

Dillon Eustace
Regulatory
Investigations
Unit

May 2017

DILLON  EUSTACE

DUBLIN CAYMAN ISLANDS NEW YORK TOKYO

Introduction

Since the global financial crisis, both international and domestic financial services sectors have seen ever increasing levels of regulation and inspection and more intrusive and robust regulatory interventions.

This has been evidenced in Ireland, for example, by the introduction of new fitness and probity requirements for certain executives under the Central Bank Reform Act 2010 (including the power to investigate certain executives and suspend or prohibit them from carrying out their functions) and by the increased supervisory and sanctioning powers given to the Central Bank of Ireland (the “**Central Bank**”) under the Central Bank (Supervision and Enforcement) Act 2013 (the “**2013 Act**”). The 2013 Act doubled the maximum fines (from Euro 5 million to Euro 10 million or 10% of turnover for firms – whichever the greater, and from Euro 500k to Euro 1 million for individuals) which the Central Bank could impose if a negative finding was made against a regulated entity or an individual involved in the entity’s management, under the Central Bank’s Administrative Sanctions Procedure. As at 31 December 2016, the Central Bank had concluded over 100 settlements with regulated entities and individuals involved in their management under its Administrative Sanctions Procedure and imposed over Euro 44 million in fines.¹

To assist firms and their management in addressing enforcement related matters, Dillon Eustace has established a dedicated Regulatory Investigations Unit made up of experienced financial services and former Central Bank Enforcement lawyers and litigators. This Unit advises regulated entities and those involved in their management on how to deal with the increasingly robust investigations which are being carried out by regulatory bodies including, the Central Bank, the Registrar of Credit Unions, the Office of the Director of Corporate Enforcement (the “**ODCE**”) and the Chartered Accountants Regulatory Board, to name but a few. Our team, in particular, is experienced in dealing with the following:

- all aspects of Central Bank’s Administrative Sanctions Procedure, including the investigation phase, settlements and referrals to Inquiry;
- attending Central Bank interviews, including those where compulsory powers have been used;
- acting for clients in respect of appeals from decisions of the Central Bank to the Irish Financial Services Appeals Tribunal;

¹ This figure does not include the fines of €5 million each which were imposed on Irish Nationwide Building Society in 2015 and on Quinn Insurance Limited (Under Administration) in 2013, which were waived/not collected for public interest reasons.

- advising clients in relation to fitness and probity investigations by the Central Bank;
- representing companies and individual executives dealing with the ODCE; and
- acting on behalf of various financial service providers in relation to complaints made against them to the Financial Services Ombudsman.

Dillon Eustace is one of Ireland's leading law firms focusing on financial services, banking and capital markets, insurance regulation, corporate and M&A, insolvency, litigation and dispute resolution, real estate and taxation. Headquartered in Dublin, the firm acts for many regulated financial services firms, particularly MiFID entities, life and general insurers, investment funds and their service providers and many others. The firm's other offices are in Tokyo (2000), New York (2009) and Cayman Islands (2012).



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1. The Central Bank's Administrative Sanctions Procedure

The Central Bank's Administrative Sanctions Procedure (the “**ASP**”) empowers the Central Bank to impose a range of sanctions on regulated financial service providers (“**RFSPs**”) and/or individuals concerned in their management (“**Individuals**”), where it has reasonable grounds to suspect that a “*prescribed contravention*” (i.e. a regulatory breach) is being or has been committed by an RFSP and/or by an Individual.

The legislative framework governing the Central Bank's ASP regime is found in Part IIIC of the Central Bank Act 1942, as amended (the “**1942 Act**”) and in the Inquiry Guidelines (the “**Guidelines**”) issued by the Central Bank pursuant to the 1942 Act. The Central Bank has also issued an “Outline of the Administrative Sanctions Procedure” (the “**Outline**”) detailing how the ASP works in practice, including a high level description of its investigation and settlement processes. Section 33AO(1) of the 1942 Act provides that: “*whenever the Bank suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, it may hold an inquiry to determine whether or not the financial service provider is committing or has committed a contravention*” (emphasis added).

Section 33AO(2) of the 1942 Act provides that: “*whenever the Bank suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission of a prescribed contravention by the financial service provider, it may hold an inquiry to determine whether or not that person is participating or has participated in the contravention.*” (emphasis added).

