



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

### **ENFORCEMENT ACTION**

**Central Bank of Ireland**

**and**

**Allied Irish Banks p.l.c.**

### **Allied Irish Banks p.l.c. reprimanded and fined €83,300,000 by the Central Bank of Ireland for regulatory breaches affecting tracker mortgage customers**

On 22 June 2022, the Central Bank of Ireland (the “**Central Bank**”) reprimanded and fined Allied Irish Banks p.l.c. (“**AIB**” or the “**Firm**”) **€83,300,000** pursuant to its Administrative Sanctions Procedure (“**ASP**”) for a series of significant and long-running failings in the treatment of its tracker mortgage customers holding **10,015** mortgage accounts between August 2004 and March 2022. AIB has admitted to 57 separate regulatory breaches.

The Central Bank determined the appropriate fine to be €119,000,000, which was reduced by 30% to €83,300,000 in accordance with the settlement discount scheme provided for in the Central Bank’s ASP.<sup>1</sup> This will be paid to the Exchequer.<sup>2</sup>

The fine is separate from the more than €125,000,000 that AIB has been required to pay to date in redress, compensation and account balance adjustments to impacted customers, including as part of the Central Bank’s Tracker Mortgage Examination (the “**TME**”). The TME was established by the Central Bank as an industry-wide review in 2015 to ensure that lenders were providing

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<sup>1</sup> The Central Bank’s “Outline of the Administrative Sanctions Procedure” provides for an early settlement discount of up to 30% in order to promote early resolution of matters, which in turn leads to better utilisation of the resources of the Central Bank.

<sup>2</sup> All fines collected by the Central Bank are returned to the Exchequer.

tracker customers with their tracker mortgage entitlements and to address any circumstances in which they were not.

The investigation found that AIB failed in its obligations towards its customers under the Code of Practice for Credit Institutions 2001 and Consumer Protection Codes 2006 – 2012 (together the “CPC”). AIB’s failings caused unacceptable harm and loss to those impacted customers over the course of nearly 18 years. Thousands of customers were overcharged and, at the worst end of the scale, customers lost 53 properties, 13 of which were family homes. The actions of AIB had devastating consequences for its customers.

The key findings from the investigation are that AIB:

- **Failed to consider the entitlements of customers when it withdrew the tracker mortgage product:** In October 2008, AIB withdrew its tracker mortgage product offering without adequately considering the best interests of its customers, including their legal entitlements under the terms of their mortgage agreements.
- **Breached customers’ mortgage contracts, delayed in rectifying the breach, and failed to take immediate and conclusive action to determine for these customers the financial implications of its wrongdoing:** AIB breached customers’ mortgage contracts by failing to offer them the option of a prevailing tracker rate at the expiry of their fixed rate periods, as they were contractually required to do (“**Prevailing Rate Customers**”). AIB failed to re-introduce a prevailing tracker rate until December 2013, and even then, on a go-forward basis only, by which time over 6,523 customer contracts had been breached. AIB failed to take immediate and conclusive action to determine the financial implications of the breach for those customers.
- **Wrongfully excluded customers’ mortgage accounts from the TME<sup>3</sup>:** AIB wrongfully excluded certain customers’ mortgage accounts from being considered for redress, compensation and other safeguards under the Central Bank’s TME, only including these customers in December 2017.
- **Failed to handle customer complaints in a fair and consistent manner:** AIB implemented an unfair strategy where AIB treated its customers differently depending on whether they complained or not about AIB’s failure to offer them a tracker rate. Certain customers were provided with a tracker rate if they pursued their complaint to the Financial Services and

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<sup>3</sup> 5,875 Prevailing Rate Customers who had not previously availed of a tracker rate.

Pensions Ombudsman (the “**FSPO**”) whereas AIB failed to provide the same remedy to customers who were equally affected but did not complain.

- **Failed to properly manage its mortgage services to customers, resulting in breaches of customers’ consumer protection rights and/or contractual rights:** There were significant weaknesses in AIB’s underlying mortgage systems and processes, including: a general over-reliance on outdated manual procedures and workarounds that were prone to human error; incorrect documentation being provided to customers; and customers being put on the incorrect interest rate.
- **Failed to properly implement the TME’s Stop the Harm principles:** AIB failed to put in place adequate controls and measures to prevent further harm to customers in accordance with the Stop the Harm (“**STH**”) principles under the TME.

