

## Central Bank of Ireland

### Administrative Sanctions Procedure

---

#### Settlement Notice

---

To: Swilly Mulroy Credit Union ("Swilly Mulroy")

Date: 1 July 2025

#### Part 1. Action

1. For the reasons set out in this Settlement Notice, the Central Bank is publishing a statement pursuant to Section 33BC(2) of the Central Bank Act 1942, as amended (the **1942 Act**), concerning sanctions imposed on Swilly Mulroy for contraventions of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the **2010 Act**), and the Credit Union Act 1997, as amended (the **1997 Act**), between January 2014 and June 2021.
2. Swilly Mulroy has agreed to the facts in Part 2 (the **Undisputed Facts**) and admitted the prescribed contraventions in Part 3 of this Settlement Notice, such that further investigation is unnecessary.<sup>1</sup> On this basis, the Central Bank has decided that it is appropriate to impose the following sanctions:
  - a reprimand;
  - a monetary penalty of €51,819 with the application of a 30% settlement scheme discount bringing the amount to €36,273.

---

<sup>1</sup> Section 33AR(1)(a)(ii) of the 1942 Act: "where there are undisputed facts that in the reasonable opinion of the Bank render an investigation unnecessary, suspects on reasonable grounds that a person is committing or has committed a prescribed contravention..."

3. Swilly Mulroy has agreed to these sanctions,<sup>2</sup> however they will not take effect unless confirmed by the High Court.<sup>3</sup>
4. Further detail on the contraventions and sanctions are set out in Parts 3 and 4 of this Settlement Notice.

### Summary of Reasons for the Central Bank's action

5. Swilly Mulroy is a community based credit union, which has operated from March 1985 to present and is authorised and regulated under the 1997 Act and continued to be authorised during the period of the prescribed contraventions. Swilly Mulroy was subject to the requirements of the 2010 Act for the period of the prescribed contraventions.
6. The 2010 Act requires credit unions to comply with their Anti-Money Laundering/Counter Financing of Terrorism (**AML/CFT**) obligations by ensuring that they conduct, amongst other things, the required levels of Customer Due Diligence (**CDD**), Transaction Monitoring and that they carry out the necessary Business and Customer Risk Assessments to prevent and detect the commission of Money Laundering and Terrorist Financing in respect of the services they provide.
7. The 1997 Act requires credit unions to be well governed and managed, and to have appropriate risk management systems with such governance arrangements and systems and controls to allow them to identify, assess, measure, monitor, report and manage the risks which they are, or might reasonably be, exposed to.
8. The matters that form the background to the Central Bank's enforcement action relate to issues identified during an inspection carried out at Swilly Mulroy by the Central Bank's Anti-Money Laundering Division in April 2022 (the **Inspection**).

---

<sup>2</sup> In this case, Swilly Mulroy has also agreed to dispense with an Inquiry.

<sup>3</sup> Pursuant to Section 33AWA of the 1942 Act.

9. Following the Inspection, the Central Bank engaged with Swilly Mulroy to ensure that compliance was achieved in respect of the issues identified. In addition and due to the seriousness of the issues identified, the Central Bank commenced an enforcement investigation in 2023.
10. The investigation found that Swilly Mulroy had been operating a service where it solicited and accepted cash from depositors, the majority of which did not hold accounts with Swilly Mulroy. These deposits were then forwarded by EFT to a branch of a local bank, without first being deposited in an account in the customer's name at Swilly Mulroy. As a result, Swilly Mulroy's normal AML/CFT controls which should have applied to customer cash lodgements were not followed and there were no alternative controls to manage the AML/CFT risk associated with these cash deposits.
11. This practice operated between 2 January 2014 and 30 June 2021 and during this period Swilly Mulroy processed 2,329 cash lodgements, receiving €8,751,694 in deposits from 23 depositors.
12. The investigation also found that the Board of Swilly Mulroy was specifically made aware on a number of occasions of the risks associated with the Cash Lodgements Service, by its internal and external auditors and the Irish League of Credit Unions. However, no steps were taken by the Board to manage the risks associated with the Cash Lodgements Service, whether by ceasing the service or by putting in place the necessary AML/CFT procedures for the Cash Lodgements Service to ensure compliance with the 2010 Act and the necessary risk management systems to ensure compliance with the 1997 Act.
13. The Cash Lodgements Service therefore continued to operate until June 2021, when a change in management resulted in the discontinuation of the service because this new management recognised the risks associated with the service.

The new management subsequently brought these risks to the attention of the Board.

