



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

**Settlement Agreement between the Central Bank of Ireland  
and Bank of Montreal Ireland p.l.c.**

The Central Bank of Ireland (the “**Central Bank**”) has entered into a Settlement Agreement with effect from 21 May 2014 with Bank of Montreal Ireland p.l.c. (the “**Firm**”), a regulated financial services provider, in relation to prescribed contraventions of the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. 661/2006) (as amended) (the “**2006 Regulations**”) and of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. 395/1992) (the “**1992 Regulations**”).

**Reprimand and fine**

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €650,000.

**Contraventions**

The three contraventions, which occurred at various periods between March 2008 and March 2013, are as follows:

1. The 2006 Regulations set limits on the level of financial exposure which a firm can have to any person or entity in order to contain the level of loss which a firm may incur in the event that the other party experiences financial difficulties. The Firm had

an exposure to a client (in this case its ultimate parent company) in excess of the permitted limits set out in Regulation 57(2) of the 2006 Regulations;

2. The 2006 Regulations set out how a firm should calculate its financial exposures. The Central Bank assesses the risks to which a firm is exposed on the basis of exposure figures reported by firms in large exposure returns and solvency returns. The Firm failed properly to calculate its exposure under swap transactions with its ultimate parent company and an affiliate in accordance with Regulation 53(1) of the 2006 Regulations and therefore reported incorrect exposure figures to the Central Bank; and
3. The Firm breached Regulation 16(3) of the 1992 Regulations, in that the Firm failed to have effective processes and adequate internal controls in place to ensure compliance with the permitted limits set out in Regulation 57(2) of the 2006 Regulations and compliance with Regulation 53(1) of the 2006 Regulations in respect of its exposure to related party swap transactions.

### **Reporting on Large Exposures to the Central Bank**

The large exposure requirements in the 2006 Regulations are imposed on credit institutions to limit the level of exposure which a credit institution may have to any one person or entity, or group of connected persons/entities and to contain the risk to a credit institution should the other party experience financial difficulties. The 2006 Regulations allow for exemptions from the large exposure limits in respect of certain large exposures. Credit institutions are required to submit large exposure returns to the Central Bank detailing the level of their large exposures against the permitted limits in the 2006 Regulations.

### **Reporting on Capital (Solvency) to the Central Bank**

Credit institutions are required to hold a particular level of funds (capital) as a cushion against potential losses. The amount of capital to be held by a credit institution is related to the level of the credit institution's exposures and the perceived risk attaching to these exposures. Credit institutions are required to submit capital (solvency) returns on a periodic basis to the Central Bank setting out the level of capital they hold and details of the exposures against which they are holding this capital. This information provides the Central

Bank with a key indicator of the credit institution's ability to absorb losses without becoming insolvent (solvency position of institution).

## **Background to the Contraventions**

### **Contravention 1**

In January 2013, the Central Bank raised queries with the Firm in respect of a particular financial exposure contained in a regulatory (large exposure) return. The Firm initially advised that this exposure was exempt from large exposure limits as it was an exposure to a client, which is an institution, and which was due to mature in less than one year. However, the Firm subsequently accepted that, due to a change in legislation, this exemption was not available to it.

The Firm was relying in this regard on an exemption which was available under the Capital Requirements Directive, which was implemented in Ireland by the 2006 Regulations. However, when the 2006 Regulations were amended in 2010, as a result of the second Capital Requirements Directive (2009/111/EC) ("**CRD II**") being implemented in Ireland, the rules relating to exemptions changed and this exemption was no longer available under the amended 2006 Regulations.

This had resulted in the Firm submitting inaccurate large exposure returns to the Central Bank. The Firm subsequently submitted revised large exposure returns to the Central Bank taking account of the required amendment in respect of the particular exposure. On the basis of the revised figures provided to the Central Bank, the Firm was in breach of the large exposure limits in respect of the particular exposure.

### **Contravention 2**

In February 2013, the Firm notified the Central Bank that, due to an issue with data feeding into large exposure returns and capital (solvency) returns, the Firm's exposures under swap transactions with its ultimate parent company and an affiliate had not been calculated correctly in these returns. The Firm had not calculated the potential future credit exposure

(the maximum expected credit exposure over a set period of time) for these exposures in accordance with the 2006 Regulations.

### **Contravention 3**

On further review of the matters which form the basis of Contraventions 1 and 2, deficiencies in processes and internal control mechanisms were identified and Contravention 3 relates to these deficiencies.

### **Penalty decision factors**

The penalties imposed in this case reflect the importance the Central Bank places on compliance with regulatory reporting obligations and on ensuring that the large exposure limits are complied with.

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

- the seriousness with which the Central Bank views the failure by regulated firms to fully consider new regulatory reporting obligations and to prepare regulatory returns in accordance with such obligations;
- the seriousness with which the Central Bank views contraventions relating to capital and large exposure reporting as they impact upon the ability of the Central Bank to ascertain with certainty the solvency position of the Firm and the level of credit risk to which the Firm is exposed;
- the importance of monitoring (on an ongoing basis) and limiting the size of large exposures;
- the Firm notified the Central Bank immediately on discovery of the incorrect calculation of its exposure under related party swap transactions;
- the Firm's solvency ratio remained at all times in excess of required capital levels;
- the Firm has taken appropriate remedial steps to rectify the breaches;

- the Firm has introduced enhanced procedures and controls to improve its monitoring of large exposures and preparation of regulatory returns; 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 also issued a general comment from Director of Enforcement, Derville Rowland:

*“This is the second settlement by the Central Bank with a credit institution in respect of the failure to adhere to large exposure limits; this settlement also, however, involves a failure to ensure the accuracy of regulatory reporting to the Central Bank. Each of these elements is considered by the Central Bank to be a serious matter.*

*This settlement also relates to the failure by a credit institution to have in place proper internal controls to ensure compliance with regulatory reporting obligations and with large exposure limits.*

*Regulated firms are required to submit regulatory returns to the Central Bank on a regular basis containing information which is used by the Central Bank to determine the financial stability of a firm and to monitor the level of risks to which a firm is subject. The accuracy and compliance with all regulatory obligations of such regulatory returns is key to the Central Bank’s ability to supervise regulated firms.*

*The failure by a regulated firm to ensure that it fully considers the implications of new regulatory requirements is also viewed as a serious matter by the Central Bank. In this regard, in light of the new regulatory reporting obligations which have been introduced in*

*the Capital Requirements Directive IV (“CRD IV”) which was transposed into Irish law on 31 March 2014, the Central Bank expects that firms will have in place effective processes and internal controls to ensure compliance with their regulatory reporting obligations.*

*Where the Central Bank finds evidence of failures in the areas of regulatory reporting or compliance with regulatory limits the Central Bank will continue to use its range of regulatory tools including enforcement.”*