



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

Deputy John McGuinness  
Chair

Committee on Finance, Public Expenditure and Reform, and Taoiseach  
Houses of the Oireachtas  
Kildare Street  
Dublin D02 XR20

Gabriel Makhlouf  
Gobharnóir / Governor

1 October 2024

*Dear Chair,*

**Re: Information on topics of interest to Committee members**

Following your letter dated 20 September, I am sending you information on the topics that the Committee is interested in discussing at its public meeting with the Central Bank of Ireland on 9 October.

**Reorganisation of consumer protection**

The environment in which we operate is changing rapidly, driven by technology change and consumer preferences. The ways in which we as consumers buy, use and engage with financial services has changed hugely, leading to new risks in the financial sector we supervise and for the consumers we protect.

The Central Bank's mission is to serve the public interest by maintaining monetary and financial stability while ensuring that the financial system operates in the best interests of consumers and the wider economy. All of our work is aimed at serving the public interest and protecting consumers of financial services, whether it is through the Consumer Protection Code, the mortgage measures, monetary policy, our oversight of payments systems, or supervising to ensure firms are resilient and are acting in the best interests of their consumers.

As outlined in my letter of 16 September, the Central Bank is making changes to the way we are organised to deliver our financial regulation responsibilities. Consumer protection remains a core part of these responsibilities.

In order to continue to deliver on our mandate both today and into the future, we are changing our approach to ensure that consumers of financial services are protected in a changing and increasingly complex environment. This includes moving to an integrated framework where, at an operational level, directorates with oversight of banks, insurance companies and capital markets will be responsible for the supervision of all the functions of their respective sectors (as opposed to separate directorates undertaking supervisory activities for consumer protection, prudential regulation and market supervision).

The new framework will ensure we are more efficient and effective in our supervisory work. It will make it easier to direct our supervisory resources to the areas of most risk to consumers or the system more widely. Importantly, it will also reinforce the fact that consumer protection is at the heart of day to day supervision and ensure all financial regulation Directors are explicitly responsible for consumer protection in their role.

Alongside the revised Consumer Protection Code (to be published in the New Year), the new approach will allow us to do more, not less, to protect consumers. Moreover, the focus on consumer protection at the most senior level will not change. Derville Rowland, as Deputy Governor (Consumer and Investor Protection), will continue to have consumer protection at the core of her responsibilities. And the entire senior leadership team led by me as Governor, will continue to have a focus on consumer protection. The Central Bank Commission's Consumer Advisory Group will also continue to operate as it does now.

As I have said before, our strong commitment, role and work in protecting consumers of financial services will continue. Consumer protection is core to the Central Bank's mandate and this is not changing. The changes we are making are at an operational level and aim to enable us to continue to deliver successfully into the future.

These changes will come into effect in January and I am confident that they will ensure that the financial system continues to operate in the best interests of consumers and the wider economy.

### **Approval of the prospectus for the sale of Israeli government bonds**

The Central Bank is designated as the competent authority in Ireland for the approval of securities prospectuses under the [EU Prospectus Regulation](#) (2017/1129/EU "*on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC*").

Under the Prospectus Regulation, a prospectus must be drawn up, approved and published when securities are to be offered to the public or admitted to trading on a regulated market in the EU. The Prospectus Regulation covers a variety of different securities, such as shares, bonds, structured products but also government bonds for third countries. Government bonds issued by EU Member States are exempt from the requirement to publish a prospectus under the Prospectus Regulation.

As competent authority under the Prospectus Regulation, the Central Bank is required under law to assess whether a prospectus in respect of which Ireland is the 'home Member State' has been drawn up in compliance with the requirements of that Regulation.

The assessment which the Central Bank is required to carry out is based solely upon the completeness, comprehensibility and consistency of the information in the prospectus, which are assessed against the prescribed requirements in the Prospectus Regulation (as further supplemented by Commission Delegated Regulation (EU) 2019/980).

Where a prospectus complies with the requirements of the Prospectus Regulation, it must be approved unless there is a valid legal basis for not doing so. For example, under the EU's

financial sanctions against Russia (Council Regulation (EU) 2022/262 amending Council Regulation (EU) No 833/2014), it is prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities issued after 9 March 2022 by Russia, its government, or the Central Bank of Russia.