14. Even at this time however, the Cash Lodgements Service was not brought to the attention of the Central Bank by Swilly Mulroy, and the details of the practice were discovered as part of the Inspection conducted by Central Bank supervisors in April 2022.

## Part 2. Undisputed Facts

### In this Settlement Notice:

**The 1942 Act** refers to the Central Bank Act 1942, as amended.

**The 1997 Act** refers to the Credit Union Act 1997, as amended.

**The 2010 Act** refers to the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010, as amended.

**The Board** refers to the Board of Directors of Swilly Mulroy Credit Union.

**AML/CFT** refers to Anti-Money Laundering/Countering the Financing of Terrorism.

**Business Risk Assessment** refers to an assessment carried out by a designated person under the 2010 Act to identify and assess the risks of money laundering and terrorist financing involved in carrying on the designated person's business activities, having regard to the factors set out under Section 30A of the 2010 Act.

**The Cash Lodgements Service** refers to the practice adopted by Swilly Mulroy of soliciting and accepting sums of cash from depositors, which was then forwarded by electronic funds transfer ("**EFT**") to a designated bank account in a local bank, without first being deposited in an account in the depositor's name within Swilly Mulroy.

**CDD** refers to Customer Due Diligence, as set out in Section 33 to Section 39 of the 2010 Act.

**Customer or Transaction Risk Assessment** refers to an assessment undertaken by a designated person to identify and assess the risk of money laundering and terrorist financing in relation to the customer or transaction concerned, having regard to the factors set out in Section 30B of the 2010 Act, for the purposes of determining the extent of measures to be taken under Section 33 and Section 35.

**ML/TF** refers to money laundering and terrorist financing.

**Transaction Monitoring** refers to the requirement to monitor customer transactions in order to identify transactions that may be suspicious in nature.

## Background

1. An Inspection of Swilly Mulroy was carried out by the Central Bank's Anti-Money Laundering Division in April 2022. The findings report detailed a range of findings, a number of which related to a service of soliciting and accepting cash from depositors who did not hold accounts with Swilly Mulroy, which was then forwarded by EFT to a branch of a local bank, without first being deposited in an account in the customer's name at Swilly Mulroy (the **Cash Lodgements Service**). This practice operated between 2 January 2014 and 30 June 2021.
2. In respect of this practice the findings report noted, in summary, that:
  - Swilly Mulroy had failed to perform a Customer or Transaction Risk Assessment in respect of those depositors who made lodgements with the Credit Union;
  - Swilly Mulroy had failed to examine the background and purpose of certain unusually large cash lodgements made by these depositors; and
  - Swilly Mulroy had failed to increase the degree and nature of monitoring of these depositors who lodged unusually large cash amounts.

## The Applicable Requirements & Guidance

3. Credit unions have been subject to the requirements of the 2010 Act since its enactment in July 2010.

4. The 2010 Act requires “designated persons”<sup>4</sup> to comply with their AML/CFT obligations by ensuring that they conduct, amongst other things, the required levels of CDD and Transaction Monitoring, and carry out the necessary Business and Customer Risk Assessments.
5. In February 2013, the Department of Finance issued sectoral guidance for credit unions.<sup>5</sup> This guidance noted that credit unions are generally lower risk for Money Laundering/Terrorist Financing (ML/TF) due to operating within a restricted market, providing financial services to members and not to the public at large. However, the guidance also highlighted that the high levels of cash transactions going through credit unions may be one area in particular where there is a higher risk.<sup>6</sup> This risk was reiterated by the Department of Finance in its “*National Risk Assessment for Ireland – Money Laundering and Terrorist Financing*”, published in 2019.<sup>7</sup>
6. In 2015, the Central Bank published its “*Report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions Compliance in the Irish Credit Union Sector*”.<sup>8</sup> The report set out a specific high risk scenario for credit unions in respect of a common practice in the sector of accepting large cash lodgements from local businesses in exchange for a credit union cheque. The report noted that there was in general, insufficient oversight of this practice including in respect of ML/TF risks.<sup>9</sup>

---

<sup>4</sup> Credit unions are “designated persons” within the meaning of the 2010 Act.

