



BY EMAIL

27 August 2020

Thematic Review: Verification of data submitted in Retail Intermediaries' Annual Returns.

Dear CEO / Principal / Director

The Central Bank of Ireland¹ (Central Bank) has today published the findings of the Thematic Review: Verification of data submitted in Retail Intermediaries' Annual Returns.

The Central Bank requires all retail intermediary firms to submit an annual return², comprising general, financial, ownership, and conduct of business information. The annual return is an important supervision tool used by the Central Bank to assess key risk indicators at both the firm and sectoral level. In particular, the Central Bank uses the annual return to monitor retail intermediaries' compliance with key obligations, such as, holding adequate professional indemnity insurance, and in the case of investment intermediaries, maintaining a net positive asset position. It is vital, therefore, that all retail intermediaries submit complete and accurate annual returns in a timely manner.

In this context, the Central Bank recently undertook a thematic review to examine the accuracy of data submitted by retail intermediaries through their annual returns. The thematic review is the latest part of a multi-year supervision programme that the Central Bank has employed to improve retail intermediary firms' compliance with annual return reporting requirements. Since 2015, the programme has targeted non-compliant retail intermediaries and delivered significant improvements in annual return submission rates, increasing from 81% in 2013 to 98% in 2020.

¹ The Central Bank is responsible for the prudential and conduct regulation of the retail intermediary sector, which comprises approximately 2,450 retail intermediaries. Retail intermediary firms are classified as 'low impact' under the Probability Risk and Impact System (PRISM) and are supervised on a trigger event and thematic review basis.

² Pursuant to Section 22 of the Supervision and Enforcement Act, 2013 – see Appendix 1.



Findings

The purpose of this letter is to provide the retail intermediary sector with the findings of the thematic review and to outline the Central Bank's expectations in relation to retail intermediaries' compliance with annual return reporting requirements.

In summary, while the review highlights an overall improvement in retail intermediaries' compliance with annual return reporting requirements, the review did identify some instances of incorrect reporting and further improvement is needed in relation to points 1, 2 & 3 below.

Inaccurate reporting was identified across a number of categories as of this review. In terms of root causes, the majority of inaccurate reporting cases were determined to be the result of failure to follow reporting requirements and / or human error. Various supervisory actions are being taken with all retail intermediaries concerned. The thematic review also identified a number of retail intermediaries that were not actively trading, which resulted in the voluntary revocation of authorisations by a number of firms. Finally, the review identified that a number of retail intermediaries that hold an investment intermediary authorisation are not preparing audited accounts on an annual basis in line with regulatory requirements.

1. Inaccurate Reporting of Data

The scope of the thematic review included the examination of instances of inaccurate reporting, as submitted by retail intermediaries through their annual returns. Of these, multiple instances of inaccurate reporting were confirmed across a number of information categories, including, but not limited to:

- (i) Financial position (net asset position).
- (ii) Gross income / turnover.
- (iii) Commission and fee income, and
- (iv) Professional indemnity insurance.

These findings represent consumer risk of a material nature. For example, where retail intermediaries fail in their requirement to hold (and report) adequate professional indemnity insurance, consumers may not have recourse where a retail intermediary is alleged to have acted negligently.

A number of investment intermediaries inspected were found to have incorrectly reported their respective financial positions (net asset positions). This is of particular concern as in order to protect



their consumers, investment intermediaries are required to maintain a positive net asset position at all times under Part 3 of the Handbook of Prudential Requirements for Investment Intermediaries 2014 (Handbook). While the thematic review did not find evidence of firms submitting material information that was known to be false or misleading, firms are reminded that under Section 32 of the Central Bank (Supervision and Enforcement Act) 2013, it is an offence for a firm to submit information that is known to be false or misleading.

2. Authorised Retail Intermediaries Not Actively Trading

A number of authorised retail intermediaries were not actively trading. Some of these retail intermediaries were holding an authorisation for use in the future. Non-trading authorised retail intermediaries distort the true size of the retail intermediary sector and affect the integrity of the live Central Bank registers. Consumers rely on professional and compliant intermediaries to offer them financial services and should be able to rely on our registers to point them in the direction of appropriately authorised firms. Firms that are no longer trading also run the risk of being in breach of a number of legislative/regulatory requirements and are an unnecessary draw on Central Bank resources in terms of regulation and enforcement. As a result of this thematic review, a number of retail intermediaries voluntarily revoked their Central Bank authorisations.

3. Investment Intermediaries – Absence of Audited Accounts

Under Section 3.4 of the Handbook (Appendix 2), all retail intermediaries that hold an investment intermediary authorisation must prepare audited accounts on an annual basis. A number of retail intermediaries that hold an investment intermediary authorisation were not meeting the requirement. Some retail intermediaries were not aware of the requirement, while others were not using the investment intermediary authorisation.

In respect of all findings, the Central Bank is engaging directly with those retail intermediaries that have failed to report accurately and / or where other issues of concern have been identified.

Actions

The Central Bank expects all retail intermediaries:

1. To fully consider the contents of this letter and take all remedial actions necessary, including strengthening procedures and controls to ensure they are compliant with their obligations to submit complete and accurate annual returns in a timely manner.



2. To discuss this letter at the next Board meeting (or equivalent meeting in the absence of a Board) and record the discussion in the meeting minutes.
3. To voluntarily revoke authorisations where a firm is not actively using them. Further information on the revocation process can be obtained by contacting revoke@centralbank.ie.
4. Authorised as investment intermediaries to be fully aware of their obligations and have robust procedures and controls in place to ensure they are compliant with the obligations attendant to their authorisation, in particular, the requirements to maintain a net positive asset position and prepare audited accounts annually.

The Central Bank will have regard to the contents of this letter when conducting future supervisory engagement. Should you have any queries in relation to the contents of this letter, please contact brokerssupervision@centralbank.ie.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Patrick Sage', written over a light blue horizontal line.

Patrick Sage

Head of Function

Consumer Protection: MiFID, Retail Intermediaries and Insurance Division



Appendix 1

Section 22 of the Central Bank (Supervision and Enforcement) Act 2013

- 1) Where it is necessary to do so for the purpose of the performance of the Bank's functions under financial services legislation relating to the proper and effective regulation of financial service providers, the Bank may, by notice in writing given to a person to whom this Part applies, require the person—
 - a) to provide to the Bank the information specified in the notice,
 - b) to provide to the Bank the records so specified, or
 - c) to prepare and provide to the Bank the forecasts, plans, accounts or other documents so specified.

- 2) A person on whom a requirement is imposed under subsection (1) shall comply with the requirement—
 - a) at such time or times, or within such period, as may be specified in the notice or in a further notice given by the Bank, and
 - b) at such place as may be so specified.

- 3) The Bank may require that information, records or other documents provided in compliance with a requirement under subsection (1) be certified or attested as to their authenticity or correctness in such manner as the Bank may reasonably require, including by statutory declaration.

- 4) The Bank may take copies of, or extracts from, any records or other documents provided in compliance with a requirement under subsection (1).

- 5) This section does not limit any other power of the Bank to require the provision of information or records or the preparation and provision of documents.



Appendix 2

Section 3.4 of the Handbook of Prudential Requirements for Investment Intermediaries, 2014

3.4) Investment intermediaries, including unincorporated bodies of persons, sole traders and partnerships, are required to prepare annual audited accounts no later than six months after the end of the financial year-end. The audited accounts may be requested by the Central Bank at any time following this six-month period after the investment intermediary's financial year-end.