate the analysis performed on activity initially flagged as potentially suspicious and which did not result in the submission of a STOR.

The creation, retention of, and access to such records allows the Central Bank to determine whether or not a firm is in compliance with its regulatory obligations under Article 16(2). The records are also important for firms to support consistency in their decision making regarding which transactions and orders reach the bar under the legislation.

Cantor maintained a ‘Near Miss Log’ noting client transactions initially flagged for internal review and in respect of which a decision was subsequently made by the Firm not to submit a

STOR to the Central Bank. However, Cantor failed to retain information on its analysis of why a decision had been made to not submit a STOR in certain cases.

Separately, in certain instances Cantor failed to retain STOR Committee records documenting its analysis of why a decision had been made to not submit a STOR in respect of the transactions under discussion at the relevant STOR Committee meeting.

#### **4. Failure by the Firm's brokers to escalate suspicious transactions internally**

As front office staff, brokers are part of the first line of defence for firms in the identification and detection of market abuse.

Cantor's compliance function identified two instances (in August 2019 and May 2020 respectively) where Cantor brokers failed to escalate suspicious comments made by customers. The comments were made on recorded lines while customers were placing orders. The compliance function identified the suspicious comments in the course of carrying out checks of broker-client calls. The compliance function subsequently engaged with each broker over their failure to escalate the suspicious comments made.

These failings demonstrate deficiencies in the arrangements and systems established by Cantor to monitor, detect and identify potential suspicious activity.

#### **Remediation**

The Firm has confirmed to the Central Bank that it had remediated the failings identified during this investigation by June 2023.

#### **Penalty Decision Factors**

In determining the appropriate penalty to impose, the Central Bank considered the following relevant factors in this case:

- The contravention represents a significant departure from the standard required under legislation.

- The Firm's conduct in failing to report suspicious transactions on 6 sample occasions to the Central Bank was reckless as it knew or ought to have known of the risk that it would breach Article 16(2).
- The Firm failed to escalate certain suspicious transactions internally and failed to document its analysis as to whether it considered certain orders and transactions to be suspicious. Through implementation of an ineffective STOR Committee, the Firm failed to put in place effective governance arrangements to detect and report suspicious orders and transactions. On 6 sample occasions between September 2017 and May 2022, the Firm failed to notify the Central Bank of suspicious transactions.
- The extent and duration of the contravention. The Firm's failings under Article 16(2) of MAR from March 2017 onwards were varied and protracted. Remediation was not completed until June 2023 following intervention by the Central Bank.

### **Other Considerations**

The Central Bank took into account, when determining the appropriate sanction, the need to impose a proportionate penalty and the need to have an appropriate deterrent impact on the Firm and the regulated financial services sector in general.

The Central Bank confirms that this enforcement action is now concluded.

END

## Notes:

1. MAR came into force across the EU on 2 July 2014 with the aim of preventing market abuse, strengthening the integrity of financial markets within the EU, and enhancing investor protection and confidence in those markets.
2. Article 16(2) of MAR mandates that firms implement effective arrangements, systems and procedures to detect and report suspicious orders and transactions in financial instruments to the relevant authorities. Article 16(2) also requires firms to make a report (a.k.a. a STOR) to their competent authority in respect of any such suspicious order or transaction. The obligations under Article 16(2) are applicable to relevant firms since 3 July 2016.
3. The Central Bank issued an industry communication in March 2019 setting out the Central Bank's expectations on how firms should manage market conduct risk, available [here](#).
4. The Central Bank issued a second industry communication in January 2020 outlining key findings from the Central Bank's 2019 market conduct supervisory work, areas for improvement in managing market conduct risk, and further expectations for firms around managing market conduct risk (building on the March 2019 industry communication). It is available [here](#).
5. The Central Bank issued an industry communication in July 2021 highlighting the main issues identified in its thematic review on trade surveillance and reporting of suspected market abuse. The communication, which emphasised the need for firms to critically assess their trade surveillance practices, ensuring that STOR submissions are adequate in volume and quality relative to each firm's trading activity, is available [here](#).
6. In its 2022 and 2023 Securities Markets Risk Outlook Reports, the Central Bank again communicated its concern about the nature and level of STORs received, available [here](#) and [here](#).
7. This is the Central Bank's 159<sup>th</sup> enforcement outcome to date, bringing the total fines imposed by the Central Bank to over €407 million. The fine reflects the application of a settlement discount of 30%.