<sup>5</sup> Prepared by the Irish League of Credit Unions - <https://www.centralbank.ie/docs/default-source/Regulation/industry-market-sectors/credit-unions/credit-union-handbook/sectoral-aml-guidelines.pdf?sfvrsn=2>

<sup>6</sup> <https://www.centralbank.ie/docs/default-source/Regulation/industry-market-sectors/credit-unions/credit-union-handbook/sectoral-aml-guidelines.pdf>

<sup>7</sup> <https://www.amlcompliance.ie/wp-content/uploads/2019/11/National-Risk-Assessment.pdf>

<sup>8</sup> [https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/anti-money-laundering-and-countering-the-financing-of-terrorism/legislation/report-on-amlcft-fs-compliance-in-the-irish-cu-sector.pdf?sfvrsn=1876d71d\\_6](https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/anti-money-laundering-and-countering-the-financing-of-terrorism/legislation/report-on-amlcft-fs-compliance-in-the-irish-cu-sector.pdf?sfvrsn=1876d71d_6)

<sup>9</sup> At Section 3.8 of the report: “*The Central Bank identified the following inadequate practices in relation to the treatment of large cash lodgements:*

- *No formal risk assessment undertaken or identification of the controls required to manage this practice:*
- *No/limited CDD being conducted in relation to the businesses in question.*
- *No independent third party evidence sought or obtained to corroborate that the business was cash intensive and that the level of turnover would justify the large cash lodgements. Guidance on how staff should deal with these scenarios is not contained in the credit union’s procedures.”*

7. In 2019 and following amendment to the 2010 Act in 2018, the Central Bank published extensive guidance on all aspects of AML/CFT compliance as it applied to all firms, including credit unions (the **Central Bank Guidance**).<sup>10</sup> The Central Bank Guidance was updated in 2021 to take account of further amendments to the 2010 Act. As explained below, the Central Bank Guidance made clear the obligations that applied to all transactions including higher risk transactions such as those which are the subject of this Notice.

### The Cash Lodgements Service

8. As a result of the closure of a number of retail banks and post offices in the area, Swilly Mulroy recognised an increase in demand for cash from its members, who otherwise, according to Swilly Mulroy, would have had to make a round trip of approximately 60 miles to the nearest bank.
9. Arising from this increased demand for cash, a service was put in place at the instigation of the management of Swilly Mulroy, whereby Swilly Mulroy would solicit and receive sums of cash from certain depositors whom it approached, which it would then use as a cash float. The majority of these depositors were not members of Swilly Mulroy.<sup>11</sup> This cash float ensured that Swilly Mulroy had an adequate cash supply to fulfil its members' demands. By providing this service, Swilly Mulroy avoided the cost associated with cash deliveries from cash suppliers, and the depositors avoided the long journey to the nearest bank branch to make cash deposits. The Cash Lodgements Service was not offered widely as a service nor was Swilly Mulroy approached by any party seeking this service.
10. The Cash Lodgements Service was, in essence a form of liquidity management for Swilly Mulroy, and operated in the following way:

---

<sup>10</sup> <https://www.centralbank.ie/docs/default-source/regulation/amld-/guidance/anti-money-laundering-and-countering-the-financing-of-terrorism-guidelines-for-the-financial-sector.pdf>

<sup>11</sup> Two of the businesses and one of the natural persons who used the Cash Lodgements Service held an account at Swilly Mulroy.

- Swilly Mulroy solicited 23 depositors, including both natural persons and local cash intensive businesses, for cash deposits which were then lodged periodically with Swilly Mulroy between 2 January 2014 and 30 June 2021.
- Swilly Mulroy did not open individual accounts for the majority of these depositors into which to deposit the amounts. Instead, the deposited cash was held as a cash float within Swilly Mulroy. In the limited number of circumstances where the depositor held an account at Swilly Mulroy, the deposited cash was not lodged in it.
- Swilly Mulroy provided the depositors with receipts confirming the amount of cash deposited, with the cash deposit also being recorded in Swilly Mulroy's daily ledger.
- Swilly Mulroy subsequently transferred via EFT, cash amounts equivalent to the deposited sums, from the main/omnibus account at Swilly Mulroy to external bank accounts designated by the depositors.
- Swilly Mulroy did not conduct any AML checks when providing this service to these depositors.

11. During the period from 2 January 2014 to 30 June 2021, Swilly Mulroy processed 2,329 Cash Lodgements in this way, receiving €8,751,694 in deposits from the depositors.

### **The Systems and Controls for AML at Swilly Mulroy**

12. Section 54(4) of the 2010 Act requires credit unions to adopt policies and procedures in relation to their business, to prevent and detect the commission of ML/TF.

13. For the period from 2 January 2014 to 30 June 2021, Swilly Mulroy devised and implemented policies which set out the manner in which it would comply with its

financial services obligations, including under the 2010 Act. These documents were approved by the Board of Swilly Mulroy.

