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Settlement Agreement between the Central Bank of Ireland and Alico Life International Limited

The Central Bank of Ireland ("the Central Bank") has entered into a Settlement Agreement with effect from 29 March 2012 with Alico Life International Limited ("the firm"), a regulated financial services provider, in relation to various breaches of the Insurance Act 1989, as amended ("the Act") and the European Communities (Life Assurance) Framework Regulations 1994, as amended ("the 1994 Regulations").

Reprimand and fine

The Central Bank reprimanded the firm and required it to pay a monetary penalty of €3,200,000.

Breaches

The breaches identified are:

1. the firm failed to enter certain receipts of the life assurance business into the account maintained for the purposes of that business and to ensure that these receipts were carried to and from the life assurance fund in contravention of section 14(1)(a) of the Act ;
2. the firm failed to record correctly certain assets representing its life assurance fund and the liabilities attributable to its life assurance business in its 2007 regulatory return, in contravention of section 14(1)(b) of the Act;



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3. certain of the firm's administrative procedures and internal control mechanisms were not sound or adequate in contravention of regulation 10(3) of the 1994 Regulations; and
4. the firm failed to deposit its annual returns with the Central Bank within six months after the end of its financial year, in respect of its financial year ending 30 November 2007 and 30 November 2008 in contravention of regulation 19(1) of the 1994 Regulations.

Background

The Central Bank's Insurance Division discovered these breaches during an inspection of the firm in July 2009. Following this inspection, an examination into these was conducted by the Central Bank's Enforcement Division with the assistance of the Insurance Division. As a result of information gathered during this examination, the Central Bank became aware of the details of the firm's securities lending activities and their impact.

The firm's securities lending

1. The firm entered into a Securities Lending Agency Agreement on 9 February 2007 whereby through an investment agent it loaned securities held within the firm's portfolio to various borrowers.
2. Prior to entering into the Securities Lending Agency Agreement and in breach of its internal asset management policy, the firm failed to seek the approval of its investment committee.
3. From April 2007 to 24 July 2009, the agent on behalf of the firm, loaned securities representing approximately €500 million of the life assurance fund assets supporting unit linked policies. This represented approximately a quarter of those assets in each of the years 2007 and 2008.



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4. The Board of the firm was unaware of these investments until 23 April 2008 by which time significant unrealised losses on securities lending had already accrued.

Securities lending receipts

5. The borrowers paid the firm a lending fee for use of the loaned securities and also provided collateral as security for the loan of those securities.
6. Receipts generated by the loan of these securities were not attributed to the firm's life assurance business fund.

Losses arising from securities lending

7. Approximately €138 million of collateral provided by borrowers was invested by the firm's agent in mortgage backed securities. This decision was made without having regard to certain aspects of the firm's investment policy.
8. The firm sustained losses of approximately €42 million in respect of these investments.
9. As a result of these losses, the firm received non-refundable capital contributions from its parent totalling approximately €50 million.
10. Without the capital contributions from its parent, the firm would have been in breach of its solvency margin requirements in 2008.

Penalty Decision Factors

The taking of this case and the penalty imposed reflect the seriousness with which the Central Bank views any breaches of the legislative provisions which are designed to ensure the protection of life assurance policyholders.



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In this instance, the firm infringed a key regulatory requirement that receipts of the life assurance business must be entered into the life assurance fund.

This case also evidences serious inadequacies in the firm's systems and controls in that it failed to ensure that investment decisions were made and monitored in accordance with the firm's Investment Policy.

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

- having realised significant losses, the firm obtained a capital injection from its parent which avoided policyholder loss;
- the Board of the firm decided to exit the Securities Lending Agency Agreement upon becoming aware of it in April 2008;
- the firm has implemented a variety of new internal controls in order to improve governance; and
- the new management of the firm co-operated during the process and settled at an early stage in the administrative sanctions procedure.

The Central Bank confirms that the matter is now closed.

- End -

The Central Bank of Ireland has entered into a Settlement Agreement on 29 March 2012 with Alico Life International Limited, a regulated financial services provider, in relation to breaches of the Insurance Act 1989, as amended and the European Communities (Life Assurance) Framework Regulations 1994.

The Central Bank of Ireland also issued a general comment from Director of Enforcement, Peter Oakes:

"The key principle of life assurance regulation is that policyholder assets are adequately safeguarded."



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It is for this reason that there are strict rules in place to ensure that policyholder assets are clearly identifiable from other assets of a life assurance company.

The Central Bank would remind firms that if they intend to engage in securities lending they must be careful to ensure that there is sufficient consideration of the risks involved and the impact of these on policyholders.

Furthermore, firms are obliged to have adequate systems and controls in place surrounding the investment of assets representing the life assurance fund.

Two of the Central Bank's Enforcement Priorities for 2012 are to pursue enforcement actions in respect of systems and controls failings and breaches of prudential requirements. The Central Bank has previously stated that where serious breaches of these regulatory requirements occur, regulated entities and their management can expect vigorous investigation and follow-up by the Central Bank.

Where the actions of a firm undermine the Central Bank's achievement of its statutory objectives, the firm should expect that enforcement action will follow, especially where the breach falls within our stated Enforcement Priorities."