



# Compliance Ireland

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## Newsletter 3 (May 2005)

### **Bank of Ireland fined £375,000 (€551,000) by the UK's FSA for AML breaches**

The UK Financial Services Authority (FSA)'s £375,000 fine on Bank of Ireland (BoI) for breaching anti-money laundering rules throws up some interesting points. (See hyperlinks below for background details to the case).

Firstly, the incident was limited to one branch (reported by the Financial Times to be in Glasgow). BoI has 24 branches in Great Britain and more in Northern Ireland. Recent FSA anti-money laundering fines imposed on other UK retail banks involved not just the operations at one bank branch, but rather broader based, if not network-wide, problems at those financial institutions.

Secondly, according to the FSA, the events which took place at the branch in question were in breach of BoI's policy and procedures. This again distinguishes events in the BoI case from events at other large banks which breached UK anti-money laundering rules where those banks employed little or no effective anti-money laundering procedures. In the other cases, the banks which breached their anti-money laundering obligations did so due to senior (rather than branch) managerial failures, owing to either inadequate resources being applied to money laundering or a failure of senior management to respond when advised of problems. Neither of these points raise their head in the facts of the BoI case.

Thirdly, from the information available, it is not clear whether money laundering actually took place, yet the FSA believes that there was a sizeable chance of that occurring and it repeatedly states that a law enforcement agency is investigating the matter. The Financial Times reported (Friday 3 September) that the agency is the UK's Inland Revenue. Approximately 90% of the drafts by value had not been presented by the time the incident was eventually discovered (some four years after it began) which seems inconsistent with the general notion that money launderers prefer to act quickly to enjoy their ill-gotten gains once their schemes are established. However it is likely that Inland Revenue will focus on the fact that since the drafts were issued in the name of BoI, it was possible for the customer to conceal its ownership of the source of funds from Inland Revenue and potentially its tax obligations.

The fine imposed by the FSA is substantially lower than those imposed on other big retail banks. Recently RBS was fined £750,000, Northern Bank £1.25m, Abbey National £3m and HBOS £1.25m. It stands to reason that given its smaller fine, BoI's level of regulatory negligence (in the FSA's opinion) is substantially below that of these other banks.

#### **The FSA's rationale for imposing a fine; Effective Training**

Given the isolated nature of BoI's breach and (judging by the comparatively low amount of the fine) the absence of proof of any serious risk that money laundering occurred or indeed was probable (subject to Inland's Revenue's investigation), then why did the FSA decide to sanction BoI? One might argue that all banks which fail to meet their anti-money laundering obligations in today's world deserve to be sanctioned. However in this particular case it is likely the FSA wanted to send a message to those it regulates on the importance of anti-money laundering training and education. The fact that BoI's internal auditors did not spot what was happening until four years after BoI initiated the drafts facility for the customer was, without doubt, a determining factor in the imposition of the penalty also.

From a reading of the Final Notice, it is abundantly clear that the FSA believes anti-money laundering training and education should be 'outcomes-driven' and should not be performed in a simple mechanical fashion. The delivery of training and education, in the FSA's view, is that it must not be delivered in isolation to a firm's actual business model. Rather, firms must be able to demonstrate that staff do understand and fulfil their employer's and their own personal responsibilities in practice. In the BoI case, it seems that there were good grounds to be suspicious of the transactions, but even though staff on the ground and their managers knew what was going on, none thought the activity was suspicious (i.e. the customer's requirement that its name not appear on the drafts or related correspondence). The awareness and identification of activities which might constitute a suspicious transaction is a fundamental element of any anti-money laundering training and education programme. The FSA's attention in this case seems focused squarely on the effectiveness of the training and instructions given to staff of the branch.

There is little difference between UK and Irish anti-money laundering (AML) training and education obligations, so Irish firms should take note of the FSA's finding, as it stands to reason that IFSRA would share the same opinion. There are many firms out there which consider the 'training and education' job done once staff have sat through a periodic AML training session, regardless of whether staff learn anything or competently apply their training in their day-to-day jobs. We highly recommend all firms to review the effectiveness of their AML training programmes on the basis of the FSA's sanction.

#### **Hyperlinks:**

To read the FSA's Final Notice decision click [http://complianceireland.com/downloads/boi\\_31aug04.pdf](http://complianceireland.com/downloads/boi_31aug04.pdf)

To read BoI's Press Release click <http://www.bankofireland.ie/updates/LatestNews>

**Compliance Ireland** is available to assist Irish and UK financial services firms meet their anti-money laundering obligations. If you would like to discuss our consultancy and training services, please contact Peter Oakes ([peter@complianceireland.com](mailto:peter@complianceireland.com)). To read

about our range of services click <http://www.complianceireland.com/index.html>

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