



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

PO BOX 559
Dame Street
Dublin 2

T +353 1 224 4000
F +353 1 671 6561

**Settlement Agreement between the Central Bank of Ireland
and
Pan Index Limited**

The Central Bank of Ireland (“the Central Bank”) has entered into a Settlement Agreement with effect from 25 August 2011 with Pan Index Limited (“the Firm”), a regulated financial services provider, in relation to breaches of Regulations 76 and 94 of the European Communities (Markets in Financial Instruments) Regulations 2007 (“MiFID”).

Two breaches were identified. These breaches were:

- Failure to ask clients or potential clients to provide the information regarding their knowledge and experience of spread trading as required by Regulation 76(4)(a) and as specified by 94(9) of MiFID; and
- Failure by the Firm to take into account the information required pursuant to Regulation 76(4)(a) in order to assess whether the spread trading services sought by the client were appropriate for that client.

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €40,000.

These breaches were detected by the Central Bank during the course of a themed inspection of contracts for difference (“CFD”) and financial spread betting firms in March 2011.

The Central Bank published the findings of the themed inspection of the CFD and financial spread betting firms on 16 June 2011, stating that *“consumers need to be made fully aware of the complexity and very high risks of CFD and financial spread betting before making investment decisions”*.

The penalty imposed in this case reflects the seriousness with which the Central Bank views the obligation of firms to obtain the required information from clients or potential clients in relation to their knowledge and experience, and to take that information into account in assessing whether an investment service or product is appropriate for those clients.

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

- the breaches are no longer continuing; and
- the co-operation of the Firm during the course of 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 MiFID Regulations came into effect on 1 November 2007 and introduced a common standard for investor protection throughout the European Union. The Central Bank expects firms to have robust and fair procedures for ensuring compliance with the MiFID Regulations. Failure to comply with the MiFID Regulations is considered as very serious by the Central Bank as it puts consumers at unnecessary risk and ultimately means that the firm has failed in its obligations to protect these consumers. Entities which fail to comply with MiFID can therefore expect, in line with our stated enforcement policy, a vigorous application of our enforcement effort, with these matters being investigated fully, followed through to a conclusion with proportionate and robust sanctions being applied, where

appropriate. As stated in our Enforcement Strategy, enforcement action can have a powerful deterrent effect on groups of smaller entities (e.g. low impact entities) where we do not have a close supervisory relationship

‘Spread Betting’ or ‘Spread Trading’ is a high risk and complex form of trading, which allows investors to speculate on price movements in the financial markets. Firms should ensure that they have adequate processes and procedures in place to ensure that consumers receive the appropriate warnings before engaging in this risky and complex form of trading as losses can be substantial.