14. The AML policies in place during this period, set out how Swilly Mulroy would comply with its AML/CFT obligations, including the conduct of annual Business Risk Assessments and Customer or Transaction Risk Assessments, the completion of CDD and Transaction Monitoring and ensuring that adequate policies and procedures in respect of AML/CTF were implemented within Swilly Mulroy.

15. The Cash Lodgements Service operated contrary to, and entirely outside of, Swilly Mulroy's Compliance, Risk Management and AML policies, and at no stage did Swilly Mulroy apply or adopt any of its AML/CFT policies in respect of those availing of the service or the transactions that took place within it.

### **Risk Assessments**

16. The 2010 Act was amended in November 2018, to introduce certain requirements designed to ensure that firms adopt a risk based approach when applying AML/CFT measures. Notably, these measures required firms to consider what specific measures were necessary for customers or transactions presenting a higher AML/CFT risk and in particular the level of due diligence required for that customer or transaction under the 2010 Act.

17. The Central Bank Guidance, published in 2019 and updated in 2021, explains in relation to these specific requirements that:

*Firms should have a detailed understanding of the ML/TF risks to which they are exposed. Under the CJA 2010 Firms are required to assess:*

- *The ML/TF risk which they are exposed to resulting from the nature and complexity of the Firm's Business ("Business Risk Assessment"); and*

- *The ML/TF risk which they are exposed to resulting from entering into a business relationship with a customer or performing an occasional transaction ("Customer/Transaction Risk Assessment").*

*Each risk assessment should consist of two distinct but related steps:*

- *Identifying ML and TF risk factors; and*
- *Assessing the identified ML and TF risks in order to understand how to mitigate those risks."*<sup>12</sup>

18. The Central Bank Guidance further specifies the risk considerations which firms should take into account in formulating their overall Business Risk Assessment and any specific Customer, or Transaction Risk Assessment, including relevantly; *"The extent that products or services may be cash intensive."*<sup>13</sup>

19. During the period January 2014 to June 2021, Swilly Mulroy conducted Business Risk Assessments. However, notably Swilly Mulroy did not, as part of these assessments, consider the ML/TF risks associated with the Cash Lodgements Service, in order to determine the risk of ML/TF which it may have been exposed to, and the factors, if any, it would need to apply to mitigate the risks associated with the service.

### **Customer Due Diligence & Customer/Transaction Risk Assessments**

20. For the duration of the period January 2014 to June 2021, Swilly Mulroy was obliged to identify and verify its customers, both in terms of their identity and the nature of their business, before establishing a business relationship. This CDD is a basic and critical AML/CFT control.

21. Notwithstanding, Swilly Mulroy accepted cash from those depositors availing of the Cash Lodgements Service without opening a member account for them, thereby

---

<sup>12</sup> Section 4.2

<sup>13</sup> Section 4.6.3

failing to verify the customer's identity and in particular, the nature of their business or source of funds, with appropriate documentation.

22. As explained above, from November 2018, Swilly Mulroy was additionally obliged pursuant to the 2010 Act to perform individual customer and transaction risk assessments in certain higher risk circumstances in order to determine the level of CDD it would have to apply. In respect of this requirement, the Central Bank Guidance explained that:

*"Section 30B.(1) of the CJA 2010 requires Firms to identify and assess the ML/TF risk in relation to a customer or particular transaction in order to determine the level of customer due diligence required under Sections 33 and 35 of the CJA 2010. In carrying out the determination, Section 30B.(1) of the CJA 2010 requires Firms to have regard to: "(a) the relevant business risk assessment, (b) the matters specified in Section 30A(2), (c) any relevant risk variables, including at least the following: (i) the purpose of an account or relationship; (ii) the level of assets to be deposited by a customer or the size of transactions undertaken; (iii) the regularity of transactions or duration of the business relationship; (iv) any additional prescribed risk variable, (d) the presence of any factor specified in Schedule 3 or prescribed under Section 34A suggesting potentially lower risk, (e) the presence of any factor specified in Schedule 4, and (f) any additional prescribed factor suggesting potentially higher risk".*

23. One of the prescribed factors suggesting higher risk as per Schedule 4 of the 2010 Act is where businesses are cash intensive.

24. Similar to its CDD failures, Swilly Mulroy failed to carry out any Customer or Transaction Risk Assessments in respect of those depositors availing of the Cash Lodgements Service.

## **Transaction Monitoring**

25. Credit unions must monitor dealings with customers with whom they have a business relationship in order to comply with Section 35(3) of the 2010 Act. This involves scrutinising transactions, as well as the source of wealth or source of funds for those transactions, to determine whether or not the transaction is consistent with the credit union's knowledge of the member and the member's business and pattern of transactions. This monitoring is vital in order to assist credit unions in highlighting larger, complex or unusual transactions and those which merit further investigation to prevent and detect the risk of ML/TF.

