

Enforcement Action: Campbell O'Connor & Company fined €280,000 by the Central Bank of Ireland for anti-money laundering and countering the financing of terrorism compliance failures

10 May 2019 Press Release

On 8 May 2019, the Central Bank of Ireland (the "Central Bank") reprimanded and imposed a fine of €280,000 on Campbell O'Connor & Company (the "Firm") for five breaches of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the "CJA 2010"). The Firm has admitted the breaches.

The Central Bank determined that the appropriate fine was €400,000, which was reduced by 30% to €280,000 in accordance with the settlement discount scheme provided for in the Central Bank's Administrative Sanctions Procedure.

The Central Bank's investigation into the Firm commenced following a themed supervisory inspection which was part of its ongoing engagement with the investment firm sector. The inspection identified failings in the Firm's anti-money laundering and countering the financing of terrorism ("AML/CFT") framework. The breaches occurred between July 2010 and November 2016 and related to the following:

Failure to conduct appropriate money laundering/terrorist financing ("ML/TF") risk assessment.

Failure to adopt adequate policies and procedures for preventing and detecting ML/TF.

Failure to monitor and scrutinise customer transactions.

Failure to provide training to staff on identifying suspicious transactions.

Failure to ensure that all necessary arrangements were in place with third parties whom the Firm relied on to conduct customer due diligence measures on the Firm's customers.

The Central Bank confirms that the Firm took the necessary steps to rectify the failings that gave rise to the breaches by 9 August 2018 and that the investigation is now closed.

Seána Cunningham, the Central Bank's Director of Enforcement and Anti-Money Laundering, said:

"The Central Bank is responsible for monitoring and supervising regulated financial service providers' compliance with their AML/CFT obligations under the CJA 2010. This is the first enforcement action taken against a stockbroker for breaches of the CJA 2010, and is a timely reminder to the wider financial services sector that AML/CFT compliance is, and will remain, a key priority for the Central Bank.

The Central Bank's investigation found that for a period of over six years, the Firm's AML/CFT framework was not fit for purpose. The investigation found that the Firm failed to assess key ML/TF risks facing its business, for example, the Firm failed to undertake any assessment of terrorist financing risk at all. In the absence of a business-wide risk assessment, the Firm did not implement effective policies and procedures to prevent and detect ML/TF.

The investigation also found that the Firm failed to monitor and scrutinise customer transactions and failed to provide training to staff in relation to identifying suspicious transactions. The Firm placed too much reliance on personal knowledge of its customers in assessing ML/TF risk and failed to adopt the necessary policies and procedures to enable it to appropriately identify, assess and manage these risks.

The role of financial service providers in detecting and reporting suspected ML/TF is vital in safeguarding the financial services sector from criminal and terrorist activity. The Firm's failure to comply with its AML/CFT obligations over a prolonged period is of significant concern to the Central Bank.

This enforcement action highlights the seriousness with which the Central Bank views failings of this nature by regulated firms and, demonstrates that in order to protect the integrity of the Irish financial services sector, the Central Bank will continue to take action where firms fail to meet their AML/CFT obligations."

BACKGROUND

The Firm was established in 1960 and is currently authorised as an investment firm under Regulation 5(2) of the European Communities (Markets in Financial Instruments) Regulations 2017 (as amended) and provides stockbroking services to its customers.

In November 2016, the Central Bank's Anti-Money Laundering Division conducted an on-site inspection of the Firm as part of its ongoing engagement with the investment firm sector. The inspection identified a number of concerns regarding the Firm's compliance with the CJA 2010. The Central Bank engaged with the Firm on remediating the issues of concern and commenced an enforcement investigation in May 2018.

PRESCRIBED CONTRAVENTIONS

The Central Bank's investigation identified five breaches of the CJA 2010, namely:

1. Risk Assessment

Contrary to Section 54(1) and (2) of the CJA 2010, the Firm failed to conduct any risk assessment of ML/TF risk for over three years following the enactment of the CJA 2010. The risk assessment conducted between November 2013 and November 2016 failed to consider a number of key risks. Specifically:

The Firm failed to carry out an adequate assessment of the customer and geographic risks facing its business.

