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Re: Supervisory Expectations for Payment and Electronic Money (E-Money) Firms

Dear CEO

The Central Bank of Ireland's (the Central Bank) mission is to serve the public interest by maintaining monetary and financial stability while ensuring that the financial system is operating in the best interests of consumers and the wider economy. Our ambition for the financial system is that it is resilient and trustworthy, that it sustainably services the needs of the economy and its consumers, and is one in which firms and individuals adhere to a culture of fairness and high standards. This reflects the nature of our mandate as a prudential, conduct, and an anti-money laundering/countering the financing of terrorism supervisor, and our responsibilities for ensuring financial stability.

Context and Purpose

The authorisation and supervision of firms operating in the Payments and E-Money sector is an important part of our mandate. This sector has grown substantively over the last number of years. Payments and E-money firms play an increasingly important role in the financial system and in the lives of consumers. Consequently, the failure of firms to meet their supervisory obligations, including breaches of regulatory requirements can have a significant impact on consumers, who are reliant on the services provided, and/or on the functioning of the broader financial system.

The purpose of this letter is to clearly set out the Central Bank's expectations for all Payments and E-Money firms, and additionally the actions we expect your Board and senior management to undertake to ensure your firm is in compliance, on an ongoing basis, with its regulatory requirements and any conditions imposed on your firm's authorisation. Accordingly, I ask you to bring this letter to the attention of your Board.

You may be aware that there has been some restructuring within the Central Bank. As a result, the authorisation, and supervision from a prudential and conduct perspective, of Payment and E-Money firms is now within the responsibility of the Credit Institutions Supervision Directorate.¹ The Credit Institutions Supervision Directorate supervises a diverse range of firms and business models, including credit unions, complex investment firms and banks. The Payment and E-Money sector will continue to be supervised in line with PRISM, the Central Bank's risk-based framework for the supervision of regulated firms.

Supervisory Expectations

In broad terms, the Central Bank expects regulated firms to be well-governed, with appropriate cultures, effective risk management and control arrangements in place. Firms should have sustainable business models with sufficient financial resources, including under a plausible but severe stress. The Central Bank

¹ Anti-money laundering/countering the financing of terrorism supervision is the responsibility of the Enforcement and AML Directorate in the Central Bank.



expects firms to be operationally resilient such that they are able to respond to, recover and learn from operational disruptions. Additionally, and importantly, the financial system must be protected from use for money laundering or terrorist financing activities.

The Central Bank has no tolerance for widespread consumer or investor harm and it is the responsibility of firms to ensure that their business has a consumer-focused culture. In situations where firms get into difficulty, they should have an ability to recover and if they cannot, they should be resolvable in an orderly manner without significant externalities.

Firms which are authorised and regulated by the Central Bank must ensure compliance with all applicable legislation, codes, guidelines and obligations on an ongoing basis. For Payment and E-Money firms these include the European Union (Payment Services) Regulations 2018 (the PSR), the European Communities (Electronic Money) Regulations 2011 (as amended) (the EMR), the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended), and the Central Bank's Consumer Protection Code. Firms must also meet their conditions of authorisation at all times.

We highlight below some items which are a priority for the Central Bank and are intrinsically linked to our high level expectations outlined above.

1. Governance and Risk Management

Payment and E-Money firms are required to maintain governance arrangements, control mechanisms and procedures that are proportionate and appropriate in accordance with the EMR and PSR.² Regulated firms must have a functioning Board which is responsible for the effective and prudent oversight of the firm. The firm's Board has full responsibility for, inter alia, setting and overseeing the strategy of the firm, and ensuring that adequate and effective governance, risk management and internal control frameworks are in place to ensure compliance with legislative and regulatory obligations on an ongoing basis.

The Central Bank's 'Dear CEO' letters of April 2019³ and November 2020⁴, which issued to the CEOs of all regulated financial service providers, highlighted the importance of the Central Bank's Fitness and Probity regime. All pre-approved control function (PCF) and control function role holders should be familiar with the content of both of these letters. You are reminded that Section 23 of the Central Bank Reform Act, 2010 states that *"a regulated financial service provider shall not offer to appoint a person to perform a pre-approval controlled function unless the Bank has approved in writing the appointment of the person to perform the function"*. Firms must ensure individuals undertaking roles subject to the regime are fit and proper at the time they are being proposed for a role, and on an ongoing basis. Moreover, appropriate due diligence must be conducted in advance of seeking approval from the Central Bank. Payment and E-Money firms should have robust succession planning arrangements in place to ensure its Board and senior management composition remains commensurate at all times with the nature, scale and complexity of its business.