26. Swilly Mulroy was aware of this obligation and during the relevant period, had in place a policy which required a staff review of each individual transaction over €2,500 and/or linked transactions of €10,000 or more over a three month period.

27. This policy was not applied in respect of the Cash Lodgements Service despite the fact that the amount of cash deposited (either by way of one deposit or multiple deposits over a short period of time) regularly exceeded Swilly Mulroy's defined thresholds for Transaction Monitoring.

28. By way of specific examples, in one week of January 2016, three depositors made the following cash deposits which breached those limits:

- Depositor A: seven deposits ranging in amount from €800 to €3,050, totalling €12,760.
- Depositor B: three deposits ranging in amount from €1,590 to €8,218, totalling €16,218.
- Depositor C: two deposits in the amount of €10,000 to €30,000, totalling €40,000.

There is no evidence of any review of these transactions.

29. Again, in one week in April 2017, one depositor made eight deposits ranging in amount from €1,500 to €14,670 totalling €38,095. There is no evidence of any review of these transactions.

30. By way of final example, a depositor made 27 cash lodgements totalling €69,800 during the period 1 January to 31 August 2014 with no evidence of any review of these transactions. This was even more notable given that the depositor was an individual making these lodgements in a personal rather than business capacity.

### Awareness of the Cash Lodgements Service

31. Swilly Mulroy operated the Cash Lodgements Service in circumstances whereby it had been subject to the obligations of the 2010 Act for a number of years, and had, as a member of the credit union sector, been notified of the greater risk of money laundering related to similar cash intensive practices through Department of Finance and Central Bank guidance.

32. The Board was also specifically made aware on a number of occasions of the risks associated with the Cash Lodgements Service by its internal and external auditors and the Irish League of Credit Unions.

33. Specifically, the Cash Lodgements Service was brought to the attention of the Board on the following occasions:

- On 27 July 2016, the Irish League of Credit Unions conducted a field officer's routine visit. At page 11 of the corresponding report it was noted – *"In order to keep bank charges down the credit union gets cash from a number of businesses. When the cash is received an EFT for the cash amount is done to the person's bank account. In order to ensure that there's an audit trail all money must be put into a members account before an EFT is done. These members should be asked to open accounts in the name of the business if they wish to continue this practice. The account must be opened in line with the standard account opening procedures to*

*ensure compliance with Anti Money Laundering legislation. They will be subject to ongoing due diligence in line with AML requirements.*” The minutes of the August 2016 Board Meeting note that the Field Officer’s report would be emailed to the Board. There is no mention of any discussion of the report in these or subsequent Board minutes.

- The Internal Audit Report for Q4 2016 stated “*Noted no documented due diligence procedure on the practice of receiving cash for local businesses.*” This Q4 2016 report was read and accepted by the Board at a Board meeting dated 19 December 2016.
- On 3 January 2019, Swilly Mulroy’s external auditors issued a letter to the Board in respect of the audit conducted for the year ended 30 September 2018. Under the heading “Anti Money Laundering” it stated as follows: [...] “*For the purposes of adherence to customer due diligence for AML purposes, we would recommend that local businesses which are lodging cash, should provide evidence to the Credit Union in order to demonstrate the legitimacy of the cash being lodged.*”

34. The Board responded to this letter from its external auditor on 25 February 2019 and stated the following “*This is something which our Internal Auditor has picked up on. We have asked such businesses to have their auditors/accountants confirm that the cash being lodged with us, is conducive to the nature of the business and that the account to which our EFT is being sent to, forms part of the business’s annual returns. PEP forms are being completed for all new members*”.

35. Despite these written assurances, there is no evidence that any steps were taken to action these matters. Additionally, no steps were taken by the Board subsequent to its letter on 25 February 2019 to comply with any of the recommendations made by these various reports, whether by ceasing the service or putting in place the necessary AML/CFT procedures for the Cash Lodgements Service to ensure compliance with the 2010 Act.

36. Instead, the Cash Lodgements Service operated until June 2021, when a change in management resulted in the service being stopped because of a recognition by this new management of the risks associated with the service. The new management subsequently brought these risks to the attention of the Board.

37. Even at this time however, the Cash Lodgements Service was not brought to the attention of the Central Bank by Swilly Mulroy, and the details of the practice were discovered as part of the Inspection conducted by Central Bank supervisors in April 2022.