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

*“The Central Bank has imposed a significant fine on AIB in respect of serious and long running failings in meeting its obligations to its tracker mortgage customers. The consequences of AIB’s prolonged failings were serious and included significant financial strain and distress for those affected and their families.*

*Our investigation found that when AIB withdrew its tracker mortgage offering there was no proper regard or concern for the impact on its customers. What followed was a litany of failings where customers were wrongly denied their tracker entitlements and others lost their tracker rates due to AIB’s deficiencies in its provision of day to day mortgage services. In respect of many of its failings, AIB had opportunities to act in order to address those failings and prevent further breaches of its customers entitlements - AIB failed to take these opportunities. Underpinning AIB’s failings over a prolonged period of time was a culture of failing to properly consider and recognise the rights of its customers and its obligations to them.*

*The Central Bank expects firms to place the Consumer Protection Code at the forefront when making decisions which impact customers and that where failings are identified that firms engage with their customers, and act swiftly and thoroughly to address any failings.*

*The Central Bank also expects firms to cooperate and engage with the Central Bank in an open, constructive and meaningful manner at all times. The Central Bank welcomed AIB’s overall co-operation with this investigation.*

*The fine imposed today reflects the gravity of the failings identified by the Central Bank's investigation and the impact of these failings on AIB's customers. The Central Bank undertook a series of investigations arising out of the tracker mortgage examination and this case, together with all of the enforcement actions concluded to date, underpin that where firms, through their actions and in breaching key regulatory requirements, cause serious and continued harm to their customers, they will be held accountable."*

### **Background to the Investigation**

AIB is a bank licensed pursuant to Section 9 of the Central Bank Act, 1971. AIB is the second largest bank in Ireland with over 170 branches and approximately 2.8 million customers. Its principal activities consist of retail and commercial banking. In July 2011, AIB acquired EBS d.a.c. ("EBS").

AIB introduced the tracker product to its suite of mortgage product offerings in October 2002. When AIB withdrew the tracker product on 10 October 2008, it also ceased to offer a tracker rate to its existing customers who had contractual entitlements to avail of or return to a tracker rate in their mortgage agreements, in addition to regulatory entitlements. The withdrawal of the tracker product was consistent with decisions taken across the banking industry, which saw a number of other lenders withdraw tracker products from their offering. It was not until 5 December 2013 that AIB re-introduced a tracker rate for certain customers on a go-forward basis only.

### **TME and Programme Dawn/Redress and Compensation**

In August 2015, AIB established its own internal tracker mortgage review entitled "Programme Dawn", triggered by industry developments in relation to tracker mortgages. By this time the Central Bank had identified and pursued a number of lender specific issues in relation to tracker mortgage customers' entitlements. AIB's review, encompassing both AIB and EBS customer accounts, focused on two key areas; analysis and review of complaints from customers, and customer documentation.

In October 2015, the Central Bank announced that it had embarked on a broader examination of the tracker mortgage related issues covering, among other things, transparency of communications with, and contractual rights of, tracker mortgage customers. The Central Bank notified all lenders in December 2015, including AIB, setting out its framework for carrying out the TME. Although narrower in scope, the work already carried out by AIB in Programme Dawn was then subsumed into the TME.

## Prevailing Rate Customers

Prevailing Rate Customers were entitled to be offered a prevailing tracker rate at the expiry of their fixed rate period. There are 6,523 mortgage accounts held by Prevailing Rate Customers, broken down as follows:

1. 648 customer accounts who were previously on a tracker rate before they entered their fixed rate periods. These accounts were admitted to the TME in February 2016 and fully redressed and compensated in line with TME principles; and
2. 5,875 customer accounts who had a contractual entitlement to be offered a tracker rate but never availed of it before fixing their interest rates. These accounts were admitted to the TME following Central Bank intervention in December 2017 and initially received flat rate compensation and an offer of a prevailing tracker rate.

The TME permitted customers to appeal their redress and compensation package to the FSPO and/or the Courts in the event that they were not satisfied. The Central Bank required all lenders to assess if any individual outcomes from the FSPO had the potential to impact customers more widely, and if so to apply the outcomes of those decisions to all relevant account holders.

In March 2020, the FSPO upheld one such individual complaint<sup>4</sup> from a Prevailing Rate Customer, who never previously availed of a tracker rate. The FSPO decision, in line with the Central Bank's findings, was that AIB had breached its customer's contract, and the FSPO directed that AIB provide certain additional compensation. Following AIB's consideration of this decision and further engagement with the Central Bank, the decision was applied to all 5,875 Prevailing Rate Customers' accounts in line with the Central Bank's expectations.

