



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland and Bank of Ireland Mortgage Bank

The Central Bank of Ireland (the “**Central Bank**”) has entered into a Settlement Agreement with effect from 2 October 2012 with Bank of Ireland Mortgage Bank (the “**Firm**”), a regulated financial services provider, in relation to breaches of Section 31(3) of the Asset Covered Securities Act 2001 (as amended) (the “**ACS Act**”) and Regulation 16 of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (as amended) (the “**Regulations**”).

Reprimand and fine

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €120,000.

Breaches

The breaches identified are:

1. during the period 4 April 2011 to 20 December 2011 (the “**Period**”) the Firm held credit transaction assets in excess of the 10% cap on the holding of such assets set out in Section 31(3) of the ACS Act; and
2. during the Period, the Firm failed to have in place adequate internal controls to enable the Firm to identify or ensure compliance with the limit on credit transaction assets.

Asset Covered Securities

The ACS Act regulates Asset Covered Securities. These are securities, usually bonds, which are issued by a credit institution authorised by the Central Bank for the purpose of the ACS Act. The Firm is designated as a mortgage credit institution under the ACS Act and is obliged to comply with its provisions. Asset Covered Securities are backed by a defined pool of assets, in this case mortgages. The purchaser of Asset Covered Securities knows that a pool of assets (the “**Pool**”) is protecting their investment. Although the assets in the Pool can change, the value of the assets cannot drop below a required level.

Credit transaction assets

The ACS Act also includes requirements relating to other assets which are held outside the Pool. One such class of assets is credit transaction assets. These are certain assets which come from credit transactions.

The ACS Act gives firms a limited ability to engage in other activities besides issuing Asset Covered Securities. Issuers of Asset Covered Securities can therefore engage in other credit transactions. To ensure that a firm’s ability to engage in other activities remains limited, the ACS Act places a cap on the proportion of credit transaction assets which can be held by a firm, outside the Pool, at 10% of the total value of the firm’s assets.

Background to breach of 10% cap

The breach by the Firm of the 10% cap set out in Section 31(3) arose as a result of the downgrading of Bank of Ireland’s long term credit rating in April 2011. The Firm’s credit transaction assets consisted of deposits in Bank of Ireland. This downgrade in Bank of Ireland’s rating led to certain deposits held by the Firm in Bank of Ireland being reclassified as credit transaction assets. The result of this was that the percentage of credit transaction assets held by the Firm (being assets held outside the Pool) exceeded the 10% cap set out in Section 31(3). This breach of the legislation continued from 4 April 2011 to 20 December 2011.

On being made aware of the breach by the Central Bank the Firm immediately took steps to return to compliance with Section 31(3), which occurred on 21 December 2011.

Penalty decision factors

The penalties imposed in this case reflect the importance the Central Bank places on compliance with all aspects of the Asset Covered Securities legislation and adequate systems and controls to ensure such compliance.

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

- no investors were affected;
- the Cover-Assets Monitor has confirmed that at all times the Pool remained in compliance with all requirements of the ACS Act, including over-collateralisation requirements on both a regulatory and contractual basis;
- the integrity of the Pool was not impacted in any way;
- the Firm took appropriate action to rectify the breaches once made aware of them;
- the Firm has introduced enhanced procedures and controls to prevent future incidences of this nature; and
- the cooperation of the Firm during the Central Bank's investigation and in settling at an early stage in the Administrative Sanctions Procedure.

The Central Bank confirms that the matter is now closed.

- End -

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Regulation 16 (the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (as amended)).

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

“This is the second settlement by the Central Bank with a firm for breaches of the Asset Covered Securities legislation in the last three years.

Breaches of Asset Covered Securities legislation have the potential to undermine confidence in the Asset Covered Securities market. The cornerstone of the Asset Covered Securities market is the confidence that investors can take from the primary legislation which affords them preferential creditor status and restricts the activities, and the risks, that Asset Covered Securities issuers can take on. In the absence of this legislation and protection, investors would view the product as a riskier product and demand additional return from their investment.

Any breach of the Asset Covered Securities legislation can negate the positive effect of the legislation and is viewed as a serious matter. The Central Bank is tasked with monitoring compliance with the legislation and the taking of enforcement action, where needed, should reinforce the confidence of investors in the Asset Covered Securities market. In light of the importance of compliance with the Asset Covered Securities legislation, the Central Bank will continue to use its range of regulatory tools including enforcement where regulated entities fall short of the required standards.

Regulated entities must have proper and effective systems and controls in place to ensure compliance with the Assets Covered Securities legislation as well as all other legislative requirements.

The pursuit of enforcement actions in respect of systems and controls failings and breaches of prudential requirements are two of the Central Bank’s Enforcement Priorities for 2012 and, for that reason, where breaches of these regulatory requirements occur, regulated

entities and their management should expect vigorous investigation and follow up by the Central Bank.”