### **Part 3. Prescribed Contraventions**

1. Swilly Mulroy has admitted to the prescribed contraventions set out below. The 1997 Act, and Part 4 of the 2010 Act and are listed as designated enactments within the meaning of Section 33AN of the 1942 Act. Accordingly, contraventions of Part 4 of the 2010 Act and contraventions of the 1997 Act are “prescribed contraventions” for the purposes of Section 33AN and Part IIIC of the 1942 Act.

#### **Prescribed Contravention 1 - Failure to conduct Customer Due Diligence**

2. **Between 2 January 2014 and 30 June 2021, contrary to the requirements of Section 33(1) of the 2010 Act Swilly Mulroy failed to verify customers’ identities, in respect of the depositors availing of the Cash Lodgements Service.**
3. Section 33(1) of the 2010 Act requires that:  
*(1) A designated person shall apply the measures specified in subsection (2), in relation to a customer of the designated person—*  
*(a) prior to establishing a business relationship with the customer,*  
*(b) prior to carrying out an occasional transaction with, for or on behalf of the customer or assisting the customer to carry out an occasional transaction...*
4. The measures listed in subsection 33(2) are that a credit union must identify and verify a customer’s identity on the basis of certain categories of documents or information as specified therein.

#### **Prescribed Contravention 2 - Failure to carry out Transaction Monitoring**

5. **Between 2 January 2014 and 30 June 2021, contrary to the requirements of Section 35(3) of the 2010 Act Swilly Mulroy failed to monitor its dealings and the business relationships with the depositors availing of the Cash Lodgements Service, including failure to scrutinise the transactions and/or the source of wealth or of funds for those transactions.**

6. Section 35(3) of the 2010 Act requires credit unions to monitor dealings with customers by scrutinising transactions and the source of wealth or of funds for those transactions, to determine whether or not the transactions are consistent with:
  - a. the credit union's knowledge of the customer and the customer's business and pattern of transactions; and
  - b. any knowledge that the credit union may have that the customer may be involved in money laundering or terrorist financing.
7. From 26 November 2018, Section 35(3) of the 2010 Act, requires credit unions to monitor any business relationship with a customer to the extent reasonably warranted by the risk of money laundering or terrorist financing.<sup>14</sup>

### **Prescribed Contravention 3 - Failure to carry out Additional Monitoring**

8. **Between 26 November 2018 and 30 June 2021, contrary to the requirements of Section 36A of the 2010 Act Swilly Mulroy failed to examine the background and purpose of those transactions conducted as part of the Cash Lodgements Service transactions and to increase its monitoring of the business relationship to determine whether these transactions are suspicious.**
9. From 26 November 2018 to 30 June 2021, Section 36A(1) of the 2010 Act, requires credit unions to examine the background and purpose of all complex or unusually large transactions, all unusual patterns of transaction, or all transactions which have no apparent economic or lawful purpose, in accordance with policies and procedures adopted pursuant to Section 54 of the 2010 Act.<sup>15</sup> Where such transactions are identified, Section 36A(2) further requires a credit union to

---

<sup>14</sup> Section 35(3) of the 2010 Act was amended on 25 November 2018 and 23 April 2021.

<sup>15</sup> Section 36A was amended on 23 April 2021.

increase the degree and nature of monitoring of the business relationship in order to determine whether transactions referred to within Section 36A(1) are suspicious.

#### **Prescribed Contravention 4 - Failure to conduct a Business Risk Assessment**

10. **Between 26 November 2018 and 30 June 2021, contrary to the requirements of Section 30A of the 2010 Act, the Business Risk Assessment conducted by Swilly Mulroy failed to identify and assess the risks of money laundering and terrorist financing associated with the provision of the Cash Lodgements Service.**
11. Section 30A(1) of the 2010 Act, requires that credit unions must conduct a business risk assessment to identify and assess the risks of money laundering and terrorist financing involved in carrying on its business activities. In particular, when conducting a business risk assessment, credit unions must take into account:
  - a. Section 30A(1)(a) – the type of customer that the credit union has; and
  - b. Section 30A(1)(b) – the products and services that the credit union provides.

#### **Prescribed Contravention 5 - Failure to conduct a Customer or Transaction Risk Assessment**

12. **Between 26 November 2018 and 30 June 2021, contrary to the requirements of Section 30B(1) of the 2010 Act, Swilly Mulroy failed to conduct a Customer Risk Assessment to identify and assess the risk of money laundering and terrorist financing associated with the depositors availing of the Cash Lodgements Service in order to determine the extent of the CDD and Transaction Monitoring measures it should have taken.**
13. Section 30B(1) of the 2010 Act, requires that credit union's identify and assess the risk of money laundering and terrorist financing in relation to a customer or transaction, for the purposes of determining the extent of CDD and Transaction Monitoring measures to be taken.