Furthermore, by February 2020, the Central Bank's investigation had identified that a sub group of 314 prevailing rate customer accounts, ("**Early Roll off Customers**"), were entitled to a specific low rate tracker and had suffered quantifiable financial loss. Central Bank engagement with AIB led to these customers being provided with rate rectification and full redress and compensation in line with TME principles. See full details of Prevailing Rate Customers in table 1 below:

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<sup>4</sup> <https://www.fspo.ie/decisions/documents/2020-0103.pdf>

**Table 1.**

	<b>Prevailing Rate Group</b>	<b>No of impacted accounts</b>	<b>TME treatment</b>	<b>FSPO decision impact</b>
<b>1</b>	<b>Customers who previously had a tracker rate</b>	648 customer accounts	Admitted to TME in February 2016 - rate rectification and full redress and compensation.	n/a
<b>2</b>	<b>Customers who never availed of a tracker rate</b>	5,561 customer accounts	Admitted to the TME in December 2017 - prevailing tracker rate and flat rate compensation.	Additional compensation awarded following FSPO decision in March 2020. <sup>5</sup>
<b>3</b>	<b>Early Roll off Customers who never availed of a tracker rate</b>	314 customer accounts	Admitted to the TME in December 2017 - prevailing tracker rate and flat rate compensation.  Central Bank engagement February 2020 - rate rectification and full redress and compensation.	Where it was determined that the application of the FSPO decision was more favourable for a customer, those customers received the option of the difference between the TME redress and compensation outcome and the FSPO compensation outcome.

### **Prescribed Contraventions**

Based on findings arising from Programme Dawn and the TME, an enforcement investigation in respect of AIB commenced in March 2018.

AIB has admitted to 57 regulatory breaches of the CPC including multiple instances of the following:

- Failed to act with due skill care and diligence in the best interests of its customers;

<sup>5</sup> <https://www.fspo.ie/decisions/documents/2020-0103.pdf>

- Failed to act honestly, fairly and professionally, in the best interests of customers and the integrity of the market;
- Failed to ensure that, in all of its dealings with customers, it made full disclosure of all relevant material information in a way that sought to inform the customer;
- Failed to ensure that all information it provided to customers was clear and comprehensible, and failed to bring key items to their attention;
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls;
- Failed to ensure that conflicts of interest were managed appropriately; and
- Failed to supply information to a consumer on a timely basis.

Further detail on the regulatory breaches is set out below, by reference to the key failings identified in the investigation:

- **Failed to consider the entitlements of customers when it withdrew the tracker mortgage product**

When AIB withdrew its tracker product on 10 October 2008, thousands of customers were availing of fixed mortgage rates for a finite period, but with a contractual right to be offered a prevailing tracker rate when that fixed rate period expired. When AIB withdrew its tracker product, AIB failed to adequately consider the impact the withdrawal would have for these customers or how it would comply with its contractual obligations to these customers on expiry of their fixed rate periods.

In withdrawing the tracker mortgage product, AIB did not follow its own internal processes as it failed to seek any input from its compliance or legal departments prior to taking this decision. In addition, AIB did not seek formal approval from its Mortgage Bank Board as was required when seeking to retire the tracker product. The investigation found no evidence that any due diligence was carried out by AIB to assess the impact of the withdrawal of trackers on its customers.

AIB's lack of regard for its customers at this key stage, when making such a significant decision, set in motion a litany of failings that resulted in serious harm to many of its customers and fell far short of AIB's obligations to act with due care and in the best interests of its customers.

AIB has admitted to one regulatory breach in relation to the manner of its withdrawal of the tracker product. Specifically, AIB has admitted that it:

- Failed to act with due skill, care and diligence in the best interests of its customers;
- Failed to act honestly, fairly and professionally in the best interests of its customers; and

Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

- **Breached customers' mortgage contracts, delayed in rectifying the breach, and failed to take immediate and conclusive action to determine for these customers the financial implications of its wrongdoing**

Following AIB's withdrawal of the tracker product, for a period of more than 5 years, from 10 October 2008 to 5 December 2013, AIB failed to offer Prevailing Rate Customers, holding 6,523 mortgage accounts, the option of a tracker rate in accordance with their mortgage contracts.

