



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland and Ava Capital Markets Limited

The Central Bank of Ireland (the “**Central Bank**”) has entered into a Settlement Agreement with effect from 4 March 2014 with Ava Capital Markets Limited (the “**Firm**”), a regulated financial services provider, in relation to contraventions of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. 60 of 2007) (the “**MiFID Regulations**”).

Reprimand and fine

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €165,000.

Contraventions

The contraventions of the MiFID Regulations, which occurred during the period between 1 February 2010 and 31 December 2011 (the “**Relevant Period**”), were as follows:

- The Firm executed 523,389 transactions during the Relevant Period and, in breach of Regulation 112(3)(b) and (c), failed to report details of these transactions to the Central Bank by the close of the following working day or reported incorrect details of those transactions.
- In breach of Regulation 33(1)(a), the Firm failed to establish adequate policies and procedures sufficient to ensure compliance with the Firm’s obligations under the MiFID Regulations, specifically its transaction reporting obligations.

- In breach of Regulation 33(1)(f), the Firm failed to ensure that it had in place and used effective control and safeguard arrangements for its information processing systems, relating to transaction reporting.
- In breach of Regulation 105(2), the Firm failed to exercise due skill, care and diligence when entering into and/or managing an arrangement for the outsourcing of operational functions relating to transaction reporting to an external service provider.
- In breach of Regulation 33(1)(e), the Firm failed to ensure that any outsourcing by the Firm of transaction reporting functions was not undertaken in such a way as to impair the quality of the Firm's internal control or the Central Bank's ability to monitor the Firm's compliance with its transaction reporting obligations.

Background

In 2011 the Central Bank identified a number of issues with transaction reports submitted by the Firm. As a result of this, the Firm conducted a historical analysis of its transaction reports, and in January 2012 the Firm notified the Central Bank that a considerable number of transaction reporting failures had been discovered.

From July 2009 to July 2011, the Firm relied on a transaction reporting system the development of which had been outsourced to an external service provider. The transaction reporting failures have now been rectified by the Firm. The Firm's internal IT department has redeveloped the Firm's transaction reporting system and the Firm no longer outsources this function.

Penalty decision factors

The penalties imposed in this case reflect the importance the Central Bank places on accurate and timely reporting of all regulatory information. In this case, the information comprised transactions in financial instruments under the MiFID Regulations.

In deciding the appropriate penalties to impose, the Central Bank has taken the following into account:

- the seriousness with which the Central Bank views any contravention of the MiFID Regulations;
- the number of transactions concerned;
- that the Firm has taken appropriate remedial steps to rectify the contraventions and causes thereof; and
- the cooperation of the Firm during the investigation and in settling at an early stage in the administrative sanctions procedure.

The Central Bank confirms that the matter is now closed.

– End –

The Central Bank of Ireland has entered into a Settlement Agreement on 4 March 2014 with Ava Capital Markets Limited, a regulated financial services provider, in relation to contraventions of the European Communities (Markets in Financial Instruments) Regulations 2007.

The Central Bank of Ireland also issued a general comment from Director of Enforcement, Derville Rowland:

“Since 2010, this is the sixth settlement concluded by the Central Bank with a firm for transaction reporting failures. In light of the public statements made and enforcement actions taken by the Central Bank, firms should be aware of the importance of compliance with obligations regarding accurate and timely transaction reporting and should take positive action to ensure these obligations are being met.

The Central Bank is tasked with the statutory objective of ensuring the proper and effective regulation of financial service providers and the markets. Failures by regulated entities to submit information to the Central Bank in a timely and accurate manner is an unacceptable

risk to the Central Bank. It undermines the Central Bank's ability to supervise financial service providers and markets, directly affecting the Central Bank's ability to properly regulate financial service providers and preventing it from fulfilling one of its key statutory objectives.

The Central Bank views the existence and proper functioning of a firm's policies, procedures, systems and controls as being fundamental to ensuring its compliance with its regulatory requirements. The existence of inadequate policies, procedures, systems and controls is an unacceptable risk to the Central Bank as it can be the basis for, and potentially leads to, large scale non-compliance with regulatory requirements.

In circumstances where firms outsource important operational functions to external service providers, the Central Bank expects firms to exercise due skill and care when entering into and/or managing those outsourcing arrangements and to ensure that the outsourcing is not undertaken in such a way as to impair the quality of the internal control by firms of those functions, or the Central Bank's ability to monitor compliance by firms with their obligations.

The pursuit of enforcement actions in respect of the accuracy of information submitted to the Central Bank and systems and controls failings have been two of the Central Bank's Enforcement Priorities since 2011 and, for that reason, where breaches occur in these areas, regulated entities and their management should expect vigorous investigation and follow up by the Central Bank."