



REGULATORY UPDATE 3/2009 (Special Edition)

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Minister for Finance Brian Lenihan TD announces major reform of the institutional structures for regulation of financial services in Ireland

It is always the case. As soon as you finish a Newsletter (2/2009) covering many topics including speculation about the new Irish regulatory system, the Minister of Finance pulls a cat out of the bag and announces the creation of a new single financial regulatory structure. We have released this special edition Newsletter to update readers on the Minister for Finance's announcement today (18 June, 2009) of a new single financial regulator.

The Minister for Finance, Brian Lenihan TD, today (18 June, 2009) announced the Government's agreement to the establishment of a single fully integrated regulatory institution, the **Central Bank of Ireland Commission**. This new structure will replace the current board structure of the Central Bank and the Irish Financial Services Regulatory Authority to achieve the highest performance standards for the new organisation.

Below is a summary of our reading of the Minister's announcement in a question and answer format.

Question 1: What is planned?

- (1) Replacement of current board structure of the Central Bank of Ireland and the Irish Financial Services Regulatory Authority with a new *Central Bank of Ireland Commission*.
- (2) The *Central Bank of Ireland Commission* will be chaired by the Governor of the Central Bank responsible for:
 - the supervision of individual firms, and
 - the stability of the financial system generally.

[Note: The current Governor of the Central Bank, John Hurley, was requested to continue in office, past the completion of his term in March 2009 to ensure continuity and leadership during the disruption in financial markets. The Governor has agreed to remain for a period of additional months to facilitate the smooth transition to the new arrangements].

- (3) Two top-level posts to be established within the Central Bank of Ireland as ex-officio members of the Commission.
 - a. A Head of Financial Supervision to be appointed to report into the Commission on:
 - the regulatory and supervisory functions, and

- the objectives of the new structure.
 - b. A Head of Central Banking to report on the performance of central banking functions (other than those that relate to the independent role of the Governor under the EC Treaty and Eurosystem and ECB structure).
- (4) Consumer Directorate in the Financial Regulator (consumer information and education) - this function will be re-assigned to the National Consumer Agency (NCA). The NCA is itself being amalgamated with the Competition Authority. The Minister's press release states that the functions to be merged in the new body are 'highly complementary and share a common goal of enhancing consumer welfare' *[Ed – time will tell. This move looks driven more by budgetary pressure than anything else. It will also play into the hands of critics who will view this change as removing the 'consumer' from the heart of financial regulation in Ireland. You can already hear the internet discussion boards chattering away on this idea].*
- (5) Registrar of Credit Unions - no change is proposed to the current role and responsibilities of the Registrar of Credit Unions. Regulation of credit unions will remain within the Central Bank of Ireland structure.
- (6) Financial Services Ombudsman - the proposed reforms are not meant to impact on the current separate statutory role of the Financial Services Ombudsman (FSO). The FSO adjudicates on individual customer complaints concerning financial institutions.

Question 2: What is happening now?

New Head of Financial Supervision

Recruitment for a new Head of Financial Supervision is already underway. Sir Andrew Large, former Deputy Governor of the Bank of England and former member of the UK Monetary Policy Committee is advising on the recruitment process. The search for the appropriate candidate is wide-ranging in order to ensure that the person chosen will be of the calibre, reputation, experience and expertise to lead the reform outlined. *[Ed - No doubt the search will be wide-ranging, but don't look for it on the Financial Regulator's or Central Bank's career pages because as of today it is not listed. Why not?]*

Additional Staff

There will be a significant expansion of regulatory capacity within the new structure. Substantial additional staff with the skills, experience and market-based expertise needed to meet the objectives of the new structures will be appointed. Those recruited will also have the expertise to regulate the international financial services sector. A number of roles advertised on the websites of the Central Bank and Financial Regulator have closing dates of tomorrow – 19th June 2009.

Impact on the daily workings of the Financial Regulator

The Financial Regulator is already working through business changes. The functions of the Board and Authority will be aligned as far as possible within the existing legislative and institutional framework in anticipation of the new structures. *[Ed – will this see regulatory staff spending more time on management and integration issues than their core objectives?]*

Question 3: How quickly will these changes take place?

The Minister is determined these changes are progressed quickly. Accordingly, he has established a high level group, chaired by his Department and including representatives of the Central Bank and Financial Regulator, to expedite the implementation of the Government's decision and undertake appropriate consultations.

Question 4: Why is this change happening?

The Minister of Finance believes that these reforms will underpin a ***much more effective and efficient financial services regulatory system aligned*** with best international practice.

Commenting on the reforms, the Minister for Finance, Brian Lenihan TD, stated:

“The Government is taking the necessary measures to allow the domestic banking sector to service effectively the needs of the real economy and to restore the reputation of the country as a sound and secure centre of excellence in international financial services. We will ensure Ireland is regulated to the best EU and international standards. Our approach mirrors arrangements proposed at EU level and will ensure a cohesive approach between critical elements of effective financial regulation.”

The new legislation will underpin the new structures and the Government will seek to enhance the accountability of the new regulatory structures to the Oireachtas and to strengthen evaluation and quality assurance of regulatory performance.

Ed – based on the Minister’s announcement, it is exceptionally difficult to see how the proposed changes should be any more effective than the current structure commenced merely 6 years ago in 2003 by the Central Bank and Financial Services Authority of Ireland Acts (2003 & 2004). No one has debated the workings of the current law or the structures created thereunder. However the Minister and media commentators all appear convinced, without offering any meaningful explanation, as to why the existing structure (both legal & organisations) failed. Let’s not kid ourselves, the cost to implement the new regulatory vision will be in the millions of euros. I have worked at two regulators – UK & Australia – which went through restructures and such changes do not come cheap in terms of money, lost management time and regulatory disruption. The flipside is, of course, what will be the cost to Ireland if the structure is not radically reformed? However you do get the feeling that the human resources element – as opposed to the letter of the law and the exact nature of the current structure – was a significant contributor to the problems leading to the Minister’s announcement today. Hopefully, in the words of the Minister of Finance, we will find people of ‘the calibre, reputation, experience and expertise to lead the reform outlined’.

Blog: Engage in discussion and debate at <http://www.peteroakes.blogspot.com/>

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