



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

ENFORCEMENT ACTION

CENTRAL BANK OF IRELAND

and

ULSTER BANK (IRELAND) DESIGNATED ACTIVITY COMPANY

Ulster Bank (Ireland) DAC reprimanded and fined €4,600,000 by the Central Bank of Ireland for governance failings in respect of the compilation and submission of returns under the Mortgage Arrears Resolution Targets Framework

On 3 March 2020, the Central Bank of Ireland (the **Central Bank**) reprimanded and fined Ulster Bank (Ireland) DAC (the **Firm**) €4,600,000 for governance failings relating to regulatory returns that were required under the Mortgage Arrears Resolution Targets (**MART**) Framework. The Firm has admitted to these breaches, which took place from 2013 until 2015.

The Central Bank determined that the appropriate fine was €6,572,000. It has been reduced by 30% to €4,600,000 in accordance with the settlement discount scheme provided for in the Central Bank's Administrative Sanctions Procedure.

The Central Bank's investigation found that the Firm fell far short of the governance standards applicable to the preparation of regulatory returns, finding serious failings in the Firm's approach to the compilation and submission of its MART returns. These included:

- Failure to implement effective oversight of the MART return process; and
- Failure to have in place and maintain procedures, internal controls and reporting arrangements.

In keeping with its mission, the Central Bank implemented measures to resolve the high volume of mortgage arrears that developed in the wake of the financial crises. With this in mind, the Central Bank introduced the MART Framework in 2013. Banks were required under the MART Framework to report details on the level of mortgage arrears to the Central Bank on a regular basis. Essential to this requirement was ensuring the integrity of the data submitted to the Central Bank. By the end of 2015, reporting under the MART Framework was no longer required.

The Central Bank informed the Firm of governance failings around the compilation of its MART returns in 2013, and the Firm committed to taking action. However, it was not until 2015 that the Firm acted to address the issues. This inaction and delay by the Firm is unacceptable and the Central Bank is treating such failure by the Firm as an aggravating factor in this case. A further aggravating factor is the Firm's previous enforcement record, which has repeatedly identified poor governance practices at the Firm.

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

"Accurate and reliable data is vital to the Central Bank's ability to monitor risk and supervise firms effectively, and to ensure the ongoing stability of the financial system. Effective governance is a fundamental part of ensuring data quality. Firms must satisfy themselves that they have robust, effective and tested governance in place to ensure the quality of the data they manage and disseminate. If we cannot trust the data supplied by firms, we cannot do our job."

Under the MART Framework, the Central Bank required accurate and reliable data in respect of mortgage arrears. The Firm in this case failed to have the necessary governance measures in place to ensure the quality of the data it was submitting to the Central Bank. Of particular concern in this case is the Firm's failure to take prompt action, despite knowledge of the issues.

Data quality is, and will continue to be, an area of particular focus for the Central Bank. We have previously taken action against firms for data governance issues. We will continue to use our powers to sanction failures by firms in order to drive better compliance".

BACKGROUND

The Firm is authorised by the Central Bank to carry on banking business under section 9 of the Central Bank Act 1971. Its ultimate parent company is Royal Bank of Scotland Group plc.

The European Central Bank supervises the Firm directly, in accordance with the Single Supervisory Mechanism. The European Central Bank referred the matter to the Central Bank in January 2017. The Central Bank's investigation concerned governance failings in respect of the compilation and submission of returns under the MART Framework.

PRESCRIBED CONTRAVENTIONS

The Central Bank's investigation found that the Firm contravened the governance obligations contained in the following regulatory requirements:

Contravention 1

Regulation 16(1), 16(3)(b) – (d) and 16(4) of European Communities (Licensing & Supervision of Credit Institutions) Regulations 1992¹ and Regulation 61(1)(b) and 61(1)(c)(i) of European Union (Capital Requirements) Regulations 2014².

Amongst other things, these regulations require institutions to put in place governance arrangements to ensure they are effectively and prudently managed. The particular provisions breached required firms to put in place and maintain sound administrative procedures, as well as adequate internal control mechanisms.

Contravention 2

Section 6.4 of the Corporate Governance Code for Credit Institutions and Insurance Undertakings 2010 and the Corporate Governance Requirements for Credit Institutions 2015.