The term “*inquiry*” is defined in Section 33AN of the 1942 Act as: “*an inquiry held under Section 33AO or Section 33AR, and includes such an inquiry begun by the former Regulatory Authority and continued by the Bank*”.

Section 33AP of the 1942 Act provides that, before holding an Inquiry under Section 33AO, the Central Bank shall give notice in writing of the proposed Inquiry to the RFSP or Individual and the notice must specify the grounds on which the Central Bank's suspicions are based; and specify a date, time and place at which the Central Bank will hold the Inquiry; and invite the RFSP or Individual either to attend the Inquiry or to make written submissions about the matter to which the Inquiry relates.

1.1 Investigation phase

The Central Bank's Outline explains that the Central Bank may commence an investigation where a concern arises that a prescribed contravention has been or is being committed. These concerns may arise in the normal course of work undertaken by one of the Central Bank's Supervisory Divisions, or from other sources. This investigation is conducted by the Central Bank's Enforcement Division.

The Outline explains that the purpose of the investigation is to gather sufficient information to enable the Central Bank to determine whether it has reasonable grounds to suspect that a prescribed contravention is/has been committed and whether to refer the matter to Inquiry or to take such action as is appropriate. In the course of its investigation the Central Bank may interview individuals who it considers may have information relevant to the suspected prescribed contravention. It can also avail of the extensive "compulsory" powers contained in the 2013 Act which include requiring persons to answer questions and to make declarations as to the truth of those answers.

The possible steps after the investigation phase are as follows:

- Central Bank decides to take no further action;
- Central Bank decides to take other supervisory action;
- Central Bank decides to issue a Supervisory Warning;
- parties agree to enter into a settlement agreement;
- Central Bank decides to establish an Inquiry;
- Central Bank decides to initiate a summary criminal prosecution; or
- Central Bank refers matter to other authority or enforcement body.

The Outline notes that the Central Bank may discontinue an investigation and take no further action where the information gathered in its investigation leads it to conclude that no prescribed contravention was committed, or that the matter is very minor in nature, immediate remedial action has been taken and full co-operation has been provided, or the Central Bank considers resources could be more effectively directed to other uses and/or other relevant policy considerations apply.

In terms of supervisory action, the Central Bank notes that, notwithstanding any other action taken, it may decide that further action should be taken in relation to the supervision of the RFSP, including the issuing of directions or conditions.

A Supervisory Warning may be issued by the Central Bank where it has reasonable grounds to suspect a breach of statutory or regulatory requirements has occurred, but it believes that the matter does not warrant sanction under the ASP. The Outline states that Supervisory Warnings may be issued where full co-operation is received, the matter giving rise to concern is minor in nature, the problem was rectified immediately and considerations supporting another enforcement approach do not apply. The Outline document notes that if it proves necessary to issue a Supervisory Warning, that shall form part of the compliance record of the RFSP or Individual.

Interestingly, neither Section 33AO(1) (nor any other Section of Part IIIC of the 1942 Act) provides for an investigation procedure. It only provides for an “*inquiry*”. Furthermore, whilst Section 33BD provides that the Central Bank may prescribe guidelines with respect to the conduct of Inquiries under Part IIIC, it makes no mention of prescribing guidelines with respect to the conduct of investigations.

1.2 Central Bank Inquiries

Under the 1942 Act, where the Central Bank “*suspects on reasonable grounds*” that a RFSP is committing or has committed a prescribed contravention and/or an Individual has participated in the prescribed contravention, it may hold an Inquiry to determine whether or not the RFSP/Individual is committing or has committed the contravention.

An Inquiry is a formal hearing, normally held in public, before members of the Inquiry made up of personnel from the Central Bank and/or external individuals who are not meant to have been involved in the investigation of the matters alleged. The Central Bank’s website lists the individuals who currently comprise its Inquiry Panel and from which individual Inquiry Member(s) will be appointed for a particular case.

Before it holds such an Inquiry, the Central Bank is required to give notice in writing of the proposed Inquiry setting out the grounds upon which its suspicions are based, setting out the date, time and place at which the Inquiry will be held and inviting submissions/attendance at the Inquiry.

