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## Central Bank publishes details of a second Prohibition Notice

On 18 January 2017, the Central Bank of Ireland (the “**Central Bank**”) published a Press Release concerning a Prohibition Notice it issued to an individual under its Fitness and Probity regime, on 23 February 2015. It is the second Prohibition Notice to be listed on the Central Bank’s website.

The Press Release is noteworthy for two reasons. Firstly, it is clear that the Central Bank remains focused not only on regulated firms but also on those individuals holding controlled functions. Secondly, and perhaps more interestingly, is why the Central Bank is only publishing details of this particular Prohibition Notice now, almost 2 years after it was issued.

The Prohibition Notice relates to a sole trader insurance intermediary (“**Ms. A**”), who was prohibited on 23 February 2015, from performing certain pre-approval controlled functions (“**PCFs**”), for a period of two years. The relevant PCFs were: PCF 10 - Sole Trader, PCF 15 - Head of Compliance with responsibility for anti-money laundering and counter-terrorist financing and PCF 17 - Head of Retail Sales.

The Central Bank explained that the actions of Ms. A which gave rise to the Prohibition Notice, included her management and documentation of the petty cash box of a regulated financial service provider, which the Central Bank said was not in accordance with good operational controls and good accounting practice. It also said that the manner in which Ms. A sought recompense from the cash box was irregular and displayed poor judgment. The Central Bank also found that Ms. A diverted for her own benefit, client funds which were due to be refunded to a client, in circumstances where she was

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aware, or ought to have been aware, that what she was doing was wrong.

### **First Published Announcement of a Prohibition Notice**

The first published announcement of a Prohibition Notice by the Central Bank, was made on 4 May 2016. That Prohibition Notice related to an individual who was formerly a director of a retail intermediary firm (“**Mr. B**”). The Central Bank advised that following an investigation conducted in accordance with Section 25 of the Central Bank Reform Act 2010 (the “**2010 Act**”), it had issued a Prohibition Notice prohibiting Mr. B from carrying out any controlled functions (including pre-approval controlled functions) in any regulated financial services provider, for an indefinite period. The Press Release did not give any further information about the background to the case.

### **What are Prohibition Notices?**

The Central Bank may issue a Prohibition Notice under section 43 of the 2010 Act where it has reasonably formed the opinion that a person is not of such fitness and probity as is appropriate to perform a particular controlled function, a specified part of a controlled function, or any controlled function.

The extent of a Prohibition Notice may vary, from forbidding a person to carry out a specific part of a controlled function, to forbidding a person from performing any controlled function, and it can last for a specified period or be indefinite. A Prohibition Notice can also forbid an individual from carrying out part of, or any, controlled function(s), unless certain specified conditions are complied with.

Section 43(2) of the 2010 Act gives examples of some of the grounds on which the Central Bank may conclude that a person is not of the requisite fitness and probity. These include that the person does not have the experience, qualifications or skills necessary to perform properly and effectively the controlled function, that they do not satisfy the Fitness and Probity Standards, that they have participated in serious misconduct in relation to the business of a regulated financial service provider or that they have directly or indirectly provided information to the Central Bank which they knew, or ought to have known, was false or misleading.

A list of functions which constitute “controlled functions” (including pre-approval controlled functions) can be found on the Central Bank’s website.

A Prohibition Notice will generally not be issued unless the Central Bank has carried out an investigation under Part 3 of the 2010 Act.

### **Contact information**

If you have any queries about the information contained in this article, please contact Muireann Reedy of our Regulatory Investigations Unit at [Muireann.Reedy@dilloneustace.ie](mailto:Muireann.Reedy@dilloneustace.ie) or at 01-674 1002.

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