

Central Bank imposes €1.82 million fine on Danske Bank

The Central Bank of Ireland (the “CBI”) has fined the Irish branch of Danske Bank A/S (“Danske”) €1,820,000 for three breaches of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended (the “CJA”). The fine is the first of its kind imposed by the CBI on a financial institution incorporated and authorised outside of Ireland.

Background

Danske is a financial institution incorporated in Denmark. Its Irish branch operates in Ireland on a passported basis, and accordingly compliance of the branch with Anti-Money Laundering and Countering of Financing of Terrorism (“AML/CFT”) obligations is monitored and regulated by the CBI.

The Legislation

The CJA requires financial institutions to monitor business relationships with customers to the extent warranted by the risk of AML/CFT. Danske’s customer transaction monitoring system (“TMS”) assists it in identifying high risk customers that may require enhanced AML/CFT due diligence.

Investigation by the CBI

The CBI conducted an investigation which found that between 2010 and 2019, historic filters applied in Danske’s TMS excluded certain categories of customers. This issue was first identified by Danske in an internal audit report in 2015, however it was not communicated to its Irish branch. Instead, steps were only taken to remedy the issue in October 2018, when the Irish branch became aware. The CBI was not informed until February 2019. The exclusion of certain categories of customers gave rise to three breaches of the CJA.

1. Failure to Conduct Transaction Monitoring

The TMS issues meant that the Irish branch was unable to determine whether any of the unmonitored transactions were unusually large or complex or if there was an unusual pattern of transactions.

2. Enhanced Customer Due Diligence

Danske breached S. 39 of the CJA by failing to take into consideration transaction monitoring data necessary to identify and assess AML/CFT risks.

3. Adaption of AML/CFT Policies and Procedures

The CBI found further breaches of S. 54(1), 54(2) and 54(4) of the CJA on the basis that the policies and procedures in place did not identify the erroneous exclusion of certain categories of customers from transaction monitoring.

Penalty Imposed by the CBI

The CBI determined the appropriate penalty to be €2,600,000. The penalty was reduced by 30% to €1,820,000 in accordance with the CBI’s Administrative Sanctions Procedure, with the CBI noting Danske’s financial position and its cooperation with the CBI.

The penalty is the first of its kind imposed by the CBI on a financial institution incorporated and authorised outside Ireland, but which provides financial services in Ireland on a passported basis as a branch of the overseas EU entity.

Recommended Action:

The investigation and resultant penalty demonstrates once again the CBI’s willingness to pursue enforcement actions and impose sanctions where firms fail in their AML/CFT obligations. It is advisable for financial services providers (including branches of firms incorporated outside Ireland) to review their AML/CFT policies and procedures (as well as other elements of their business subject to CBI oversight) and ensure strict compliance with the CJA and any other relevant legislative provisions.



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