



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

ENFORCEMENT ACTION

Central Bank of Ireland

and

Rory O'Connor

Mr Rory O'Connor, former Executive Director and Chief Financial Officer of RSA Ireland Insurance DAC (RSAIL) disqualified for 8 years 4 months and fined €70,000 by the Central Bank of Ireland for his admitted participation in a breach of financial services law by RSAIL

On 9 June 2020, the Central Bank of Ireland (the **Central Bank**) reprimanded Mr O'Connor, disqualified him from being a person concerned in the management of a regulated financial service provider for a period of 8 years 4 months, and imposed a fine of €70,000 for his admitted participation in RSAIL's failure to maintain sufficient technical reserves from February 2010 to 30 September 2013 (the **Relevant Period**).

This enforcement action against Mr O'Connor follows a separate investigation conducted by the Central Bank in respect of RSAIL, at the conclusion of which the Central Bank reprimanded RSAIL and imposed a financial penalty of €3.5 million in December 2018.¹

The Central Bank's investigation in respect of RSAIL found that deliberate and wrongful under-reserving of large loss claim reserve estimates resulted in incomplete and inaccurate information being relied upon in the calculation of RSAIL's technical reserves. The investigation found that the claim reserve estimates on RSAIL's claims database were understated in the sum of approximately €29 million as at 30 September 2013.

The Central Bank's investigation in respect of Mr O'Connor, who held the positions of Executive Director and Chief Financial Officer (**CFO**) in RSAIL, found that he knowingly and actively participated in RSAIL's failure to maintain sufficient technical reserves through his involvement in the under-reserving of large loss claim reserve estimates.

¹ [Central Bank of Ireland Enforcement Action Notice December 2018](#)

In particular, Mr O'Connor:

- Participated, along with certain other individuals, in undocumented meetings during which certain large loss claim reserve estimates were deliberately and wrongfully under-reserved;
- Gave instructions and transmitted information relating to those claims within RSAII knowing them to be under reserved; and
- Concealed the under-reserving by knowingly providing inaccurate and misleading financial information to the Central Bank in his role as CFO.

Following a full investigation, the Central Bank determined that Mr O'Connor's misconduct merited a disqualification period of 12 years and a monetary penalty of €100,000. In accordance with the settlement discount scheme provided for in the Central Bank's Administrative Sanctions Procedure, these sanctions were reduced to 8 years 4 months and €70,000 respectively.

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

"The Central Bank takes enforcement action against senior individuals in regulated financial services firms in order to hold them accountable where they have participated in serious or significant breaches of regulatory requirements.

For over three and a half years, in his roles as Chief Financial Officer and Executive Director on the board of RSAII, Mr O'Connor knowingly participated in the systematic under-reserving of large loss claims, actively facilitated the on-going operation of the under-reserving and concealed it from the Central Bank through the provision of inaccurate financial information.

The under-reserving of large loss claim reserve estimates directly contributed to the understatement of RSAII's technical reserves and resulted in the Firm's financial position being artificially enhanced. The failure to maintain adequate technical reserves led to significant risk for policyholders in the event that RSAII did not hold sufficient assets to meet its liabilities and was, as a result, unable to pay claims made against and by its policyholders. Mr O'Connor's conduct in this case was deliberate and fell far below the standards expected of him in the roles he held in RSAII.

It is imperative that individuals working in regulated financial services and particularly those in senior roles, fully understand the risks and consequences that their decisions, actions and behaviours may have for an organisation, its employees, its customers and the wider market.

By taking action to address misconduct in the regulated financial services sector, the Central Bank seeks to safeguard financial stability and ensure that consumers and financial markets are protected from wrongdoing and that misconduct within the regulated financial services sector is deterred. It also signals to the market, the practices and behaviours, of those in senior roles in financial services, that will not be tolerated and highlights the

serious consequences should an individual fail in such a material and deliberate way to comply with regulatory requirements.

The sanctions imposed on Mr O'Connor reflect the nature and seriousness of his actions in this case."

ADMITTED PRESCRIBED CONTRAVENTION

Enforcement Action against RSAII

RSAll is an insurance undertaking authorised and regulated by the Central Bank. Mr O'Connor was an Executive Director and Chief Financial Officer of RSAII from 2010 to 2013.

