

March 2014

The Central Bank's Themed Reviews, Inspections and Enforcement Priorities for 2014

On 25 February 2014, the Central Bank of Ireland (the “**Central Bank**”) published its planned series of Themed Reviews and Inspections for 2014, as well as its 2014 Enforcement Priorities.


The publication of these lists by the Central Bank provides an opportunity for regulated entities to assess and raise compliance standards, where necessary, in “key risk areas” referred to on these lists.

It should be noted that themed reviews and inspections may form the basis for future regulatory or enforcement actions where breaches are identified. During 2013, the Central Bank entered into 16 enforcement settlement agreements with regulated entities, with fines totalling €6,348,215 being imposed.

2014 Programme of Themed Reviews and Inspections

The main themes for 2014 are as follows –

Anti-Money Laundering Compliance

-  Anti-Money Laundering (“**AML**”), Countering the Financing of Terrorism and Financial Sanctions – This area continues to be a priority for the Central Bank both as part of the themed reviews and on the enforcement side. Regulated entities should ensure that they have the necessary arrangements in place to satisfy the Criminal Justice (Money Laundering and

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Terrorist Financing) Act, 2010 (as amended in June 2013 by the Criminal Justice Act, 2013). From the Funds Industry perspective, the Sectoral Guidelines were finalised in December 2013. While these are subordinate to both the Act and the Core Guidelines, it is likely that the Central Bank will have regard to these Guidelines when conducting its on-site inspections.

Funds

While the Central Bank has, for some months, been conducting a sample survey of fund boards' and fund managers' compliance (or otherwise) with the IFIA Corporate Governance Code for Collective Investment Schemes and Management Companies ("the Code"), it will now form part of the themed inspections. The focus is to assess corporate governance arrangements for regulated fund and fund manager entities under the Code.

MiFID Firms and IIA Business Firms

The following areas are relevant to both firms authorised under the Markets in Financial Instruments Regulations (as amended) ("MiFID") and firms authorised under the Investment Intermediaries Act, 1995 (as amended) ("IIA") –

- ▣ Data integrity of regulatory returns – This will examine the data contained in regulatory capital returns submitted by investment firms and fund service providers;
- ▣ Client assets – This will focus on compliance with the current Client Assets Requirements.

In addition, MiFID Firms will be subject to a review of their compliance with –

- ▣ Conduct of Business for Investment and Stockbroking Firms – In particular firms' arrangements in relation to the procedures for data collection to satisfy client categorisation and suitability requirements will be reviewed.

Separately, IIA firms that deal with Irish consumers should be aware that the Central Bank will focus on the following areas under the Consumer Protection Code –

- ▣ Advertising Requirements - A review of compliance with advertising requirements;
- ▣ Provision of Information on Fees and Charges – Assessment of whether information provided to clients on fees and charges is fair, clear and not misleading.

Retail / Insurance Intermediaries

The Central Bank has indicated that it will seek to take action against intermediary firms which are un-contactable/fail to engage appropriately with the Central Bank.

Otherwise, the following areas are relevant to retail intermediaries regulated by the Central Bank –

- ▣ Newly Authorised Firms – The Central Bank will inspect these firms to analyse compliance with selected conduct of business obligations;
- ▣ Professional Indemnity Insurance (“**PII**”) – The Central Bank will review insurance intermediaries’ compliance with PII requirements;
- ▣ Solvency/Financial Position – The focus will be on retail intermediaries’ compliance with prudential requirements.

The Central Bank has advised that in addition to this planned series of inspections, it will continue to conduct additional reactive inspections on key issues and themes as they arise throughout the year.

▣ 2014 Enforcement Priorities

The Central Bank publishes Enforcement Priorities annually in order to help promote compliance in the areas that are of greatest importance to the Central Bank. All enforcement action taken by the Central Bank during 2013 (see above) related to one or more of the 2013 Enforcement Priorities.

The Enforcement Priorities for 2014 are –

All Sectors

- ▣ Fitness and probity obligations under the Central Bank Reform Act 2010;
- ▣ AML / Counter Terrorism Financing compliance.

MiFID Firms

- ▣ Prudential requirements (with a focus on large exposures);
- ▣ MiFID conduct of business rules;
- ▣ Client Asset Requirements;
- ▣ Timeliness and accuracy of information submitted to the Central Bank;
- ▣ Systems & controls.

IIA Business Firms

- ▣ Firms which fail to engage appropriately with the Central Bank.

Insurance

- ▣ Prudential requirements;
- ▣ Systems & controls.

Continuing Priority Areas

Central Bank enforcement continues to focus on certain areas across almost all industry sectors, most notably, prudential requirements and systems and controls. As well as being consistently highlighted as enforcement priority areas, a large proportion of the settlements reached by the Central Bank concern breaches of requirements in these areas.

The Central Bank has advised that it views the existence and proper functioning of a firm's systems and controls as being fundamental to ensuring its compliance with its regulatory requirements. The existence of inadequate systems and controls, incomplete procedures and/or a failure to employ effective resources is an unacceptable risk to the Central Bank as it can be the basis for and potentially leads to large scale detriment to consumers.

Central Bank enforcement actions also relate to issues identified through day-to-day supervisory work and from other information sources such as whistleblowing.

Conclusion

It can be seen from the above there is an overlap between the areas identified by the Central Bank as "key risk areas" and forming a part of its 2014 Themed Reviews and Inspections and those areas included in the 2014 Enforcement Priorities, namely Anti-Money Laundering compliance and compliance with conduct of business rules and the Client Assets Requirements. It is also clear that the Central Bank expects regulated entities to have appropriate systems, controls and procedures in place to meet with their regulatory obligations.

Regulated entities are advised to examine their businesses in light of the Central Bank's 2014 Programme of Themed Reviews and Inspections and Enforcement Priorities and to refine their compliance arrangements, where necessary.

The Central Bank press releases in relation to both the Central Bank's 2014 Programme of Themed Reviews and Inspections and its 2014 Enforcement Priorities may be accessed via the following links:

<http://www.centralbank.ie/press-area/press-releases/Pages/CentralBankPublishesProgrammeofThemedReviews.aspx>

<http://www.centralbank.ie/press-area/press-releases/Pages/CentralBankPublishesEnforcementPrioritiesin2014.aspx>.

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