The Firm failed to carry out any assessment of the risk of terrorist financing facing its business.

A thorough risk assessment of a firm's customer profile, the type of services offered to those customers and the countries in which those customers reside or conduct business is integral to ensuring that firms adopt policies and procedures to mitigate all relevant ML/TF risks.

2. Policies and Procedures

Contrary to Section 54(1) and (2) of the CJA 2010, the Firm did not have documented AML/CFT policies and procedures in place for over three years following the enactment of the CJA 2010. The policies and procedures implemented between November 2013 and November 2016 were deficient in a number of respects. Specifically:

The Firm's AML/CFT Manuals identified third party payments as high-risk customer activity, however, the Firm failed to adopt adequate policies and procedures to mitigate the risk.

The Firm failed to adopt policies and procedures for preventing and detecting the commission of terrorist financing or mitigating the risk that its customers could be involved in terrorist financing activities.

The Firm failed to adopt policies and procedures to ensure that the Firm's board of directors formally reviewed and, where appropriate, revised the Firm's AML/CFT policies and procedures on an ongoing basis.

3. Transaction Monitoring

Contrary to Section 35(3) of the CJA 2010, the Firm's transaction monitoring process failed to consider the customer's source of wealth, business activities and pattern of previous transactions. Instead, the Firm relied on an assumption that its staff had sufficient personal knowledge of its customers to mitigate ML/TF risk. The Firm's approach was inadequate to enable it to comply with its obligations under the CJA 2010.

The Central Bank expects firms to implement robust transaction monitoring processes to determine whether a transaction and/or series of transactions could be suspicious and should be reported to An Garda Síochána and the Revenue Commissioners.

4. Staff Training

Contrary to Section 54(6) of the CJA 2010, the Firm failed to demonstrate that the training it provided met the required standard from July 2010 until September 2015. In addition, the Firm failed to provide ongoing training to staff on the identification of suspicious transactions relevant to the Firm's business.

Failure to provide adequate AML/CFT training increases the risk that staff fail to fully understand key ML/TF risks and fail to identify suspicious transactions, which should be reported to the relevant authorities.

5. Third Party Reliance

In accordance with Section 40(4) of the CJA 2010, the Firm was only permitted to rely on third parties to conduct customer due diligence on the Firm's customers provided that an appropriate arrangement was in place between the Firm and the third party.

The Central Bank's investigation found that, over the course of a six year period, the Firm relied on a number of third parties without ensuring that all the necessary arrangements were in place in respect of each third party. As a result, the Firm could not have been satisfied that the third parties had conducted the required customer due diligence on the Firm's customers. In addition, the Firm could not have been satisfied that the third parties could, upon request,

PENALTY DECISION FACTORS

In deciding the appropriate penalty to impose, the Central Bank considered the following matters:

The seriousness of the breaches.

The extended period of time over which the breaches occurred, spanning over six years from July 2010 until November 2016.

The need for an effective deterrent impact on the Firm and other regulated entities.

The Firm's co-operation with the Central Bank during the investigation and in settling at an early stage in the Central Bank's Administrative Sanctions Procedure.

NOTES

1. This is the Central Bank's 128th settlement since 2006 under its Administrative Sanctions Procedure, bringing total fines imposed by the Central Bank to over €70 million.
2. Funds collected from penalties are included in the Central Bank's Surplus Income, which is payable directly to the Exchequer, following approval of the Statement of Accounts. The penalties are not included in general Central Bank revenue.
3. The fine reflects the application of the maximum percentage settlement discount of 30%, as per the Early Discount Scheme set out in the Central Bank's "Outline of the Administrative Sanctions Procedure" which is here.
4. The Central Bank is the competent authority for monitoring and enforcing the compliance of investment firms with the CJA 2010.
5. The Criminal Justice (Money Laundering & Terrorist Financing) Act, 2010 has been amended by the Criminal Justice Act, 2013 and the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act, 2018, which is here.