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Protecting Consumers, Investors and SMEs during Covid-19 - Director General Derville Rowland

05 June 2020 **Speech**

Address by Derville Rowland, Director General, Financial Conduct at the Association of Compliance Officers in Ireland on 5 June 2020

View slides

Introduction

I would like to thank the Association of Compliance Officers in Ireland and chief executive Michael Kavanagh for the invitation to this morning's webinar.

When a storm hits, the first priority is health and safety – of our families, our neighbours and our friends. We take extra precautions to deal with the storm. And in the aftermath, we have to assess the damage done and rebuild. Covid-19 is like that. It's a public health emergency first and foremost, and the priority has to be saving people's lives.

It fell to the Government, frontline health staff and other key essential workers to lead the first response to the crisis. It is clear, however, that these necessary measures have come at sizeable economic and personal cost. The Government has therefore also provided substantial financial support for households and businesses to help cushion the impact of this unprecedented economic shock.

In my remarks this morning, I will address the scale of the economic impact the Central Bank sees ahead, and highlight some of the key measures we have taken since the onset of the crisis.

We are focused on promoting the welfare of the people of Ireland as a whole. All of our actions have been aimed at ensuring the financial system absorbs the shock, is better placed to support households and businesses through the crisis, and that consumers and investors are protected in line with our mandate.

The stability of the system, and the resilience of firms within it, are as essential in protecting consumers and investors as our statutory codes of conduct, assertive supervision and robust enforcement powers. In short, consumer and investor protection is embedded in every area of our work.

When we last met on January 15, I outlined 2020 priorities for the Central Bank across a range of areas. Few of us at that point could have imagined the scale of devastation that Covid would wreak.

From the Bank's perspective, we have reprioritised as necessary and at speed in order to deal with the crisis – just as I'm sure you have in your roles.

But our key strategic objectives which I spoke about in January – such as resilience of the system, mitigating Brexit risk, strengthening consumer protection and influencing European and international policy – still hold true. In fact, the work we had already undertaken in those areas held us in good stead to deal with the initial effects of Covid.

The full effects of Covid will be substantial, however, and will take time, effort and resources to work through – which is why we will continue to assess, analyse and reprioritise as appropriate.

The scale of the impact

When we published our Quarterly Bulletin at the beginning of April, our initial estimate was that GDP could fall by 8.3 per cent this year and that unemployment would rise to about 25 per cent in the second quarter.[1]

It's important to stress that this is a scenario and not a forecast, given the extraordinary level of uncertainty with which we are currently dealing. It assumed that containment measures remained in place for one quarter and were gradually eased thereafter. However, the scale and duration of the pandemic are essentially unknown at this point and the path ahead for the economy depends on the path of the virus. As a consequence, there is a high degree of uncertainty regarding both the duration and scope of containment measures and, in turn, the timing and pace of the recovery, which points to the importance of thinking about a range of scenarios.

We will be publishing further analysis in our latest Financial Stability Review later this month and updated scenarios in the next Quarterly Bulletin in early July.

At Euro level, in addition to announcing yesterday its latest series of monetary policy measures to support the economy and safeguard medium-term price stability, the ECB also published its latest macroeconomic projections for the euro area.

In the baseline scenario, annual real GDP is expected to fall by 8.7% in 2020 and to rebound by 5.2% in 2021 and by 3.3% in 2022. Again, given the exceptional uncertainty currently surrounding the outlook, the projections also include two alternative scenarios, which can be found on the ECB website.[2]

It's fair to say the scale of the challenge we face in supporting people and businesses through 2020 and beyond is enormous by historic standards.

But we can take comfort from the fact that we are not walking alone.

A common challenge

As the coronavirus has spread globally, we all face the same set of challenges. As the President of the European Central Bank, Christine Lagarde, has said: "If not all countries are cured, the others will suffer. Solidarity is in fact self-interest."[3]

As part of the Eurosystem, we yesterday decided to increase the envelope for the pandemic emergency purchase programme (PEPP) by €600 billion to a total of €1.35 trillion.

This is in addition to making €3 trillion in liquidity available at negative interest rates across the euro area to cushion the economic blow.

At a domestic level, we have released certain capital buffers that banks had to set aside when times were better so that they are in a stronger position to continue to support their customers now that the rainy day has come.

At the regulatory level, we have engaged extensively with our colleagues in the European Supervisory Authorities and as part of the Single Supervisory Mechanism on the issue of payment breaks.

