

Record Fine by Irish Financial Regulator

The financial services regulatory authority in Ireland, the Central Bank of Ireland (the “Central Bank”) has applied a record fine of over €80 million to Allied Irish Banks (“AIB”) pursuant to its Administrative Sanctions Procedure (“ASP”). This is the largest monetary penalty yet imposed by the Central Bank under the ASP.

Investigation

The Central Bank launched its Tracker Mortgage Examination (the “TME”) in 2015 as an industry-wide review to ensure that lenders were providing tracker customers with their related entitlements on mortgage products. AIB is the second largest bank in Ireland with approximately 2.8 million customers and was among the institutions subject to the review. Ultimately the investigation found that AIB had breached related contractual duties and had also failed to fulfil its obligations under the Code of Practice for Credit Institutions 2001 and Consumer Protection Codes 2006 – 2012. Over 10,000 mortgage accounts were impacted between August 2004 and March 2022 and AIB has admitted to 57 separate regulatory breaches.

Specific Findings

The key findings from the investigation are that AIB: Failed to consider customer entitlements when withdrawing its tracker product; breached related contracts; delayed in rectifying breaches; failed to take appropriate action to determine the financial implications of its wrongdoing; wrongfully excluded certain accounts from review; failed to handle complaints fairly and consistently; failed to properly manage related services to customers and failed to properly implement the TME’s ‘Stop the Harm’ principles.

The Fine

The Central Bank in fact determined that AIB be fined €119,000,000. This was, however, reduced by 30% to €83,300,000 in accordance with the relevant settlement discount scheme operated pursuant to the ASP for co-operation.

The maximum penalty which the Central Bank may impose as a fine is the greater of €10,000,000 or an amount equal to 10% of the annual turnover of the regulated financial service provider. Such fines may be imposed pursuant to Section 68(b) of the Central Bank (Supervision and Enforcement) Act 2013, which significantly increased the Central Bank’s sanctioning powers. Recent years have witnessed a steady increase in the size of fines imposed. The Central Bank has now launched almost 150 ASPs and imposed fines of nearly €300 million. The size of the fine in this case was stated to have been imposed to reflect “the gravity of the failings identified” and their impact on customers impacted.

It is also worth noting that this fine is separate from the amounts which AIB has been required to pay in redress, compensation and account balance adjustments to impacted customers. The figures payable under these headings exceed €125,000,000 so far.

How Clerkin Lynch Can Help

The Litigation and Financial Services teams in Clerkin Lynch LLP collaboratively advise clients on a full range of relevant scenarios, including with regard to their duties and rights in relation to regulatory investigations or when seeking to defend themselves from allegations pursuant to an ASP. The firm acts for both corporate clients as well as for individuals, in particular in their capacity as directors and has significant practical experience in such cases.

The firm also advises on the drafting and ongoing implementation of policies and procedures for regulated entities to assist them in avoiding potential exposure to ASPs.



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