



Settlement Agreement between the Central Bank of Ireland and Computershare Investor Services (Ireland) Limited

Central Bank imposes fine of €322,500 on Computershare Investor Services (Ireland) Limited in respect of Client Asset Requirements breaches

The Central Bank of Ireland (the “Central Bank”) fined Computershare Investor Services (Ireland) Limited (the “Firm”) €322,500 and reprimanded it for breaches of the Client Asset Requirements (the “CAR”) imposed pursuant to Regulation 79 European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007, as amended) (the “MiFID Regulations”).

The breaches related to the principle of certainty of ownership of client assets as set out in the CAR and access to client assets in the event of the insolvency of the Firm.

The Firm failed to:

1. arrange for the appropriate registration of certain client financial instruments in the name of its client or an eligible nominee in contravention of Requirement 6.4.1 of the CAR; and
2. have in place, prior to opening an account, required acknowledgements regarding the manner in which client financial instruments were held in contravention of Requirement 6.5.1 of the CAR.

These findings have been accepted by the Firm as part of the settlement agreement between the Central Bank and the Firm entered into on 15 December 2015.

Derville Rowland, the Central Bank’s Director of Enforcement said:

“For 21 months, between 2011 and 2013, the Firm breached key provisions of the CAR regarding certainty of ownership of client assets relating to a specific service which it provided. The Firm did not arrange for the registration of the registrable client financial instruments in the name of the client or in the name of an eligible nominee; or obtain the required acknowledgement letters regarding those

assets. The daily average of the aggregate value of client assets affected by the breaches was €4.4 million.

In the event of the Firm's insolvency, the Firm's non-compliance could have resulted in delay in returning client assets.

The Central Bank has repeatedly highlighted CAR compliance as a matter of significant importance and it is consistently recognised as a key area in our Enforcement Priorities. One of the principal objectives of the CAR is the efficient and cost effective return of assets to clients in the event of the insolvency of a regulated firm. The CAR and its successor, the Client Asset Regulations 2015, are vital safeguards designed to protect client assets. Breaches erode the special trust placed in regulated firms.

The CAR and other legal and regulatory requirements protect consumers of financial services and firms must adhere to them at the expense of client care concerns. Failure to protect client assets will result in Enforcement action."

BACKGROUND

The Firm's authorisation and core business

The Firm is authorised by the Central Bank under the MiFID Regulations to provide the investment services of receipt and transmission of orders in relation to a range of financial instruments and to provide ancillary services involving the safekeeping and administration of financial instruments for the account of clients. It is also authorised under the Investment Intermediaries Act 1995 to provide administration services to collective investment schemes (i.e. funds) including acting as registration agent for such funds.

The Firm's core business is as a share registrar for publicly listed clients. This can include acting as a paying agent administering and disbursing dividends to shareholders on behalf of clients.

A discrete business service

The breaches in this case did not relate to the Firm's core business but arose in the context of a specific service provided by the Firm to a client. The Firm, at the request of its client, invested that client's own funds on a short term basis into shares in a qualifying money market fund. At the end of the investment period those shares were redeemed.

The investment triggered certain obligations for the Firm under the CAR with which it failed to comply. The Central Bank identified the breaches during a review of the Firm's client asset arrangements.

PRESCRIBED CONTRAVENTIONS

Breach of CAR Requirement 6.4.1

CAR Requirement 6.4.1 requires firms to arrange for the registration of registrable client financial instruments in the name of the client or in the name of an eligible nominee.

The investment in shares related to registrable client financial instruments. On multiple occasions from 3 February 2012 to 12 August 2013 the Firm failed to register those shares in the name of the client or an eligible nominee. The breach related to six separate accounts.

Breach of CAR Requirement 6.5

CAR Requirement 6.5 provides that before a firm opens an account for client financial instruments with a qualifying money market fund, relevant party, or eligible custodian, it must have notified the institution concerned of certain matters set out in Requirement 6.5.1 (a)–(j) and received an acknowledgment from the institution in respect of those matters.

