



Newsletter 02/2011: 07 February, 2011

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## Central Bank News

### Central Bank spells out enforcement strategy

There was a rash of publications coming from the Central Bank in the week before Christmas. Prime amongst these was the 2011-2012 Enforcement Strategy document. Matthew Elderfield has repeatedly summarised the mission of the Central Bank as "*assertive risk-based supervision*" coupled with a "*credible threat of enforcement*".

This strategy document is the first elaboration of that latter element and is the first publication from the Enforcement Directorate. The 2011-2012 timeframe is to bring it in line with the Central Bank's current strategic planning cycle. What it reveals about the Central Bank's need to establish the credibility of its enforcement role and the intentions of the ADG for Enforcement, Peter Oakes, is very telling.

We've prepared a free Briefing Note on this important initiative.

### Central Bank announces enforcement actions against AIB and NCB Stockbrokers

On the same day as the strategy document was issued, 21 December 2010, the Central Bank underlined the importance of robust enforcement as a regulatory tool by publishing notices of two Settlement Agreements. The timing and extent of these settlements have to be taken as a very clear signal by the Enforcement Directorate of its intentions for the future.

One of these settlements, against Allied Irish Banks plc, was for "2 Million and was in relation to breaches of the Consumer Protection Code over a number of years.

The published notice of the Settlement Agreement refreshingly talked about actual breaches admitted rather than the disingenuous "*reasonable cause to suspect a breach*" previously favoured by the lawyers negotiating the settlement publicly. In another welcome development, the notice also contained a postscript of lessons to be learnt from the affair.

The Bank has come to appreciate the significant educational and deterrent effect that can be gained by spelling out in detail the undesired behaviour and warning other market participants of the consequences of not taking heed. In this instance, the Bank stated quite clearly that this Settlement Agreement arose because of unhappiness around overcharging issues and lack of urgency in providing restitution to consumers. This is an issue which Matthew Elderfield has flagged publicly on a number of instances, so it is perhaps no surprise that it should result in an enforcement action being pursued.

While the size of the AIB settlement gained significant media attention, the second Settlement Agreement with NCB Stockbrokers is also worthy of scrutiny. While it paled against the "2 Million penalty levied on AIB, the sanction amount of "100,000 was also a not insignificant amount.

The sanction was for repeated breaches of the transaction reporting provisions of the MiFID Regulations ongoing since they came into force in November 2007. Historically regarded by some as an esoteric technical detail of the MiFID Regulations, persistent non-compliance by firms with the transaction reporting obligations was an area of major frustration over an extended period for the Central Bank, despite ongoing attempts to address the issue with firms. Transaction reporting from market-facing firms is a major tool for the Central Bank in detecting and investigating instances of market abuse. This Settlement Agreement must be seen as a sign that the Central Bank will not be eternally patient even in areas where issues are previously known to the industry or are technical in nature.

The notice of the Settlement Agreement states that NCB failed to report to the Central Bank over 158,000 separate transactions and reported 44,000 transactions incorrectly from 2008 to 2010. This simple statement of fact, quoting the numbers involved, removes any room for doubt that this was a minor temporary issue, despite the esoteric technical nature of the obligation. By way of comparison, the UK FSA fined City Index £490,000 in January 2011 for failing to report 55,000 transactions and reporting 1.97 million transactions incorrectly to it.

### Central Bank issues Consultation Paper 49 on Impact Metrics

The Central Bank has issued a new Consultation Paper (CP49) on impact metrics, which will have significant implications for the ways the regulator will view and categorise firms. It will also colour how the Central Bank sets the various levies payable by regulated firms. Responses are requested by 24 February 2011.

## Insurance News

### Matthew Elderfield elected to the Management Board of EIOPA

Matthew Elderfield, Head of Financial Regulation at the Central Bank of Ireland has been elected to the Management Board of the European Insurance and Occupational Pensions Authority ("EIOPA"). Replacing the CEIOPS advisory committee of national insurance regulators from 1 January 2011, EIOPA will draft European technical laws in the insurance and pensions area for formal adoption by the EU Commission, rather than simply being limited to giving advice like its predecessor. Mr. Elderfield is one of six representatives of national supervisory authorities on the eight person board.

We extend our congratulations to Mr. Elderfield on his appointment. The future shape of financial services will increasingly be determined at a European level, as EIOPA, ESMA and EBA settle into their new roles as law-making as opposed to advisory bodies.

## MiFID News

### Capital Requirements Directive - CRD2 and CRD3 transposed on time

In a time when banking capital issues have enormous social consequence, the CRD2 and CRD3 updates to the Capital Requirements Directive (and the Banking Consolidation Directive) have been quietly transposed into Irish law.

The changes to the Large Exposures requirements will be welcomed by investment firms with small numbers of significant customers.

The Minister for Finance has issued the European Union (Directive 2010/76/EU) Regulations 2010 [S.I.625 of 2010] and the European Communities (Directive 2009/111/EC) Regulations 2010 [S.I.627 of 2010].

Simply implementing the CRD2 and CRD3 Directives by way of amendment to the original statutory instruments, these regulations amend the Central Bank Act 1942 as well as four other sets of Regulations:

- European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992)
- European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006)
- European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006)
- European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009

CRD2: The amendments came into operation on 31 December 2010.

CRD3: The amendments to S.I. 395 of 1992 and S.I. 661 of 2006 came into effect on 1 January 2011, while the amendments to S.I. 660 of 2006 will not take effect until 31 December 2011.

