



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Administrative Sanctions Procedure

Guide to Transitional Arrangements
Arising from the Central Bank (Individual
Accountability Framework) Act 2023

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Purpose of this Guidance

Part 7 of the Central Bank (Individual Accountability Framework) Act 2023 (the **Act**), which commenced on 19 April 2023 (the **commencement date**), includes savings and transitional provisions regarding various processes and procedures under the Central Bank's Administrative Sanctions Procedure (**ASP**) relating to investigations and inquiries.

The Act made significant amendments to Part IIIC of the Central Bank Act, 1942 (the **1942 Act**) which, subject to the savings and transitional provisions, impact new and existing investigations and inquiries to varying degrees.

The purpose of this transitional guidance is to provide clarity as to the practical impact of such provisions on investigations and inquiries. In particular, this guidance seeks to make clear when the new provisions will apply to both new and ongoing investigations and inquiries.

New Investigations Post-Commencement Date

All of the new or amended provisions of Part IIIC of the 1942 Act will apply to investigations commenced after the commencement date.

Ongoing Investigations

Subject to certain exceptions, all of the new or amended provisions in Part IIIC of the 1942 Act apply in full to ongoing investigations. An investigation is ongoing where the Central Bank decision to commence the investigation was made before the commencement date. Pursuant to section 93 of the Act, the following amendments to the ASP do not apply to ongoing investigations:

- The requirement for a responsible authorised officer of the Central Bank to provide an ASP investigation subject with a notice in writing, as soon as practicable after a decision is made by the Central Bank, to investigate the commission of a prescribed contravention (**Notice of Investigation**);

- The requirement for the Central Bank’s responsible authorised officer to provide an ASP investigation subject with amended Notices of Investigation, to reflect any change, extension or partial discontinuance of an ASP investigation;
- Any other obligation concerning investigations set out in section 33ANJ of the 1942 Act.

New Inquiries

All of the new or amended provisions of Part IIIC of the 1942 Act will apply to inquiries where the Notice of Inquiry was given by the Central Bank after the commencement date.

Ongoing Inquiries

Subject to certain exceptions, none of the new or amended ASP provisions in Part IIIC of the 1942 Act apply to ongoing inquiries. An inquiry is ongoing where a Notice of Inquiry was given by the Central Bank before the commencement date.

Pursuant to section 94 of the Act, the amended provisions in Part IIIC and Part VIIA of the 1942 Act relating to:

- High court confirmation of inquiry decisions; and
- Appeals to the Irish Financial Services Appeals Tribunal

apply to ongoing inquiries where the inquiry decision is made after the commencement date.

Disqualification and Conditions Sanctions

The original disqualification sanction for individuals has been amended and a new sanction of a direction imposing conditions on an individual has been introduced.

Pursuant to section 95 of the Act, the amended disqualification sanction and the new direction imposing conditions sanction for individuals cannot be imposed where a prescribed contravention or participation in a prescribed contravention occurred prior to the commencement date. In those circumstances, the original

disqualification sanction will continue to be available as a potential sanction. The requirement for regulated financial service providers to ensure that individuals who are disqualified are not concerned in their management will continue to apply in respect of individuals who are subject to the original disqualification sanction.

Impact on EU Law Regulatory Frameworks Subject to the ASP

The provisions relating to the available sanctions and the sanctioning factors contained in the Act and the associated guidance provided in the draft ASP Guidelines address only the determination of sanctions to be imposed pursuant to section 33AQ of the 1942 Act.

Separately, there are certain EU law regulatory frameworks that are designated for the purpose of the ASP in respect of the sanctioning of firms. These incorporate distinct and separate provisions containing prescribed EU sanctions to be applied to particular EU prescribed breaches.

These are typically accompanied by bespoke EU prescribed sanctioning factors, which can differ from those in Central Bank legislation and guidelines.

In such cases, the EU prescribed provisions which have been transposed into domestic law shall continue to apply in substitution of the domestic provisions under Part IIIC of the 1942 Act and related guidelines, notwithstanding that the Central Bank's general sanctioning approach in cases under relevant EU frameworks will be the same.



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