On 18 December 2018, the Central Bank reprimanded and imposed a fine of €5,000,000 on RSAII which was reduced to €3,500,000 with the application of the settlement discount scheme in respect of serious breaches of financial services law (admitted by RSAII), including but not limited to the failure to establish and maintain technical reserves in accordance with Article 13(1)(a) of the European Communities (Non-Life Insurance) Framework Regulations 1994, S.I. No. 359 of 1994 (the **1994 Regulations**). Technical reserves are the amount set aside by an insurance company to cover its liability for claims.

Mr O'Connor's Participation in the Prescribed Contravention

Mr O'Connor has admitted his participation in the prescribed contravention in RSAII's breach of Article 13(1)(a) of the 1994 Regulations, which requires an insurance undertaking to maintain sufficient levels of Technical Reserves (the **Prescribed Contravention**).

The Central Bank's investigation found that Mr O'Connor participated in the Prescribed Contravention through his involvement in the deliberate manipulation of large loss claim reserve estimates, referred to in the enforcement action against RSAII as the "Under-Reserving Process".

As a result of the Under-Reserving Process, specific large loss claims were deliberately suppressed by significantly delaying the recording of the reserve estimates recommended by RSAII's claims handlers (the **Recommended Estimates**) in the claims database and/or by recording claim reserve estimates which were lower than the Recommended Estimates. To give a clear example of how the Under-Reserving Process operated in practice, a claim relating to a serious motor accident should have been recorded on RSAII's claims database with a recommended estimate of €2.7 million. However, the claim was in fact recorded with a claim reserve estimate of just €20,001 thus, making RSAII's potential liability for that claim appear to be far less than it was.

Mr O'Connor has admitted his involvement in the Under-Reserving Process as follows:

During the Relevant Period, Mr O'Connor participated in frequent, undocumented meetings, during which claim reserve estimates for large loss claims were deliberately and wrongfully manipulated resulting in the relevant claim reserve estimates being understated on the Firm's official claims database.

From around 2012 onwards, Mr O'Connor became more involved in the under-reserving by assuming responsibility for communicating the outcome of the meetings and the decisions made in relation to the understated claims to RSAIL's Claims Department together with the claim reserve estimate amounts which could be officially recorded on the claims database.

Specific large loss claims were deliberately suppressed by significantly delaying the recording of the Recommended Estimates in the claims database and/or by recording claim reserve estimates which were lower than the Recommended Estimates. This was referred to in the Enforcement Action against RSAIL as the "Under-Reserving Process". The under-reserving was concealed by from the Central Bank the presentation and provision of inaccurate and misleading financial information.

The Central Bank's investigation found that Mr O'Connor intentionally concealed the Under-Reserving Process in the following ways:

- As CFO during the Relevant Period, Mr O'Connor was responsible for RSAIL's regulatory reporting to the Central Bank. Specifically, he signed off the Data Accuracy Statement appended to the Report on the 2012 Statement of Actuarial Opinion which was submitted to the Central Bank in April 2013. In signing the Data Accuracy Statement, Mr O'Connor confirmed that the relevant financial data relied on by the Signing Actuary to calculate technical reserves as at 31 December 2012 was, to the best of his knowledge and belief, accurate and complete. By virtue of his involvement in the Under-Reserving Process, Mr. O'Connor accepts that he was fully aware that the financial data relied by the Signing Actuary was not accurate.
- As CFO during the Relevant Period, Mr O'Connor was responsible for ensuring that RSAIL's Financial Statements reflected a true and fair view of the financial position of RSAIL. RSAIL's Financial Statements included technical provisions calculated on the basis of the claim reserve estimates recorded on RSAIL's claims database. As a result of his involvement in the Under-Reserving Process, Mr. O'Connor accepts that he was aware that the technical reserves were inaccurate as they had been calculated using claim reserve estimates he knew were understated.

The Impact of the Under-Reserving Process on the Technical Reserves

Claim reserve estimates are used in the calculation of technical reserves. The Under-Reserving Process resulted in the claim reserve estimates for certain large loss claims being significantly understated on RSAIL's claims database and consequently the claim reserve estimates on the database did not accurately reflect the estimated cost of these claims.

As at 30 September 2013, the systematic under-reserving of large loss claims resulted in claim reserve estimates for seventeen large loss claims being recorded on RSAIL's claims database in amounts significantly lower than the Recommended Estimates. The shortfall between the claim estimates recorded on RSAIL's claims database and the Recommended Estimates was €29,300,070, as at 30 September 2013. Ultimately, as a result of the Under-Reserving Process, RSAIL was required to increase

its technical reserves as at 30 September 2013 to take account of these under-reserved large loss claims, requiring a significant capital injection from RSA Insurance Group PLC.