Prior to opening the accounts, on 28 November 2011 and 21 June 2012, the Firm failed to provide notification in writing to the qualifying money market fund, in respect of the matters set out in Requirement 6.5.1 and failed to procure a written acknowledgement from the fund. The Firm continued to operate this business service in breach of Requirement 6.5 in circumstances where it attempted to obtain an acknowledgement letter from the fund and was aware from correspondence with that fund that such a letter was not forthcoming.

Effect of the breaches

During the period of the breaches the daily average of the aggregate value of client assets held in the relevant qualifying money market fund accounts was €4.4 million. The fact that the financial instruments were not in the name of the client (or an eligible nominee) posed the risk that, if the Firm fell into insolvency there could have been delay in resolving return of the client assets.

The CAR was designed to avoid this situation and to ensure the cost effective return of assets to clients in the event of the insolvency of a regulated firm.

Central Bank public statements regarding the risk to assets on insolvency

The Firm's breaches occurred despite the Central Bank having made it clear to industry that we see the risk to client assets on an insolvency as including the risk of delay in return of those assets to investors.

The CAR's objectives are clearly stated at the outset and include, *"to make adequate arrangements to safeguard clients' ownership rights, especially in the event of the firm's insolvency..."*.

On 12 May 2008 the Central Bank's CAR-related industry letter highlighted that one of the objectives of the client asset regime is *"...to ensure that the ownership of assets can be readily and accurately attributed to each client or group of clients..."*. The Schedule to that letter expressed our concern that, *"The CAR requires that a firm must receive certain written confirmations from an institution for each client account"*.

The exposure of client assets to potential delay can lead to a risk that consumers may lose access to their assets for a period. This can lead to loss of investment opportunity and consumer disruption.

PENALTY DECISION FACTORS

This case and the sanctions imposed reflect the importance to the Central Bank of compliance with the CAR, particularly the principle of certainty of ownership of client assets.

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

1. The seriousness of the breaches: the client assets at issue were not protected in the way required by the CAR which could have led to delay in the return of those assets to the client.
2. Following a Central Bank inspection in March 2010, the Firm was reminded of the importance of compliance with the CAR.
3. The breaches occurred notwithstanding the Firm's awareness of the applicability of the CAR to this business service.
4. The Firm attempted to comply with its acknowledgment obligations under the CAR 4 months after opening the account with the qualifying money market fund on 28 November 2011 and continued to provide the service when the fund did not provide such a letter.
5. The value of the assets affected by the breaches.

6. The breaches were not self-reported and were uncovered following a review by the Central Bank's Client Asset Specialist Team of these particular client asset arrangements.
7. The Central Bank's previous industry communications on CAR, in particular the "Review of the Regulatory Regime for the Safeguarding of Client Assets" (March 2012).
8. The need to have an appropriate deterrent impact.
9. The cooperation of the Firm during the investigation and in settling at an early stage in the Central Bank's Administrative Sanctions Procedure.

The Central Bank confirms its investigation into Computershare in respect of this matter is closed.

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NOTES TO EDITORS

1. The Central Bank's 23 March 2012 'Review of the Regulatory Regime for the Safeguarding of Client Assets' is [here](#).
2. The Client Asset Requirements which are [here](#) were replaced, on 1 October 2015, by the Client Asset Regulations, which are [here](#). The provisions of the Client Asset Requirements under which this case proceeded were maintained in substance.
3. The fine imposed by the Central Bank was imposed under Section 33AQ of the Central Bank Act 1942. The maximum penalty was €10,000,000.
4. The fine reflects the application of the maximum percentage settlement discount of 30%, as per the Early Discount Scheme set out in the Central Bank's "Outline of the Administrative Sanctions Procedure" which is [here](#).
5. The protection of client assets in the Markets sector has consistently appeared as an Enforcement priority. The Central Bank's Enforcement priorities for 2015 are available on the Central Bank website ([here](#)).