Copies of the Statutory Instruments are available from our website at <http://www.complianceireland.com/HotTopics.html#CRD3>

### Training Compliance Ireland's Q1 Training Dates

It's a New Year and below you'll find our first quarter training courses.

WHEN:	COURSE:
Monday 14th February 2011 (9.00am to 5.00pm)	<b>Anti-Money Laundering and Terrorist Financing</b> (Full Day - Dublin)
Thursday 17th February 2011 (9.00am to 1.00pm)	<b>Establishing the Internal Audit Function</b> (Half Day - Dublin)
Tuesday 22nd February 2011 (9.00am to 5.30pm)	<b>The Role of The Compliance Officer for banks and investment firms</b> (Full Day - Dublin)
Thursday 24th February 2011 (9.00am to 1.00pm)	<b>Complaints Handling and Treating Customers Fairly</b> (Half Day - Dublin)
Tuesday 1st March 2011 (9.00am to 5.30pm)	<b>The Role of the Compliance Officer for Insurance Firms</b> (Full Day - Dublin)
Thursday 3rd March 2011 (9.00am to 5.00pm)	<b>Capital Requirements Directive for Investment Firms</b> (Full Day - Dublin)
Tuesday 8th March 2011 (9.00am to 1.00pm)	<b>Risk-based Compliance Monitoring for Financial Institutions</b> (Half Day - Dublin)
Thursday 10th March 2011 (9.00am to 5.00pm)	<b>Directors Duties and Corporate Governance of Credit, Financial and Insurance Institutions Regulated in Ireland</b> (Half Day - Dublin)
Tuesday 15th March 2011 (9.00am to 5.00pm)	<b>Data Protection &amp; How To Conduct A Data Protection Audit</b> (Full Day - Dublin)
Tuesday 22nd March 2011 (9.00am to 1.00pm)	<b>Central Bank Inspections and Enforcement</b> (Half Day - Dublin)
Friday 25th March 2011 (9.00am to 1.00pm)	<b>Role of the Trustee for Collective Investment Funds</b> (Half Day - Dublin)
Wednesday 30th March 2011 (9.00am to 5.00pm)	<b>Anti-Money Laundering &amp; Terrorist Financing</b> (Full Day - Dublin)
Tuesday 5th April 2011 (9.00am to 5.00pm)	<b>Introduction to Solvency II</b> (Full Day - Dublin)
Thursday 7th April 2011 (9.00am to 1.00pm)	<b>Introduction to Financial Services Regulation in Ireland</b> (Half Day - Dublin)
Tuesday 12th April 2011 (9.00am to 1.00pm)	<b>Understanding Funds for Lawyers and Auditors</b> (Half Day - Dublin)
Tuesday 19th April 2011 (9.00am to 5.00pm)	<b>Understanding MiFID</b> (Full Day - Dublin)

Thursday 21st April 2011  
(9.00am to 5.00pm)

Anti-Money Laundering & Terrorist Financing  
(Full Day - Dublin)

Further details available on our website at <http://www.complianceireland.com/publictraining.html>

### How to Make a Booking

You can book any of our courses online. See <http://www.complianceireland.com/publictraining.html> for further details of the course of your choice.

You can also make a booking by sending an email to [bookings@complianceireland.com](mailto:bookings@complianceireland.com) containing the following information:

- ~ your contact details
- ~ the name and date of the course that you would like to attend
- ~ the attendee(s) name(s)
- ~ the name of the person that the invoice should be addressed to
- ~ any reference/cost centre/purchase order number that you would like stated on the invoice

We will follow up your booking by sending out an invoice.

### Course Fee Payment Methods:

We accept payments by bank/wire transfer, cheque and credit card (via PayPal links on our website).

### Course Venues

Our training courses are run in the Camden Court Hotel, Camden Street, Dublin 2 (subject to change). The venue will be confirmed by email closer to the course date.

### Terms & Conditions:

Our Terms and Conditions and Cancellation Policy (Terms) are located at [http://www.complianceireland.com/Events\\_Term\\_Cancel.html](http://www.complianceireland.com/Events_Term_Cancel.html). Please read the Terms before making your booking. A link to the Terms appears on each webpage advertising a course/Event. Please note that Compliance Ireland reserves the right to alter the content and/or cancel scheduled courses/Events. Where Compliance Ireland cancels a course/Event a full refund will be made. All bookings must be paid for in advance unless agreed otherwise. Please also see our Privacy Policy/Statement at <http://www.complianceireland.com/gpage.html>

## Job Vacancies

### Job Vacancies for February

Did you know that **Compliance Ireland** runs a free jobs board on its website? The service that we provide allows employers to advertise their vacancies free of charge (no fee / no commission) and acts as a portal for candidates wishing to deal with employers directly. The roles advertised are in the area of compliance, legal and risk.

This month, we have uploaded 5 new postings - <http://www.complianceireland.com/jobs.html>.

Anyone interested in subscribing for email notifications of new postings should send an email to [updates@compliancejobs.ie](mailto:updates@compliancejobs.ie).

Employers wishing to avail of this service should email the following details to [jobs@compliancejobs.ie](mailto:jobs@compliancejobs.ie) for uploading onto our Jobsboard:

- ~ a copy of your job specification in Word format.
- ~ details of how candidates contact you (email address, phone number, fax number or postal address etc)
- ~ whether or not you would like your vacancy marked with **'No Agents'** (ie, if you do not want third parties (e.g. recruitment agents/job listing boards) to contact you).

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