## **Prescribed Contravention 6 - Failure to adopt Policies and Procedures**

**14. Between 2 January 2014 and 30 June 2021, Swilly Mulroy had in place a number of internal policies and procedures to prevent and detect the commission of money laundering and terrorist financing as required by Sections 54(1) and 54(2) of the 2010 Act. In respect of the Cash Lodgements Service, Swilly Mulroy failed to recognise the depositors as customers for the purposes of the 2010 Act, nor did it recognise the cash deposit facility as a service it was offering, resulting in the failure to adopt its policies and procedures in respect of the service and those availing of it.**

15. Section 54(1) of the 2010 Act, requires credit unions to adopt policies and procedures, in relation to its business, to prevent and detect the commission of money laundering and terrorist financing.<sup>16</sup>

16. Section 54(2) of the 2010 Act, requires credit unions to adopt policies and procedures to be followed by persons involved in the conduct of the credit union's business, that specify the person's obligations, including in respect of the assessment and management of the risks of money laundering and terrorist financing.<sup>17</sup>

## **Prescribed Contravention 7 - Failure to manage the identified risks with the Cash Lodgements Service.**

**17. Between 2 January 2014 and 30 June 2021, contrary to the requirements of Section 76B of the 1997 Act, Swilly Mulroy failed to take steps to manage the risk of ML/TF associated with the operation of the Cash Lodgements Service despite such risks having been notified on a number of occasions to its Board.**

---

<sup>16</sup> Section 54(1) was amended on 25 November 2018 and 18 November 2019.

<sup>17</sup> Section 54(2) was amended on 25 November 2018 and 18 November 2019.

18. Section 76B(2) of the 1997 Act requires credit unions to develop, implement, document and maintain a risk management system with such governance arrangements and systems and controls to allow it to identify, assess, measure, monitor, report and manage the risks which it is, or might reasonably be, exposed to.

## Part 4. Sanction

1. The Central Bank believes that the prescribed contraventions admitted by Swilly Mulroy warrant the imposition of a sanction.
2. The Central Bank's approach to the determination of sanctions under the ASP is set out in Part 6 of the Administrative Sanctions Procedure Guidelines 2023 (the ASP Guidelines). Having considered all of the available sanctions relevant to a firm as provided in Section 33AQ(3) of the 1942 Act, the prescribed contraventions and the Undisputed Facts, the Central Bank has determined that a combination of a reprimand and a monetary penalty in the amount of €51,819 (the application of a 30% settlement scheme discount bringing the monetary penalty to €36,273) represents a proportionate sanction in the totality of the circumstances. Further details on how the monetary penalty was assessed are set out below.

## Determination of the Sanction

### The monetary penalty

3. The Central Bank followed the steps outlined in Part 6 of the ASP Guidelines in determining an appropriate monetary penalty.

#### *Step 1 –Starting Point Figure*

4. The Central Bank can impose a monetary penalty up to a maximum of either 10% of turnover or €10 million, whichever figure is greater. Based on the financial position of Swilly Mulroy, the maximum penalty that could be imposed in this case is €10 million.
5. The Central Bank considers that the appropriate starting point for the calculation of the monetary penalty to be the annualised average of Swilly Mulroy's relevant

revenue over the 7 ½ year period that the prescribed contraventions occurred (2014 – 2021). Relevant revenue in this instance is Swilly Mulroy's Net Interest Income plus Other Income (as reported in its audited accounts). In line with the Central Bank's published Administrative Sanctions Procedure Guidelines, the Central Bank considers this to be the appropriate starting point as the prescribed contraventions persisted for the duration of the Relevant Period.

**6. When rounded, the Starting Point Figure is €751,000.**

*Step 2 – Identification and Application of the severity level*

**7. With reference to Table 2 (Nature Seriousness and Effect Factors) of the ASP Guidelines, the Central Bank considers the following sanctioning factors as relevant in the assessment of the severity level to apply:**

**a) The prescribed contraventions were reckless:**

The prescribed contraventions committed by Swilly Mulroy were reckless on the basis that it was aware of the AML risks associated with the practice, but did not apply the necessary AML controls and continued to provide the Cash Lodgements Service after it was put on notice of the risks.

**b) The duration of the prescribed contraventions:**

The prescribed contraventions continued for a period of 7 ½ years which is a significant length of time.

