

# CBI Payments Firm enforcement action

The Central Bank of Ireland (the “CBI”) has published details of an enforcement action against an entity authorised as a payment institution in Ireland (the “Firm”). In light of the Prescribed Contraventions committed in breach of the entity’s authorisation and applicable law, the CBI has issued sanctions under its Administrative Sanctions Procedure, namely a reprimand and fine of €463,200 (reduced to €324,240 by a settlement discount).

### Background

The Firm has been authorised as a payment institution in Ireland since late 2020 under the EU (Payment Services) Regulations 2018 and is part of a larger international group providing related services. An investigation by the CBI found that the terms of its authorisation had been breached by:

- Allowing user funds to be mixed with non-user funds;
- Failing to deposit user funds in the correct safeguarding account; and
- Failing to notify the CBI of the above or correctly reconciling account balances.

These transgressions are detailed in the “Undisputed Facts” of the Settlement Notice.

### Factors in the Sanction

The Settlement Notice published by the CBI in relation to this case is interesting in particular due to the analysis of the factors taken into account in determining the sanctions to be applied. The starting point figure for the monetary penalty can be a maximum of 10% of annual turnover or

€10,000,000. Having identified this at €7,200,000, the CBI then took into account various factors including the recklessness of the related actions, their duration, the number of breaches, the extent of the breach from applicable standards, the potential impact of the breaches on related markets more generally and the potential loss or detriment caused by the breaches.

### Next Steps

The Firm has agreed to the CBI sanctions, but the fine must now be confirmed by the High Court in accordance with Section 33 AWA of the Central Bank Act 1942 (as amended) to be finalised and effective.

### How Clerkin Lynch Can Help

The Clerkin Lynch team can assist with both regulatory compliance matters for financial services firms and with defence in cases of regulatory investigations or civil litigation matters. The firm’s litigation team has strong experience in related matters including High Court, Court of Appeal and Supreme Court cases. Contact us for more information.



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