The 1942 Act provides that, at the conclusion of an Inquiry, the Central Bank shall make a finding as to whether the prescribed contravention was or is being committed and if it makes such a finding it can impose one or more of a series of sanctions including a caution or

reprimand, a direction to pay a monetary penalty and directions to cease committing the contravention (for further information see paragraph 1.4 below).

As an alternative, if the RFSP/Individual acknowledges that it/he/she has committed or is committing the contravention then the Central Bank can, with the agreement of the RFSP/Individual, dispense with holding an Inquiry and proceed to impose a sanction under a settlement agreement, or to hold an Inquiry to determine what sanction, if any, should be imposed. It appears as though the latter option might be used where the RFSP/Individual has admitted the contravention(s), but is not in agreement with the sanction proposed by the Central Bank to resolve the matter at settlement.

1.3 Settlement Agreements

The 1942 Act also provides that where the Central Bank has a reasonable suspicion as outlined above it is entitled to enter into a settlement agreement in writing, to resolve the matter. It can do so once it has that reasonable suspicion and at any time before an Inquiry is completed.

The 1942 Act says nothing as to the content of settlement agreements nor as to the settlement process, including discounts, publicity statements etc. Such matters are however addressed in the Outline.

The Central Bank's Outline states that it will not consider settlement until it has gathered sufficient factual information to understand the nature and gravity of the suspected prescribed contraventions and to allow it to make an assessment of the suitability or otherwise of the case for settlement. It also states that the settlement procedure may be considered by the Central Bank at any time from which full information has been received in response to questions raised in its Investigation Letter(s) in open correspondence, until the date the Inquiry makes a finding as to whether the RFSP/Individual has committed/participated in the commission of, a prescribed contravention.

If the Central Bank deems the case appropriate for settlement its current practice, as set out in its Outline, is that it can offer the RFSP/Individual a discount of up to 30% of the sanction it believes may otherwise be imposed at Inquiry, if the RFSP settles the case within the period specified by the Central Bank in a Settlement Letter. If the case is settled outside this period, but before a Notice of Inquiry issues, a discount of up to 10% is available. The Central Bank states that once the Notice of Inquiry is issued, no discount will be applied.

It is important to note that the Central Bank has stated that it will only enter into a settlement agreement where:

- the RFSP admits the breaches or an Individual admits involvement in them;
- where the RFSP demonstrates that it has acted promptly to take, what the Central Bank considers to be, the necessary remedial action to deal with its concerns; and
- where the RFSP/Individual agrees to a public statement being issued detailing the name of the RFSP/Individual, the prescribed contraventions, the facts of the case and the sanctions imposed.

In most cases, a settlement agreement also involves the payment of a fine. This will be calculated taking into account the various sanctioning factors which are listed at paragraph 6.3 of the Outline and include the nature, seriousness and impact of the contravention, the conduct of the RFSP/Individual after the contravention and the previous record of the RFSP/Individual.

Every settlement is followed by a public statement on the Central Bank's website, which contains details about the settlement. In practically every instance it is reported in the Irish press and may in fact be disseminated by the Central Bank more widely, as according to the Central Bank's own publications, these are carried by media outlets giving European and global distribution, including traditional print outlets, online resource sites and financial and securities markets wire services (e.g. FT, Bloomberg, Reuters and NASDAQ).

Where a settlement agreement is reached this will be noted on the RFSP's compliance record and can influence a decision by the Central Bank to bring other ASPs at a later date. A settlement agreement entered into with an Individual may also be considered by the Central Bank in assessing a subsequent application by that person to perform a pre-approval controlled function under the Central Bank's Fitness and Probity Regime.

It is also of note that under the Fitness and Probity Regime applicable to directors/officers of RFSPs, where a member of the board or other senior officers were to seek to be approved as pre-approval controlled functions in other Irish regulated entities at a later date, they would be required to disclose to any proposed appointing company the fact that they were a director/officer of a firm which had been sanctioned.

1.4 Sanctions

If a negative finding is made against a RFSP/Individual at Inquiry, the Central Bank has a range of sanctions available to it. These include the following (and are not mutually exclusive):

- a financial penalty of up to Euro 10 million or 10% of the RFSP's annual turnover in the year before the finding was made (whichever is greater);
- a financial penalty of up to Euro 1 million on an Individual;
- the suspension or revocation of a RFSP's authorisation;
- the disqualification of an Individual from being involved in the management of an RFSP, for a certain length of time.

