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## **Settlement Agreement between the Central Bank of Ireland and MBNA Europe Bank Limited**

The Central Bank of Ireland (“the Central Bank”) entered into a Settlement Agreement on 21 June 2011 with MBNA Europe Bank Limited (“the firm”), a regulated financial services provider, in relation to breaches of regulatory requirements contained in the Consumer Protection Code (“the Code”).

The firm breached the Code by failing to:

- 1) In accordance with General Principle 2 of the Code - act with due skill, care and diligence in the best interests of its customers; and
- 2) In accordance with General Principle 4 of the Code - have and employ effective resources and procedures, systems and control checks that are necessary for compliance with the Code.

The Central Bank reprimanded the firm and required it to pay a monetary penalty of €750,000.

In September 2009, the firm notified the Central Bank of an error identified during the firm’s review of amended terms and conditions introduced in July 2007. A clause in the firm’s terms and conditions relating to the application of interest charges no longer, by virtue of the change introduced, correlated with the firms system of charging interest to certain customers. This clause resulted in the firm:

- 1) Applying interest in error to credit card accounts from the transaction date rather than the statement date contrary to the terms and conditions applicable to those accounts at the time.
- 2) Applying interest in error to credit card accounts used exclusively for the purposes of cash advances and where the customers in question had repaid the full balance of their bill every month, contrary to the terms and conditions applicable to those accounts at the time.

These breaches occurred during the period 1 July 2007 to 26 October 2009 inclusive and resulted in 373,105 customer accounts being overcharged a total of €16,997,321.49.

The systems and controls breaches arose because the firm failed to ensure that there was consistency between the firm's systems and the terms and conditions. It is noted that although controls existed in respect of the review process, these controls were not effective and resulted in the above detailed overcharging occurring.

The penalties imposed in this case reflect the importance the Central Bank places on consumer protection and the requirement to have adequate systems and controls (including checks on these controls) in place to ensure compliance with the requirements of the Code.

In deciding the appropriate penalty to impose, the Central Bank recognises:

- the firm reported these failures in a timely manner;
- that all affected customers were remediated by the firm, with appropriate interest, in a timely manner; and
- the co-operation of the firm during the course of the resolution of the matter 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 has previously highlighted its concerns relating to control failures that result in customers being overcharged. However, the Central Bank continues to discover, or be made aware of, instances whereby firms have inadequate systems and controls in place to ensure that customers are not disadvantaged. As highlighted in the Central Bank's Enforcement Strategy for 2011-2012, dealing with issues relating to the

overcharging of customers has been identified as a priority area for the Central Bank and accordingly, the Central Bank will continue to focus its Enforcement resources to help achieve acceptable standards across all industry sectors. Therefore, industry can expect that the Central Bank will continue to take robust enforcement action against regulated entities who continue to fall short of the required standards and their customers' legitimate expectations, in this area.

The Terms of Business is an important document in which the firm is required to clearly set out the basis upon which it will conduct its business with customers who place reliance upon the terms. Firms should review their Terms of Business document on a regular basis to ensure that it accurately reflects the terms upon which services are provided to customers at that time and should ensure that they have in place adequate internal control systems to ensure that these reviews take place. Firms should monitor and test these internal control systems on a regular basis to ensure that they are effective so as to minimise the potential for errors and ensure that errors if they do occur are readily and promptly identified and remediated.