Importantly, the EBA Guidelines clarify that payment breaks do not trigger classification as forbearance or distressed restructuring if the measures taken are based on the applicable national law or on an industry or sector-wide private initiative agreed and applied broadly by the relevant credit institutions.

These unprecedented measures are designed to ensure that credit can continue to flow to consumers and businesses across Europe, including here in Ireland, and to enable all sectors of the economy absorb the shock to the greatest possible extent.

Full information these measures and related issues can be found on our website, where we have a dedicated Covid-19 information hub for consumers, investors, and regulated firms.[4]

Giving borrowers breathing space

Given the scale of support we have provided, the Central Bank has been engaging closely with industry to ensure firms are using this additional capacity to provide their customers with some shelter from the storm.

Lenders have moved to address the challenges facing their customers, including by offering payment breaks of up to six months on their mortgage, personal or business loans. This affords customers vital breathing space.[5]

Of particular importance is ensuring that customers are provided with sufficient information to understand how the payment break operates, the impact on their mortgage/loan, and how their case will be treated when the payment break ends.

We have set out our expectation to industry that at the end of the agreed payment break, customers should be given the option to either (i) repay the loan within the remaining term, or (ii) extend the term of the loan by the length of the payment break.

This choice should apply for all loans, including mortgages, and the impact of both options on the overall cost of credit and monthly repayments should be fully explained to the customer. Customers should also be allowed to make reduced payments during the payment break where they wish to do so.

Payment breaks do not alter our permanent expectations of how lenders deal with customers in financial difficulty.

This is important to stress, given that some borrowers may continue to experience difficulties when their payment breaks expire. In those cases, the Central Bank expects lenders to ensure appropriate solutions, including forbearance, are available.

We expect lenders to engage with borrowers well in advance of the expiry of the payment break to support customers, and our existing arrears handling frameworks, including the Code of Conduct on Mortgage Arrears (CCMA), will apply in the normal manner.

Those frameworks are designed to protect the interests of borrowers, particularly in times where they are experience financial difficulties because of illness or loss of income. They require all lenders to engage sympathetically and positively with the customers, with the objective at all times of supporting them through this time. We are assertively supervising this process to ensure our expectations are being met.

Insurance Cover

Insurance companies have a very important role to play in protecting households and firms by insuring their risks and paying out where those customers have appropriate cover in place.

The Central Bank expects insurers to act honestly, fairly and professionally and in the best interests of their customers at all times and particularly during the Covid-19 crisis.

We expect insurers to comply fully with the Central Bank's Consumer Protection Code 2012 and all other relevant regulatory requirements. Any claim settlement offer made to a claimant must be fair, must take into account all relevant factors and must represent the firm's best estimate of the claimant's reasonable entitlement under the policy.

In March, we wrote to the Chairs and CEOs of both life and general insurance firms setting out our expectations of how they should treat their customers in light of the significant economic disruption caused by Covid-19. We required them to put forward consumer-focused solutions for insurance payment breaks, policy rebates and claims.

A significant issue for sections of the business community is the extent to which insurance policies cover the business disruption caused by Covid-19.

While the Central Bank expects that most policy wordings are clear in terms of what cover is provided and what is excluded, we are equally clear that where there is a doubt about the meaning of a term, the interpretation most favourable to the consumer should prevail.

In addition, where a claim can be made because a business has closed as a result of a Government direction due to contagious or infectious disease, the Central Bank is of the view that that the recent Government advice to close a business in the context of COVID-19 should be treated as a direction.

The Central Bank has commenced a programme of supervision and engagement with the larger insurance firms to ascertain their approach to dealing with specific elements of Covid-19, including the handling of claims under a policy providing business interruption cover. This is an extensive, detailed and robust programme of work, and our supervisory analysis of this issue is ongoing. We are also liaising closely with the our European counterparts on this issue

Across all the sectors we regulate, we expect that firms take a consumer-focused approach and act in their customers' best interests at all times.

Supervising securities markets and protecting investors

Turning to investor protection, the significant role Ireland plays in European and global securities markets has shaped how we have prioritised our Covid-related work at the Central Bank.

Again, a lot of the work that we did in anticipation of Brexit helped in this regard, from our heightened supervision of how funds are managing the flow of redemption requests to our engagements with firms about their operational resilience and our scrutiny of the quality of their corporate governance.