Third-country issuers have to choose one of the EU competent authorities in the EU as their Home Member State subject to certain criteria set out in the EU Prospectus Regulation. The choice of Home Member State within the EU is up to the issuer and the Central Bank can only object if we do not believe we have legal jurisdiction for the approval based on the Prospectus Regulation.

Prior to 2021, the UK was the EU Home Member State under the EU Prospectus Regulation for the State of Israel. Ireland was chosen as new Home Member State after the UK left the EU. The Central Bank approved the first prospectus for the bond issuance programme in 2021. The securities are offered in Ireland, Austria, France, Germany and the Netherlands through the EU passport. The securities are not listed on a regulated market in the EU but remain listed on the London Stock Exchange.

### **Divestment from certain companies with potential activities the Occupied Territories**

In April 2024, we provided responses to the outstanding issues raised by Committee members during our appearance at the Committee on 14 February. The response contained details of our Investment Assets, including our approach to sustainable investing and our investment exclusion policy.

It was noted that approximately 3% of the Central Bank's Investment Assets are invested in publicly listed equities, on a passive basis that captures the broad market's exposure. An external investment manager passively manages the Central Bank's equities mandates on our behalf. This means that the manager tracks the composition and performance of global equity indices as closely as possible. We direct the indices that are to be tracked by the external manager.

Our response also included details of our equity investments in companies that appear on the Office of the United Nations High Commissioner for Human Rights (OHCHR) list of companies with certain business activities in the Occupied Territories (OT). At the same time, we highlighted that there are limitations with relying solely on the list to determine companies that may have activities in the OT.

In May 2024, we decided to divest (based on a list of individual equity holdings) from certain companies with potential activities in the Occupied Territories.

The divestment related to shareholdings of approximately €369,000 (market value) in four Israeli banks. This struck the most appropriate balance between a combination of risk considerations, in light of the evolving external environment.

## **Discretionary commission arrangements in motor finance**

Discretionary commission arrangements link the commission received by the credit intermediary to the interest rate paid by the consumer.<sup>1</sup> This practice in respect of motor finance hire purchase agreements sold via credit intermediaries is not prohibited by the applicable conduct rules under the existing Consumer Protection Code.

Notwithstanding that no consumer issues have been identified in Ireland regarding the practice, we undertook a review and assessment of the extent of the use of this type of arrangement. Following that review, we concluded that the incentive these arrangements create is not consistent with market outcomes that the current regulatory framework seeks to achieve.

While there is a provision of the existing Code which would prevent this type of commission arrangement, it does not currently apply to the activity of hire purchase. The provision is however being extended to apply to this activity under the new Consumer Protection code (which will be published early next year).

Despite the provision not currently applying to this activity, following our review, we concluded that the practice should cease on a go-forward basis and before the new Code comes into effect. As a result, in June 2024, [we wrote to all regulated firms providing motor finance in this way](#) and instructed them to cease the practice by end July 2024. Following this intervention, relevant motor finance providers in Ireland have ended the practice.

Where a consumer has concerns about a motor finance product they were sold, they should complain directly to the regulated firm that sold them the product. The firm is required to investigate it and if the consumer is not satisfied with how their complaint is dealt with by the firm, they have the option of then making a complaint to the Financial Services and Pensions Ombudsman (FSPO).

We are not aware of the alleged reports of mis-selling nor that you reference in your correspondence of 20 September nor have we identified instances of mis-selling to date, but will consider any information that is provided to us, to inform our supervision of this issue.

## **AIB Belfry Funds**

As the Committee is aware, AIB instigated a programme to review all investments in the Belfry Property (UK) funds on a case-by-case basis to determine if redress may be due to investors.

The sales of Belfry Funds predated the 2006 and 2012 Consumer Protection Codes and the related consumer protections. The Consumer Protection Code 2012 would apply to the sale of such a product today. There was a 2001 Code for Investment Business Services in place but this provided limited protections, compared to the protections in place for the sale of such a product today. There are therefore limitations to the regulatory framework that applied when this product was sold. Nevertheless we have worked to ensure that the review structures and principles that were put in place by AIB were comprehensive, and focused on fair outcomes

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<sup>1</sup> The Credit intermediary is allowed to set the interest rate and the commission earned is the difference between the base rate set by the Product Producer/Lender and the interest rate set by the credit intermediary on the motor finance agreement.

for their customers, in line with similar approaches required under the framework for the Tracker Mortgage Examination (for example).