2. Conduct and Culture

As referred to above, the Central Bank expects firms to embed a consumer-focused culture. In this regard, firms must have robust internal systems and controls, including well developed risk management frameworks in place. It is important that firms design and sell products that are suitable to their customers'

² Regulation 7(2)(e) of PSR and Regulation 8(1)(e) of the EMR.

³ [Dear CEO letter - April 2019](#).

⁴ [Dear CEO letter - November 2020](#).



needs, are capable of delivering the promised benefits and that any key risks to those products are disclosed. Therefore, there is an onus on firms to have effective cultures that promote and embed the appropriate standards. These standards must be reflected across a firm in every aspect of how it conducts its business, from corporate governance structures to individual accountability; from strategy-setting to product development and how it thinks about its customers; from risk management to people management; and from internal challenge to how whistle-blowers are treated. The Central Bank has identified a number of risks to consumers of financial services in its Consumer Protection Outlook Report 2021⁵. We expect Payment and E-Money firms to examine each risk the Central Bank has identified and to take all appropriate actions to protect their consumers.

3. Safeguarding

The safeguarding of customer funds is a key supervisory priority, given the potential for consumer detriment if a firm has not adequately safeguarded customer funds. Firms must have robust, Board approved, safeguarding risk frameworks in place which ensure that relevant client funds are appropriately identified, managed and protected on a day-to-day basis; this includes the clear segregation, designation and reconciliation of client balances. Safeguarding arrangements should be reviewed regularly to ensure they remain compliant with the relevant regulation(s).⁶ The second (Risk and Compliance Functions) and third (Internal Audit) lines of defence must perform independent oversight to ensure the firm's safeguarding risk framework is operating as described. In addition to the Board's role with respect to the approval of the safeguarding risk framework, we expect that the Board seeks assurance, on an ongoing basis, that client balances are fully reconciled and matched with the designated safeguarding account.

4. Business Model and Financial Resilience

The Central Bank expects firms to have capital accretive business models that are viable and sustainable. Firms must have sufficient financial resources in place to support current and projected business plans, with due regard given to potential firm specific and wider market stress scenarios. Firms must understand and meet their own funds requirements at all times⁷, with sufficient regulatory capital available to absorb losses.

It is a minimum requirement of being regulated by the Central Bank that firms submit accurate and timely regulatory returns. Regulatory returns are an important tool to monitor the financial position of Payment and E-Money firms and the risks to which they are exposed. The submission of inaccurate information undermines the Central Bank's ability to properly supervise firms. Miscalculation and misreporting of a firm's capital position, in particular, is not acceptable.

We expect firms to take a proactive approach to communication with the Central Bank. Firms must notify the Central Bank as soon as they become aware of any breach of legal or prudential requirements, or any other material adverse development that may impact on its business.

Furthermore, firms must notify the Central Bank, at the earliest possible opportunity, where there is an expectation of a material change to the firm's business model. Examples of a material change to a firm's business model include, inter alia, the following:

- The firm is seeking to make a substantive change to its service or product offering or materially change the way in which its service/product offerings are provided, or

⁵ Consumer Protection Outlook Report 2021

⁶ Regulation 17 of the PSR and Regulation 29-31 of the EMR.

⁷ Including Regulation 9 of the PSR and Regulation 14 of the EMR.



- The firm's business projections are forecast to be significantly in excess of that outlined as part of the authorisation process.

The Central Bank expects that a notification to the Central Bank of a material change to the firm's business model is accompanied by a detailed risk assessment which is signed off by the Board. This must provide evidence, inter alia, that the internal governance, risk management and control framework, including the availability of financial (capital, liquidity etc.) and operational resources (staffing, infrastructure etc.) supports the material change. We do not expect to see firms' business ambitions running ahead of their control environment.