On the basis that a decrease in technical reserves has the effect of decreasing an insurer's technical expenses and thus increasing the amount that the Firm could report as profit, the under-reserving also resulted in the artificial inflation of the Firm's profits for 2012.

SANCTIONING FACTORS

In determining the appropriate sanction, the Central Bank has considered the guidance on the sanctioning factors set out in Part II of the ASP Sanctions Guidance (November 2019). The following factors are relevant in this case:

The Nature, Seriousness and Impact of the Contravention

- Mr O'Connor engaged in serious misconduct which directly contributed to RSAll's failure to maintain technical reserves in accordance with the 1994 Regulations.
- Mr O'Connor's participation in the contravention was deliberate. As CFO, Mr O'Connor actively facilitated the under-reserving by concealing it from the Central Bank through the presentation and provision of inaccurate and misleading financial information.
- Mr O'Connor's participation in RSAll's breach occurred over a significant period, i.e. three years and eight months, from February 2010 when he was appointed as interim CFO, until October 2013 when the under-reserving was first discovered.
- The misconduct in this case represents a significant departure from the standard required, and expected, of a person concerned in the management of a regulated firm. Mr O'Connor was CFO and a director on the board of RSAll from 2010 to 2013. One of the primary responsibilities of the CFO during this period was the approval of complete and accurate financial statements and regulatory returns, which included technical reserves. Mr O'Connor's involvement in the Under-Reserving Process demonstrated a fundamental failure to discharge the responsibilities he had assumed as CFO of RSAll and a failure to act ethically and with integrity.
- The potential impact of the breach on the orderliness of the financial services market. Insurance companies are important for the stability of financial system. This systematic under-reserving of large loss claims resulted in a material understatement of RSAll's liabilities and ultimately contributed to RSAll requiring a significant capital injection.
- RSAll's failure to maintain technical reserves in accordance with the 1994 Regulations, as a result of the Under-Reserving Process, posed a significant risk of loss to policyholders. The

investigation did not find any evidence that actual loss or detriment was caused to policyholders or market users as RSAII was at all times in a position to continue to pay insurance claimants and other debtors.

Mr O' Connor's conduct after the contravention

Mitigating

- Mr O'Connor admitted his participation in the contravention at an early stage in the investigation.
- The exemplary degree to which Mr O'Connor cooperated with the Central Bank during the investigation. The Central Bank expects firms and individuals to cooperate in an open manner at all times and to respond to requests promptly, effectively and accurately. In this case, Mr O'Connor's cooperation at interview, timely provision of information and active engagement with the Central Bank's investigative procedures went beyond the level expected by the Central Bank.

Mr O'Connor's previous record

Mitigating:

- No previous enforcement action has been taken against Mr O'Connor by the Central Bank.

Other Considerations

- Holding Mr O'Connor to account through the imposition of sanctions in respect of his misconduct is necessary in order to create an effective and appropriate deterrent impact on individuals holding senior positions in regulated financial service providers.

This settlement represents the conclusion of the Central Bank's investigation into Mr O'Connor.

NOTES

1. This is the Central Bank's 136th settlement since 2006 under its Administrative Sanctions Procedure, bringing total fines imposed by the Central Bank to over €103 million.
2. The fine of €3,500,000 imposed on RSAII by the Central Bank represented the maximum applicable penalty of €5,000,000 with a settlement discount of 30% in accordance with the Central Bank's Administrative Sanctions Procedure. The settlement with RSAII on 18 December 2018 can be found [here](#).
3. The Central Bank's sanctioning powers were increased in 2013, pursuant to Section 68(b) of the Central Bank (Supervision and Enforcement) Act 2013. The maximum penalty which the Central Bank may now impose on an individual is €1,000,000.
4. 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.
5. The Central Bank promotes the option of early settlement. Where a regulated entity or person concerned in the management of a regulated entity settles a matter at an early stage with the Central Bank of the administrative sanction process, a discount of up to 30% may be applied to the sanction (**Early Settlement Discount Scheme**). Additional information on the Early Settlement Discount Scheme is contained in section 4.4. of the Central Bank's Outline of the Administrative Sanctions Procedure (2018).
6. The period of disqualification takes effect from 9 June 2020.
7. Article 13(1) of the 1994 Regulations required all insurance undertakings to establish and maintain technical reserves in respect of all underwriting liabilities assumed by it, determined in accordance with the rules laid down in Council Directive 91/674/EEC.