**c) The prescribed contraventions each represent a serious departure from the standards to which Swilly Mulroy was subject:**

In this case, in committing the prescribed contraventions, Swilly Mulroy departed from the AML standards expected of credit unions as articulated in various guidance published by the Department of Finance and the Central Bank in 2013, 2015 and 2019. The higher risk associated with cash intensive lodgements were clearly highlighted in the various guidance including the specific scenario covered by this Notice.

d) **The prescribed contraventions revealed serious weaknesses in Swilly Mulroy:**

The Cash Lodgements Service operated contrary to and entirely outside of Swilly Mulroy's risk management systems, systems and controls for monitoring and managing identified risks, compliance programme, risk assessments and AML policies and procedures. The prescribed contraventions therefore revealed serious weakness and systemic issues in these systems within Swilly Mulroy.

e) **Whether there is more than one prescribed contravention, or repeated commission of a prescribed contravention by a firm:**

The commission of more than one prescribed contravention or a repeated commission of the same prescribed contravention will be viewed by the Central Bank as more serious than a one-off contravention. In this case, there are seven prescribed contraventions indicating sustained and repeated failures by Swilly Mulroy, thereby increasing the seriousness of the prescribed contraventions.

8. Having considered these factors, the Central Bank deemed that the correct severity level to apply is 6 (on a scale of 1 to 10).

9. This corresponds with 6% of the Starting Point Figure i.e. 6% of €751,000 is €45,060.

**The Base Monetary Penalty is €45,060.**

*Step 3 – Aggravating or Mitigating Factors*

10. The Central Bank is satisfied, having reviewed the factors set out in Tables 3 (Conduct Factors) and 4 (Previous Record Factors) of the ASP Guidelines, that there are no mitigating factors which would warrant a decrease to the Base Monetary Penalty.

11. Swilly Mulroy cooperated with the Central Bank's investigation. Providing the expected level of cooperation is treated as neutral factor that neither aggravates nor mitigates Swilly Mulroy's conduct.

12. The Central Bank considers it is an aggravating factor, warranting an increase to the Base Monetary Penalty, that Swilly Mulroy was made aware of the issues relating to the operation of the Cash Lodgements Service on a number of occasions but failed to report the issues to the Central Bank.

13. In consideration of this, the Central Bank increased the Base Monetary Penalty by 15% which equates to a monetary increase of €6,759.

**The Base Monetary Penalty is €51,819.**

*Step 4 – Any Further Adjustment*

14. The Central Bank then considered if the Base Monetary Penalty should be adjusted by reference to the factors in Table 5 (Other Relevant Considerations) of the ASP Guidelines. The Central Bank does not consider any further factor as relevant.

**The Base Monetary Penalty remains at €51,819.**

*Step 5 – Consider whether any Maximum Penalty Adjustment is required*

15. The Central Bank can impose a monetary penalty up to a maximum of either 10% of turnover or €10 million, whichever figure is greater. Based on the financial position of Swilly Mulroy, the maximum penalty that could be imposed in this case is €10 million.

16. As the figure proposed at Step 4 does not exceed that maximum, no maximum penalty adjustment is required.

*Step 6 – The sanctions to be proposed in their totality*

17. In its approach to determining sanctions, the Central Bank considers the overarching general principles of proportionality, deterrence, and totality. The Central Bank does not consider that the imposition of a reprimand alone would be sufficient in the circumstances of this case to satisfy these principles due to the serious nature of the prescribed contraventions.

18. In this regard, the Central Bank has taken into account the nature of the prescribed contraventions, the facts of the case and the circumstances of Swilly Mulroy including its size and financial position. The Central Bank considers that the sanctions in this case, being a reprimand and a monetary penalty in the amount of €51,819 combined, are commensurate with the prescribed contraventions and appropriate having regard to the circumstances of Swilly Mulroy, therefore, no adjustment has been made in respect of the totality of the sanctions.

**No totality adjustment is required / has been made.**

*Step 7 – Final Monetary Penalty*

19. The Central Bank therefore considers that a monetary penalty of €51,819 is appropriate.

**The final monetary penalty is €51,819.**

## **20. Settlement Scheme Discount**

As this settlement is agreed under the Undisputed Facts Settlement Process, the maximum percentage discount which can be applied is 30% in line with paragraph 304 of the ASP Guidelines. In this case, the Central Bank has determined that it is appropriate to apply the maximum percentage discount of 30%. Therefore the final monetary penalty of €51,819 has been reduced by 30% to take account of the settlement discount.

**The monetary penalty being imposed is €36,273.**