

## Bank of Ireland Fined €100m for regulatory breaches

On 27 September 2022, the Central Bank of Ireland (“CBI”) fined The Bank of Ireland (“BOI”) €100.5m for regulatory breaches in respect of 15,910 tracker mortgage customer accounts which were impacted between August 2004 and June 2022. This is the largest fine imposed to date by the CBI and is in addition to the more than €186.4m already paid by BOI to impacted customers. The fine was issued pursuant to the CBI’s Administrative Sanctions Procedure (“ASP”) and was initially set to be €143.6m but this was reduced by 30% to €100.5m in accordance with the settlement discount scheme provided for in the ASP.

### Background

BOI introduced tracker mortgages in 2001 but ceased to offer them to new customers in 2008. BOI then carried out an assessment to determine the tracker entitlements of its existing customers and, despite identifying ambiguities in their mortgage letter of offers (“MLOs”) and mortgage form authorisations (“MFAs”), concluded that certain groups of customers were not entitled to revert to a tracker rate after a fixed rate period ended.

In 2010, the CBI challenged BOI regarding the lack of clarity of its MLO/MFA documentation and in 2011 BOI engaged in a voluntary remediation scheme. However, during the course of the Tracker Mortgage Examination, an industry-wide examination of tracker mortgage related issues launched by the CBI in December 2015, the CBI discovered that BOI wrongfully excluded a significant number of customers from the voluntary remediation scheme.

BOI has admitted to 81 separate breaches of regulations including the European Communities (Unfair Terms in Consumer Contracts) Regulations (1995); the Code of Practice for Credit Institutions (2001) and the Consumer Protection Codes 2006 and 2012.

### Key Findings

The key findings from the CBI’s investigation include that:

- BOI provided unclear contractual documents to its customers;
- BOI failed to interpret its unclear contractual documents in customers’ best interests;

- BOI failed to warn customers about the consequences of decisions relating to their mortgage;
- BOI implemented an unfair complaints handling practice in respect of customers;
- Bank of Ireland’s deficient mortgage systems and controls, contributed to a significant number of operational errors; and that
- BOI wrongfully excluded customers from the protections of the Central Bank’s Tracker Mortgage Examination by including them only after “significant challenge” by the regulator.

The CBI noted that Bank of Ireland’s failures resulted in the loss of 50 properties (including 25 family homes) and pointed out that this would have been avoided if BOI had complied with the most basic and fundamental of its consumer protection obligations.

### Conclusion

This is another noteworthy example of the enforcement team in the CBI pursuing and taking action against a regulated business for wrongdoing. It clearly illustrates the need to ensure regulatory and contractual compliance by businesses operating in the jurisdiction and the willingness of the CBI to take vigorous action to protect consumer interests. The litigation team at Clerkin Lynch have a strong track record of assisting defendants, including specifically in financial services matters, which makes them well placed to assist firms and their directors when subject to regulatory scrutiny and potential proceedings.



**Mark Browne**  
Partner  
Email: [markbrowne@clerkinlynch.com](mailto:markbrowne@clerkinlynch.com)  
Phone: 01 611 4400



**Cathal Coffey**