5. Operational Resilience

The importance of operational resilience has been reinforced by the experience of the immediate shock from COVID-19 and the ongoing shift in consumer behaviours and change in working practices. The Central Bank, in the context of its strategic commitment to 'strengthening resilience'⁸ is focused on ensuring that the financial system continues to address existing vulnerabilities and weaknesses and mitigates risks to ensure that it can better withstand future shocks and crises. The Central Bank expects firms to be able to respond to, recover and learn from operational disruptions. Given the importance of operational continuity for the stability of the system and for consumers, businesses and the wider economy, the Central Bank will continue to challenge how firms are ensuring that risk and control frameworks are operating effectively and are prepared for unforeseen operational disruptions.

The Central Bank expects firms, including those which are part of a larger Group, to operate sufficiently on a stand-alone basis to ensure the primacy of the legal entity authorised in the State. Firms must demonstrate that they are in control of their own activities and material risks. The Board and senior management of the firm are responsible for all activities undertaken by the regulated firm. In particular the ultimate responsibility for a firm's IT and cyber risk strategy and governance rests with the Board, including the adequacy of digital and IT strategies to enable and support business ambitions and plans. This responsibility also extends to outsourced activities where the activities are conducted on the firm's behalf by any third party, including any group entity.⁹ Boards must ensure they themselves have the skills and knowledge to meaningfully understand the risks the firm faces and the responsibilities they have.

6. Financial Crime

As you are aware Payment and E-Money firms are classified as a designated person under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) (CJA 2010). As a designated person, firms are subject to the obligations of the CJA 2010, and in particular, the obligations set out in Part 4.

Money laundering and terrorist financing divert resources away from economically and socially productive uses and can negatively affect the financial system by undermining its stability and its reputation. Firms must invest in and maintain strong Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) control frameworks to protect the financial system, consumers and the wider public from money laundering and terrorist financing.

⁸ [Central Bank Strategic Plan \(2019-2021\)](#)

⁹ Payment and E-Money firms are required to comply with the European Banking Authority's Guidelines on Outsourcing Arrangements.



One of the Central Bank's key expectations for an effective AML/CFT control framework is that it is based on a money laundering and terrorist financing risk assessment that specifically focusses on the money-laundering and terrorist financing risks arising from the firm's business model. This risk assessment should drive the firm's framework such that it ensures there are robust controls in place to mitigate and manage the risks identified through the risk assessment. A "tick box" or rules-based approach to risk assessment is not fit for purpose and does not meet our supervisory expectations.

7. Resolution and Wind-Up

As noted at the outset of this letter, the Central Bank expects that firms are able to recover if they get into difficulty, and if they cannot, they should be resolvable in an orderly manner without significant externalities. It is expected that where failure arises, the insolvency process can be managed in an orderly fashion without customer detriment. It is the Central Bank's expectation that firms embed this principle within their business model and operational strategy. Firms are expected to have an appropriate exit/wind-up strategy which is linked to their business and operational model and considers, inter alia, the return of customer funds as soon as is reasonably practical in an exit/wind-up scenario.

Action Required

The Central Bank expects you, together with your Board, having due regard to the contents of this letter, to complete a comprehensive assessment of your firm's compliance with the following key legislative and regulatory requirements:

- the firm's safeguarding obligations under Regulation 17 of the PSR and Regulation 29-31 of the EMR; and
- the conditions of your authorisation.

The Central Bank expects the Board to oversee this review and to consider the conclusions and any remediation actions emanating from it.

A Board approved attestation confirming the completion and conclusion of this assessment must be provided to the Central Bank by 31 March 2022. If any issues are identified as part of this review, a Board approved remediation plan must be put in place which ensures timely resolution of the issues.

As outlined at the outset of this letter, Payment and E-Money firms are important participants in the financial system. The Central Bank expects Payment and E-Money firms to be able to demonstrate that they are executing their business in a manner consistent with their legislative and regulatory obligations at all times. These also include the supervisory expectations set out by the Central Bank in this correspondence. As breaches of regulatory requirements may result in customer detriment and/or disruption to the financial system, it is imperative that all necessary steps to ensure ongoing compliance are taken and that the consequences of non-compliance, including in terms of the use of the Central Bank's powers, are understood by Boards.

Yours sincerely

A handwritten signature in blue ink, reading "Mary-Elizabeth McMunn".

Mary-Elizabeth McMunn
Director of Credit Institutions Supervision