The Central Bank tends to use the sanctions available at Inquiry as a benchmark for the type of sanctions which may be imposed at settlement.

As at 31 December 2016, the Central Bank had entered into over 100 settlements under its ASP with RFSPs/Individuals and imposed fines of over Euro 44 million. This does not include the fines of Euro 5 million each which it said it would have collected from Quinn Insurance Limited (Under Administration) and Irish Nationwide Building Society but for the exceptional circumstances of those cases. Eleven Individuals have also agreed to disqualifications ranging in length from 1 year to 10 years.

In 2016, 9 settlements were entered into and over Euro 12 million in fines were imposed on RFSPs/Individuals. This marks the highest annual figure for fines imposed to date under the ASP.

So far three cases have been referred to Inquiry, although only two Inquiries (relating to multiple individuals) are ongoing.² These Inquiries relate to five individuals who were involved in the management of Irish Nationwide Building Society and two individuals who were concerned in the management of Quinn Insurance Limited (Under Administration).

² One of the cases which was referred to Inquiry concerning an insurance intermediary subsequently settled in June 2016 after the Notice of Inquiry was issued.

2. ODCE Enforcement

The stated aim of the ODCE is to improve the compliance environment for corporate activity in Ireland by encouraging adherence to the requirements of the Companies Acts and by bringing to account those who disregard the law.

2.1 Background

The conclusions of various review groups, courts, tribunals of inquiry and parliamentary committees revealed that provisions of Irish company law and other legislation were regularly being breached without the companies or individuals in question being held accountable. As a result various innocent parties bore the cost of this misbehaviour and the associated business risks.

These concerns led to the enactment of the Company Law Enforcement Act, 2001 and the establishment of the ODCE. Under the Act, the Director of Corporate Enforcement is legally responsible for both encouraging compliance with company law and with investigating and enforcing suspected breaches of the legislation.

2.2 Compliance Role

The Director of Corporate Enforcement encourages compliance with company law requirements by communicating publicly the benefits of compliance with the law and the consequences of non-compliance. The strategies employed include:

- the publication of information, via the printed and electronic media, on the legal duties and powers which exist under Irish company law;
- consultations with professional bodies to secure the conformity of their members with the requirements of the law; and
- discussions with government and other parties to facilitate and support the compliance role of the Director.

2.3 Detection Role

The Detection Unit of the ODCE has a twofold duty:

- to conduct initial assessments of complaints received of suspected breaches of company law; and
- to gather information on suspected breaches.

Its role includes company investigations, examining company books and documents and interviewing company directors, auditors and other individuals.

The Detection Unit identifies possible remedial options and takes steps to conclude or advance the complaints process. Having evaluated the information and corroborating material, the ODCE will determine what action, if any, is appropriate and what would be the most suitable means of legal redress or sanction.

2.4 The Enforcement Role

The investigative and enforcement role of the ODCE arises in the following areas:

- the initiation of fact-finding company investigations;
- the prosecution of persons for suspected breaches of the Companies Acts;
- the supervision of companies in liquidation and of un-liquidated insolvent companies;
- the restriction and disqualification of directors and other company officers;
- the supervision of liquidators and receivers; and
- the regulation of undischarged bankrupts acting as company officers.

3. Future Trends

The Enforcement Division of the Central Bank published “Enforcement Priorities” for the years 2012-2015 (inclusive). These indicated areas of particular focus for the Enforcement Division in those years. Prudential requirements, systems and controls, client asset requirements and the provision of timely, complete and accurate information to the Central Bank were listed as enforcement priorities each year. Anti-money laundering and counter terrorist financing (“**AML/CTF**”) also featured as an enforcement priority in the years 2013 – 2015. The Enforcement Division did not issue any Enforcement Priorities for 2016 and to date none have been published for 2017.³