Since July 2021 we have had significant supervisory engagement with AIB on both the design and execution of the Belfry review framework. We have been clear that, as in all such cases, we expect the firms we regulate to ensure investors' best interests are protected and to comply fully with the relevant regulatory requirements and expectations. In particular, we require firms to put things right where they have made errors or cause consumer or investor harm.

Following settlement of a legal case in 2021, AIB commenced a case-by-case "look back" review and associated redress framework for investors. The review was completed in Q4 2022. While the review is a matter for AIB, the Central Bank intervened to ensure that AIB was clear that we expect it to treat consumers and investors in a fair and transparent way, to ensure consumers' best interests are protected and that regulatory requirements and expectations were complied with.

Through our continuing supervision and engagement with AIB, we monitor the investigation and provision of redress and compensation for consumers and investors. This includes engagement with AIB on its further work in relation to Belfry 5&6 investor cases. We have also engaged with customer representatives on these cases, including seeking information from them specific to their clients' cases to facilitate our supervisory team on its engagement with AIB. As with all information we receive, we have reviewed and considered that information in detail in the context of our work.

### **The Credit Servicers Directive**

The EU Directive on Credit Servicers and Credit Purchasers ('the Directive') forms part of the overall strategy to address the issue of non-performing loans ('NPLs') and lays down a common framework for Credit Servicers and Credit Purchasers of NPLs issued by EU Credit Institutions.

The Directive was transposed as the 'The European Union (Credit Servicers and Credit Purchasers) Regulations 2023 ('the Regulations'), in December 2023. The Directive creates a harmonised authorisation requirement for 'Credit Servicers' (to be authorised and supervised by competent authorities, which in the case of Ireland is the Central Bank).

Credit Servicing Firms in Ireland were already subject to the existing domestic regulatory regime and the two regimes now coexist: activities that are in-scope of the Regulations are regulated as such, and, activities that are outside the scope of the Regulations continue to be regulated in line with the existing domestic regulatory regime.

A Credit Servicing Firm that was already authorised as at 30 December 2023, that is a legal entity, was recognised as a Credit Servicer and is therefore allowed to provide and passport the services provided for under the Regulations without the need to seek further authorisation.

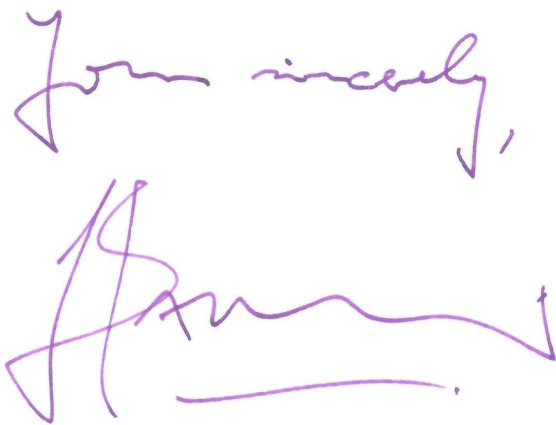
The national consumer protection framework continues to apply to borrowers in Ireland irrespective of where the Credit Servicer is authorised.

## **Compliance with Trustee Regulations (Wards of Court)**

As set out in legislation, the Wards of Court funds are a category of funds held by the Courts under the control of the Courts Service. The Central Bank has no role in relation to the oversight of the investment decisions made in relation to these monies. The Central Bank has jurisdiction only to consider complaints made that relate to activities which are within the scope of financial services regulations.

We note from the Courts Financial Statement for 2023 that the Wards of Court funds were invested in various investment funds which are authorised and supervised by the Central Bank. One such fund is the State Street Spectrum Growth Fund, also referred to in the report as the Growth Fund. This investment fund was wound up in 2021. The regulatory and supervisory framework under which the Central Bank regulates this sector primarily derives from the EU. That framework does not include a role in making investment decisions for the end investor or making a determination around the appropriate performance of a particular authorised investment funds. It would be a matter for the Courts Service (and their advisors) to determine what investment may be appropriate and to monitor this on an ongoing basis.

I hope that this information will assist the Committee in its examination of these matters and I look forward to discussing them further with you next week.

A handwritten signature in purple ink, appearing to read 'Gabriel Makhlouf', with a stylized flourish at the end.

Gabriel Makhlouf