These codes establish the corporate governance requirements that apply to the Firm. The provision breached requires firms to put in place a governance structure that is “*sufficiently sophisticated to ensure that there is effective oversight of the activities of the institutions taking into consideration the nature, scale and complexity of the business being conducted.*”

The evidence uncovered during the investigation that underpins the contraventions showed the following:

Failure to implement sound administrative practices

From the outset, the Firm failed to have in place a written policy and procedure document setting out the steps and methodology that should be applied when compiling a MART return. A high level process

¹S.I. No. 395 of 1992 (as amended by the European Communities (Capital Adequacy of Credit Institutions) Regulations, 2006 (S.I. No. 661 of 2006)

² (S.I. No. 158 of 2014)

document was only introduced in August 2014. Thereafter, there was no evidence that the process contained in the document was implemented or followed by the Firm.

This failure to adhere to adequate policies and procedures to ensure the compilation of accurate, reliable and auditable MART returns resulted in the Firm being unable to reconstitute historic MART returns when required to do so by the Central Bank. The Firm's inability to reconstitute historic returns compromised the Central Bank's ability to accurately assess the Firm's effectiveness in dealing with borrowers in arrears.

Failure to have effective oversight and approval of the MART returns and production processes.

The investigation found that while there was already a committee in place to report to the Board of the Firm about mortgage arrears when the MART Framework came in, it was ineffective in its oversight of the MART returns. Whilst it monitored compliance with the targets to be met, there was no evidence that this committee conducted any in-depth review of the MART return process, sought any assurance testing of the process (see below) or challenged any aspect of the process. As a result, the Firm failed to ensure the compilation of data included in the MART return was subject to robust challenge and review prior to submission.

Additionally, as described above, the Firm had been informed of its failings in 2013. Notwithstanding its written commitment to deal with those findings at the time, the Firm failed to address the governance issues. The Firm's limited action in response to the Central Bank's concerns further demonstrates its lack of effective oversight of MART.

Failure to have in place and maintain effective internal controls

The Firm failed to ensure that the process for the preparation of MART returns was subject to appropriate review. The investigation found no evidence that the Firm's compliance, internal audit or risk divisions reviewed the MART returns production process, even after the governance issues had been brought to the Firm's attention. Such reviews are a basic requirement of an adequate internal control environment. Appropriate internal controls should have served to identify the governance failings at an early stage.

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:

The Nature, Seriousness and Impact of the Contraventions

- The contraventions revealed serious weaknesses of the management systems and internal controls relating to the MART returns compilation and submission process.
- The contraventions represented a serious departure from the required standards.

The Conduct of the Regulated Entity after the Contravention

Aggravating:

- The Firm's delay in taking remedial steps to address the contraventions despite knowledge of the issues.

Mitigating:

- The Firm made full and frank admissions at the earliest opportunity in the process. This permitted the Central Bank to make time, cost and resource savings.
- The Firm provided the Central Bank with details of a comprehensive investigation it had undertaken into the matter.

The Previous Record of the Regulated Entity

Aggravating:

- The Firm has been the subject of three prior enforcement actions.

Other Considerations

- The need to have an appropriate deterrent impact on the Firm and other regulated entities.

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

NOTES

1. 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 the greater.
2. This is the Central Bank's 134th settlement since 2006 under its Administrative Sanctions Procedure, bringing the total fines imposed by the Central Bank to over €103 million.
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 fine 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** which is here: [link](#).
5. A copy of the **ASP Sanctions Guidance November 2019** is available here: [link](#) 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. The Firm became subject to direct supervision in prudential matters by the European Central Bank ("ECB") as of 4 November 2014. This was because the Firm is deemed a "Significant Institution", which pursuant to Articles 4 and 6 of the Council Regulation (EU) No 1024.2013 of 1 October 2013 conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions, brought the Firm within the direct supervision of the ECB.
7. The MART Framework was published on 13 March 2013. MART imposed quarterly quantitative targets on the six main mortgage lenders (accounting for approximately 90 per cent of the Irish mortgage market) with respect to their Republic of Ireland principal dwelling home/primary residence and buy-to-let portfolios. The targets centred on resolving accounts in arrears greater than 90 days. The MART Framework is no longer in force.
8. The European Communities (Licensing & Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) (as amended) were in force between 1 January 1993 to 31 March 2014; a copy can be found here: [link](#). These were repealed and replaced by the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) which are here: [link](#).
9. The Firm has been the subject of three previous settlement agreements with the Central Bank all of which included governance failings, as follows:

- 2016 – breaches concerning money laundering and terrorist financing
- 2014 – IT governance failures
- 2012 – breaches of liquidity and capital requirements