Four out of the six enforcement cases which were settled between October 2016 and April 2017 related to breaches of AML/CTF legislation. It seems that the focus on AML/CTF compliance will continue, as following the fine of Euro 2.275 million which was imposed on Allied Irish Banks p.l.c for AML/CTF breaches at the end of April 2017, the Director of Enforcement stated that: “*Anti-money laundering compliance is a continuing and increasing priority for the Central Bank across all financial sectors.*”

Another “hot topic” for the Central Bank appears to be the operational risk around cyber security. An industry letter was issued in September 2015 to investment firms concerning the Central Bank’s thematic review which assessed the management of cyber security and related operational risks across investment firms, fund service providers and stockbrokers. This was followed by the Central Bank’s publication of “Cross Industry Guidance in respect of Information Technology and Cybersecurity Risks” in September 2016. A press release accompanied the publication of that document, which stated that IT risk management and cyber security for financial services firms were “*key concerns*” for the Central Bank.

In January 2017 the Central Bank held a cross industry seminar on IT and cybersecurity risks and since January, the Director of Policy and Risk, the Director of Credit Institutions and the Director of Insurance Supervision have each mentioned in separate speeches that cyber security is an area of key focus for the Central Bank. Therefore this will be a critical area for regulated firms to focus on. It is likely that if any material deficiencies in a firm’s systems and controls around cyber security come to the Central Bank’s attention, that enforcement action may lie.

Outsourcing is another area to come under the Central Bank’s spotlight. In its Annual Performance Statement for 2016-2017, the Central Bank advised that its Policy and Risk Directorate will lead a review of outsourcing across all regulated sectors focusing on current

³ As at 15 May 2017.

outsourcing arrangements and practices, future patterns and developments and how risks are controlled. The Central Bank has already focused on outsourcing arrangements in fund administrators and in credit unions. It issued a “Dear CEO” letter in March 2017 to fund administrators which noted that in the five firms it reviewed the “...*level of outsourcing observed...is likely to be at or close to the outer limit of what is appropriate for this industry...*” A report on outsourcing in credit unions was published in April 2017. It found that in many instances there was limited board overview of outsourced activities.

More generally, the Central Bank has stated that over time it will increase its supervisory activities for entities deemed to be low impact under PRISM. The Director of Securities and Markets Supervision stated that as a large proportion of fund managers and investment funds are currently categorised as low impact, they will be subject to increasing amounts of engagement and onsite inspections by the Central Bank. The Central Bank also said that it will continue to focus on depositaries’ oversight of investment funds and will also perform full risk assessments on investment funds for the first time.⁴

Finally, the tone of the publicity statements released following settlements with the Central Bank under the ASP have become more robust and the level of detail contained in them has increased. Higher fines have also been imposed at settlements with 2016 marking the highest annual figure for fines imposed to date at Euro 12.05 million.

⁴ Central Bank Annual Performance Statement 2016-2017: Securities and Markets Supervision Directorate: 2017 Priorities and Challenges.

4. How Dillon Eustace can help

In summary, the Regulatory Investigations Unit can assist financial services providers and their management as follows:

Advising on the process: firms generally do not expect to receive, and have no experience in dealing with, Investigation Letters. When such a letter arrives it can lead to a lot of anxiety and confusion. We can help a firm understand what is happening, the process and likely next steps, as well as the different options available, in a considered and strategic way.

Responding to Investigation / Requirements Letters: when an Investigation Letter arrives it will normally request a detailed response. We can advise on how to respond, we can assist in the preparation of the response and we can explain the consequences of responses. A Requirements Letter - whereby compulsory powers are used requiring the provision of certain information - may accompany the Investigation Letter or form part of it, and we can advise on that also.

Advising on Interview Process / Representing Interviewees: it is common for the Central Bank to request that one or more officers of a firm under investigation make himself/herself available for interview. Often the Central Bank seeks that the individual attend on a voluntary basis but it has powers to compel attendance. We can advise individuals of their options, of the different implications of voluntary or compelled attendance, and of how such interviews are conducted. We can also attend the interview as the individual's representative, where appropriate.

Advising on Skilled Persons' Reports: the Central Bank can require a firm to engage an expert to prepare a "Skilled Person's Report". We can advise firms on what that involves, on how such reports should be controlled and then used.

Advising on issues of confidentiality / data protection / other related contractual obligations: we can advise firms and individuals on such issues as they arise from the inspection (themed or otherwise) stage through to investigation/requirement interview and Inquiry.

