



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement
Between the Central Bank of Ireland and
J & E Davy t/a Davy

The Central Bank of Ireland (“the Central Bank”) has entered into a Settlement Agreement with effect from 8 December 2011 with J & E Davy t/a Davy (“the firm”), a regulated financial services provider, in relation to breaches of Regulations 112 and 33(1)(a) of the European Communities (Markets in Financial Instruments) Regulations 2007 (“the MiFID Regulations”).

Three breaches were identified. The breaches related to:

- 1) the firm failed to report 61,542 transactions in financial instruments which were admitted to trading on a regulated market or a multilateral trading facility operated by a market operator (“MTF”) to the Central Bank by close of business on the day following the execution of the transaction during the period 1 November 2007 until 25 March 2011;
- 2) the firm did not report the correct counterparty in 20,806 transactions in financial instruments which were admitted to trading on a regulated market or a MTF during the period 1 November 2007 until 4 February 2011; and
- 3) the firm failed to establish adequate policies and procedures sufficient to ensure compliance with Regulation 112 of the MiFID Regulations as set out in breaches 1 and 2 above.

The Central Bank reprimanded the firm and required it to pay a monetary penalty of €50,000.

The details are that from 1 November 2007 the firm, like other stockbrokers and MIFID-authorised firms, was obliged to provide transaction reports on its trading activity in financial instruments admitted to trading on both regulated markets and on MTFs.

The non-reporting of transactions on a regulated market or a MTF referred to at 1 above, arose because of a failure to have accurate securities information.

Additionally, the firm failed to report the correct counterparty details on 20,806 transactions. The majority of the incorrect reporting of counterparty information arose when the firm reported the settlement agent as opposed to the counterparty to the transaction.

The Central Bank is satisfied that the failure to comply with the reporting obligations as set out in breaches 1 and 2 above is evidence that the firm's policies and procedures were not adequate to ensure full compliance with Regulation 112 of the MiFID Regulations.

The breaches were unintended and once detected the firm submitted all transaction reports correctly.

The penalties imposed in this case reflect the importance the Central Bank places on accurate and complete reporting of transactions in financial instruments under the MiFID Regulations.

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

- the firm notified the breaches to the Central Bank and took timely and appropriate steps to rectify the breaches;
- the cooperation of the firm during the investigation and in settling at an early stage in the Administrative Sanctions Procedure.

The Central Bank confirms that the matter is now closed.

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

“Accurate transaction reporting is essential to the Central Bank in effectively monitoring the markets in detecting market abuse and financial crime.

This is the second settlement with a firm for transaction reporting failures. Firms are required to ensure they submit data for reportable transactions by close of business the day after a trade is executed. Firms must appreciate the importance to the Central Bank that data submitted pursuant to transaction reporting requirements be accurate and complete. Where data does not meet the standards required, this jeopardises an important regulatory function of the Central Bank. We will address these types of failures, and other reporting failures, with firms including, where appropriate, by taking enforcement action.

Underlining the importance which the Central Bank places on accurate transaction reporting is the fact that the Central Bank has implemented an enhanced auditing programme, backed by newly introduced systems, which involves the routine inspection of the quality of reported data from firms and applies an internal grading and satisfaction rating system. The Central Bank has also held a number of bilateral transaction reporting workshops with firms, to set out our expectations on transaction reporting matters as well as future enhancements to the reporting regime.”