



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland and AXA MPS Financial Limited

The Central Bank of Ireland (the “Central Bank”) has entered into a Settlement Agreement with effect from 3 October 2013 with AXA MPS Financial Limited (the “Firm”), a regulated financial services provider, in relation to two breaches of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010, (the “CJA 2010”).

Reprimand and fine

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €50,000.

Breaches

The two breaches identified, of the CJA 2010, are:

1. That between 15 July 2010 and March 2011, a period of over 7 months, the Firm was in breach of its customer due diligence requirements under sections 33 and 35(1), concerning the identification and verification of customers and beneficial owners. The breach occurred as a result of the Firm’s reliance on a third party to carry out its customer due diligence requirements when it was not eligible to do so due to its failure to comply with the pre-condition set out in section 40(4)(b) CJA 2010; and
2. That for 18 months, between 15 July 2010 and 31 January 2012, the Firm was in breach of section 37 which required it to take steps to determine whether a customer, or a beneficial owner

connected with the customer or service concerned, residing in a place outside the State, was a politically exposed person or an immediate family member, or a close associate of, a politically exposed person, prior to establishing a business relationship with the customer.

These breaches were identified by the Firm and voluntarily reported by the Firm to the Central Bank in March 2011.

Background to the breaches

Contravention 1 concerns a failure by the Firm to meet one of the reliance conditions of section 40(4) CJA 2010, such that the Firm was in breach of the customer due diligence requirements of section 33 and 35(1) CJA 2010 concerning the identification and verification of customers.

Where a firm wishes to rely on a third party to perform its due diligence requirements under sections 33 and 35(1) CJA 2010, it can only do so if it fulfils the conditions in section 40(4)(a) and (b) CJA 2010 which require:

- (a) An arrangement between the firm and the third party under which it has been agreed that the firm may rely on the third party to apply any such measure; and
- (b) That the firm is satisfied, on the basis of the arrangement, that the third party will forward to the firm, as soon as practicable after a request from the firm, any documents or information relating to the customer that have been obtained by the third party in applying the measure.

The Firm relied on a third party to carry out its customer due diligence obligations. Due to delays experienced in receiving requested documentation or information, it could not have been satisfied, within the meaning of section 40(4)(b) of the CJA 2010, that documents or information relating to customers would, in fact, be forwarded to the Firm as soon as practicable after a request from it.

Contravention 2 concerns a breach of section 37 CJA 2010 which deals with the requirements for politically exposed persons ("PEP"s). A PEP is an individual who is, or has been, at any time in the preceding 12 months, entrusted with a prominent public function. Section 37 CJA 2010 requires entities such as the Firm to take steps to determine whether or not a customer, or a beneficial owner

connected with the customer or service concerned (non-resident in Ireland), is a PEP or an immediate family member or a close associate of, a PEP. Such steps must be taken prior to establishing a business relationship with the customer. By the time that this section 37 CJA 2010 requirement came into force, on 15 July 2010, the Firm had plans to put in place an IT solution to deal with the requirements to check for PEPs, which was delayed until 31 January 2012 due to an IT issue and the interim measures put in place by the Firm to manually check for PEPs were inadequate.

Penalty decision factors

The taking of this case and the sanctions imposed reflect the seriousness with which the Central Bank views breaches of the CJA 2010 whose legislative provisions are designed to prevent the use of the financial system for the purpose of money laundering and terrorist financing.

The Central Bank's examination identified that the Firm failed to implement, in a timely manner, the controls necessary to comply with the legislative requirements imposed by the CJA 2010, in the areas of reliance on third parties to meet customer due diligence requirements and politically exposed persons. The importance of these provisions is heightened in the context of the cross-border nature of the business conducted by this Firm.

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

1. the Firm's assurance that it is fully committed to having high standards in this area;
2. the co-operation of the Firm during the Central Bank's investigation and in settling at an early stage in the Administrative Sanctions Procedure; and
3. the Firm's confirmation that it has now rectified the causes of the breaches in question.

The Central Bank confirms that the matter is now closed.

- End -

The Central Bank of Ireland entered into a Settlement Agreement on 3 October 2013 with AXA MPS Financial Limited, a regulated financial services provider, in relation to breaches of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010.

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

“This is the third settlement by the Central Bank with a firm for breaches of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010 in the last 18 months. The Criminal Justice Act 2010 came into force in July 2010.

This area has repeatedly been identified as an enforcement priority throughout 2012 and 2013. The Central Bank expects that all firms that are subject to its oversight manage their business processes to ensure compliance with the Criminal Justice Act 2010 and importantly to be in a position to demonstrate their compliance with the requirements of this law.

Firms should remember that Ireland is a member of the Financial Action Task Force (FATF) and in that context has committed to ensuring that a robust framework is in place to combat money laundering and terrorist financing and to protect the financial system from threats to its integrity.

The Central Bank will continue, where appropriate, to take action against firms who undermine the achievement of the State’s local and international obligations in this area”.