In addition to this heightened supervisory engagement, we have issued a number of Covid-specific communications, including:

- Emphasising the importance of funds managing liquidity risk effectively and doing so in a manner that is transparent to their investors;
- Clarifying the application to the Irish market of a range of market announcements which we agreed at an EU level at ESMA. We also provided appropriate leeway to firms on certain reporting obligations so they could prioritise their work in the circumstances they faced;
- Emphasising that firms must ensure that communications to clients and potential clients focus not only on the advantages of particular products or strategies, but also prominently explain the potential disadvantages and risks. Products that may have previously been considered suitable for sale to retail clients may no longer be suitable in the current climate

Given there may be a heightened risk of unfair sales practices during Covid, we have also reminded firms that they must ensure sales staff are not incentivised into meeting targets that may result in unsuitable sales to the client. And, of course, the expectations set out in my letter of last year to the industry on conduct in wholesale securities markets still stands, in fact even more so now with the risks we face.

Warning against frauds

We are also urging consumers and investors to take measures to protect themselves from financial services scams.

I would urge those of you interested in finding out more about how consumers and investors can protect themselves to keep an eye on our website which we are constantly updating in light of new developments.

Enforcement

While we have certainly had to re-prioritise in light of Covid, one thing that will not change is our focus on holding regulated firms and the people who run them accountable where there are serious or significant breaches of regulatory requirements and standards.

One of the aims of our enforcement actions is to play a part in changing the culture in financial services. And never is culture more important than in extraordinary times such as these.

You may have heard the phrase “crisis-era misconduct” used by regulators and the media as shorthand for wrongdoing that took place during and after the last financial crisis. To my mind, that phrase can betray an assumption: that in times of crisis, misconduct is inevitable. Or, to put it another way, that desperate times call for desperate measures.

I can’t say this clearly enough - No.

If firms have embedded an effective and ethical culture, then compliance professionals and employees across all levels of a firm will be empowered to provide senior management with an honest appraisal of risks. Employees will also be empowered to raise questions of ethics.

Effective culture, in which people are able to speak truth to power, lives and breathes in every part of a firm. This is as true now as it was four months ago, before the coming storm.

As compliance officers you play a central role in making sure that the right culture is embedded in your firms, and that people have the ability to speak up when they see something is awry.

That said, if you or any of your colleagues do not feel that you can report wrongdoing within a firm, the Protected Disclosures regime allows you to provide information on suspected wrongdoing to us on a confidential basis. These whistleblowing reports are an important supervisory tool, and while we understand that making a Protected Disclosure can be a difficult and indeed stressful step to take, we truly value people coming forward, and will treat you and your information professionally and sensitively.

One particular area in which we would stress the need for continued vigilance at this time is in fighting the scourge of money laundering and terrorist financing.

In the context of Covid, there is already evidence of increased levels of certain crimes, such as pandemic-related frauds and scams targeting vulnerable people.

So we remind you to continue to put in place and maintain effective systems and controls, to ensure that the financial system is not abused.

In short, we ask you to remain vigilant. I can assure you that we shall do also.

Conclusion

In conclusion, Covid-19 has triggered a severe economic shock that is fundamentally different in nature and scope from the types of shocks previously witnessed.

We recognise that the financial services firms which we regulate are themselves suffering from the impact of the crisis which that is certainly not of their making.

That is why we have provided some limited and time-bound regulatory flexibility across a number of sectors which may allow firms to better serve consumers, investors and the wider economy at this time.

But the crisis cannot give regulated firms a waiver from meeting their obligations aimed at protecting consumers and investors.

This is a critical time for financial services and those working in financial services - to play an essential and important role in supporting the economic recovery and the wellbeing of the Irish public. Unprecedented as the circumstances are, it is a moment of opportunity for financial service firms to meet their commitments with actions and to evidence their trustworthiness to their customers and wider society.

As compliance officers and professionals, you play a critical role, and your role will be vital throughout this crisis in ensuring consumers and investors are protected.

Thank you.

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[1] Central Bank Quarterly Bulletin April 2020

[2]https://www.ecb.europa.eu/pub/projections/html/ecb.projections202006_eurosystemstaff~7628a8cf43.en.html#toc6

[3] How the ECB is helping firms and households

[4] See: centralbank.ie/covid19

[5] A payment break of up to six months will not specifically be identified on the borrower's credit report recorded on the Central Bank Credit Register (CCR). The CCR does not produce a credit score and simply records the information that is submitted by lenders on a monthly basis.