Representing Clients at Settlement Meetings: we can advise clients on how to prepare for settlement meetings and what to expect. We can also attend and represent firms and individuals at settlement meetings and in concluding settlement agreements and publicity statements.

Advising on Inquiry Procedures: we can advise individuals and firms on the Inquiry process, including Inquiry procedures and what their entitlements are at an Inquiry.

Advising on the consequences of enforcement action: investigations, Inquiries and settlements may all have fitness and probity implications for individual directors and officers of affected firms. We can advise directors and their firms how to address those implications including around disclosure, D&O, refreshing due diligence etc.

Advising on fitness and probity matters (routine and contentious): we can advise individuals on how to deal with all aspects of the Fitness and Probity Regime including the Individual Questionnaire application process and routine Central Bank interviews prior to the appointment of individuals to certain key roles. We can also advise individuals on how to deal with fitness and probity investigations and with potentially contentious correspondence from the Central Bank raising concerns with their fitness and probity, whether this relates to their suitability to be proposed for a pre-approval controlled function or their suitability to continue performing a controlled function role.

Other: We also represent companies and individual executives dealing with the ODCE and have advised clients in relation to similar procedures involving other regulatory bodies such as the Chartered Accountants Regulatory Board.

We also advise regulated firms and their executives regarding corporate governance matters generally. We have also acted for D&O insurers of regulated entities involved in enforcement actions, which included sanctions and proceedings under company law.

5. Our Team

Our Regulatory Investigations Unit includes the following experienced financial services and former Central Bank enforcement lawyers and litigators.



Andrew Bates

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Andrew Bates is the Head of the Financial Services Department where he works primarily on asset management, investment funds and insurance regulatory matters. He has been recognized as a leading lawyer in these practice areas by Chambers, by the Legal 500, by IFLR and others.

Andrew has acted for a wide range of regulated entities dealing with Central Bank enforcement concerns including spread betting firms, life insurers, fund managers and asset managers. He has been involved in advising clients on investigations, on the use of Central Bank powers and on the use of Skilled Persons' Reports. He has represented individual officers at compelled interviews, has represented several clients at settlement meetings with the Central Bank and has also assisted clients in their dealings with the Central Bank with the objective of taking action – and being seen to take action – to avoid enforcement action.

Andrew has also represented parties involved in credit card protection insurance matters and in Madoff and Lehman related proceedings.



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Muireann Reedy is a senior associate in the Financial Services Department who specialises in regulatory investigations.

Muireann has represented clients at all stages of Central Bank investigations under its Administrative Sanctions Procedure, from responding to the first Investigation Letter to

attending settlement negotiations under that regime. These investigations have ranged in subject matter from client categorisation to compliance with fitness and probity requirements.

Muireann has also advised an individual in relation to a potential fitness and probity investigation (under the Central Bank Reform Act 2010) and has advised on and attended a specific interview by the Central Bank in respect of a client's proposed appointment to a pre-approval controlled function.

Prior to joining Dillon Eustace, Muireann spent over 5 years working in the Central Bank's Enforcement Division, where she was responsible for all aspects of running regulatory investigations under the Central Bank's Administrative Sanctions Procedure, including conducting regulatory interviews, settling enforcement cases and referring a case to Inquiry. Prior to this Muireann worked in another leading Irish firm where she practiced in the area of Litigation.

Muireann holds a diploma in Corporate, White Collar and Regulatory Crime from the Honorable Society of King's Inns, a diploma in Employment Law from the Law Society of Ireland and a diploma in French Law from University College Dublin.

During her time at the Central Bank, Muireann was involved in the investigation and settlement of an Administrative Sanctions Procedure with Quinn Insurance Limited (Under Administration) in 2013 and was responsible for drafting an Investigation Report and referring a case to Inquiry in respect of individuals who were concerned in the management of Quinn Insurance Limited (Under Administration). Muireann has also attended Inquiry Management Meetings on behalf of the Central Bank and was responsible for the Central Bank's first settlement with a credit union and with an individual concerned in its management, since the Administrative Sanctions Procedure was fully extended to credit unions.



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John O'Riordan is a partner in the firm's Litigation and Dispute Resolution Department. He previously spent time working in the firm's Financial Services Department and he has also spent time working with an international bank operating in the fields of insurance, financial services and mutual funds.

John practices in the areas of commercial litigation and regulatory investigations. In particular John has significant experience in representing national and international corporations, banks and financial institutions in the area of financial services litigation having acted for a number of financial institutions in the defence of mis-selling claims. John has also advised both individuals and corporations in relation to Madoff related litigation.

John has advised a number of clients through the Central Bank's Administrative Sanction Procedure up to and including negotiating settlement agreements with the Central Bank. John has also represented clients in appeals to the Irish Financial Services Appeals Tribunal and he has advised clients in relation to Financial Services Ombudsman complaints and in relation to redress schemes relating to credit card insurance protection.

John is an active member of the International Bar Association.



Peter Bredin

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Peter Bredin joined Dillon Eustace in March 2015 and is a partner in the Litigation and Dispute Resolution Department. He has considerable experience advising clients in disputes arising from financial services, business relations, professional duties, fraud, personal injuries and loss, insurance coverage (including D&O), and publication. He has acted for state bodies, financial institutions, companies and individuals in the various dispute resolution fora including formal court proceedings, mediation and arbitration. He also advises in relation to inquiries and investigations, including advising individuals in respect of fitness and probity matters raised by the Central Bank.

Peter is a member of the International Bar Association (IBA), the Commercial Litigation Association of Ireland (CLAI), the Defence Research Institute (DRI) and the Professional Negligence Lawyers' Association (PNLA).

Peter's representative actions include acting for a bank in the successful dismissal of a mis-selling case in the Commercial Court, acting in a dispute before the Irish Financial Services Appeals Tribunal and advising a state body on a wide range of disputes including multiple judicial reviews.

6. Our Relevant Experience

Our relevant experience includes:

- acting for MiFID authorised investment services firm relating to suspected regulatory breaches relating to product / service disclosures, where investigation was initiated but subsequently withdrawn;
- acting for life insurer in relation to an AML investigation (third party reliance; PEP checking) from voluntary disclosure through to examination / investigation to settlement;
- acting for life insurer in relation to an AML investigation (staff training; third party reliance; failure to adopt adequate procedures) from initiation of the Administrative Sanctions Procedure through to settlement;
- acting for asset manager in relation to an investigation concerning the MiFID Regulations (client categorisation and acting outside the scope of its authorisation) from initiation of the Administrative Sanctions Procedure through to settlement;
- acting for MiFID investment firm in relation to suspected breaches of Capital Adequacy Regulations (failure to maintain required level of regulatory capital over defined period; failure of internal control mechanism) from initiation of Administrative Sanctions Procedure through to settlement;
- acting for MiFID firm in dealing with Central Bank inspection and Skilled Person's Report preparation in area of client take-on procedures;
- representing interviewee at recorded Central Bank interview of officer of regulated firm;
- advising and representing an individual in relation to a specific interview by the Central Bank in relation to their proposed appointment to a pre-approval controlled function;
- advising an individual in relation to a potential Central Bank fitness and probity investigation under the Central Bank Reform Act 2010;
- representing affected party in IFSAT appeal against Central Bank decision in acquiring transaction related case;

- acting for regulated firms in addressing risk mitigation programmes, themed inspections, Central Bank requirements and directions;
- acting for life insurer subject to Central Bank direction;
- advising executives of regulated firms of fitness and probity requirements / implications of Irish or foreign sanctions imposed;
- advising for D&O insurers of the board of former credit institution;
- advising regulated firms in relation to redress schemes; and
- representing former bank executive in ODCE proceedings.

We are currently working on a number of such matters as well as advising regulated firms on how to respond to various regulatory interactions with the aim of avoiding or reducing the likelihood of enforcement action being initiated.

7. Publications and Information Briefings

The Unit regularly publishes articles on matters related to the work that it is doing and reviews new or pending legislation and regulatory changes. These articles can be accessed on the Dillon Eustace website under the publications section www.dilloneustace.ie/Publications.

In addition, the Unit hosts regular briefings at our Dublin offices on topical areas. If you would like to be kept informed of these briefings please let any of those listed below know or email us at: regulatoryinvestigations@dilloneustace.ie.

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