AIB was aware of complaints from customers alleging a contractual breach as far back as January 2009 yet failed to reintroduce a prevailing tracker rate until 5 December 2013. Even then, the prevailing tracker rate was available on a go forward basis only, available to those customers whose fixed rates expired after December 2013. AIB's delay meant that the total amount of impacted customers who had their entitlements denied kept increasing, from just over 500 customers' contracts by the end of February 2009 to 6,523 by December 2013.

From the moment it became aware of the breach of contract to customers, AIB should have taken immediate and conclusive action to determine the financial implications its wrongdoing was having on its customers. However, it failed to do so.

The consequences of AIB's failings included the loss of four family homes in addition to the loss of nine customers' buy to let properties.<sup>6</sup>

AIB has admitted to three regulatory breaches in relation to the breaches of contracts, delay in rectifying those breaches and its failure to take immediate and conclusive action to determine the financial implications of the breaches for customers. Specifically, AIB has admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers;
- Failed to act with due skill, care and diligence in the best interest of its customers; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

- **Wrongfully excluded customers' mortgage accounts from the TME**

The TME framework required that AIB identify and include all customers with contractual rights to a tracker rate within its scope. Prevailing Rate Customers fell within these parameters and

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<sup>6</sup> This loss of ownership relates to 314 Early Roll of Customers and the 648 Prevailing Rate Customers who had previously availed of a tracker.



should have been immediately afforded the protections of the TME, including Stop the Harm provisions. While those Prevailing Rate Customers who previously availed of a tracker rate were brought within the TME at the outset<sup>7</sup>, AIB denied that there was a breach of contract and refused to include the 5,875 Prevailing Rate Customers accounts which had never previously availed of a tracker rate for almost two more years. In this period, AIB described this breach of contract, both internally and externally, as a “*service failure*”. The prolonged exclusion of this group of customers from the TME over this extended period of time deprived these customers of the protections of the TME framework.

It was only after significant intervention by the Central Bank, that AIB finally agreed to include all remaining Prevailing Rate Customers<sup>8</sup> within the TME in December 2017. Had AIB admitted these customers to the TME at an earlier stage and applied the protections it afforded, in particular Stop the Harm protections, certain loss of ownership caused to Prevailing Rate Customers could have been avoided.<sup>9</sup>

AIB has admitted to one regulatory breach in respect of its inappropriate exclusion of customers from the TME. Specifically, it had admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers;
  - Failed to act with due skill, care and diligence in the best interest of its customers;
  - Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls; and
  - Failed to ensure that conflicts of interest were managed appropriately.
- **Failed in its conduct of the TME to investigate and identify financial loss caused to Early Roll Off Customers**

Although AIB maintained a position over the course of the investigation that Prevailing Rate Customers who had never availed of a tracker rate had not suffered any financial loss as a result of the breach of contract, the Central Bank, during the course of its investigation, uncovered evidence of specific financial detriment to 314 Early Roll off Customer accounts that AIB had failed to identify. These customers’ mortgages were rolling off fixed rates in the 12 weeks following AIB’s withdrawal of the tracker product in October 2008. The investigation found that

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<sup>7</sup> Those 648 customers’ accounts who had previously availed of a tracker rate as set out in line 1, Table 1.

<sup>8</sup> Prevailing Rate Customers who had previously availed of a tracker rate on their mortgages were included within the TME in February 2016. Prevailing Rate Customers who had never previously availed of a tracker rate on their mortgages were not included until December 2017 following Central Bank intervention.

<sup>9</sup> This loss of ownership relates to the 314 Early Roll Off Customers and 648 Prevailing Rate Customers who had previously availed of a tracker rate.

had AIB not withdrawn the tracker product for Prevailing Rate Customers but instead continued to provide a tracker rate as it ought to, that it would have taken up to 12 weeks to increase those tracker rates. This meant that the applicable low prevailing tracker rate available at the time of withdrawal would have remained for those 12 weeks. However, AIB failed to offer that prevailing tracker rate to those Early Roll off Customers which resulted in significant overcharging to them, causing three customers to lose their properties, including one family home.

It was only following Central Bank intervention in February 2020 that Early Roll off Customers were identified and provided with rate rectification, redressed and compensated under the TME.

AIB has admitted to three regulatory breaches in relation to its failure to identify quantifiable harm to customers. Specifically, it has admitted that it failed to:

- Failed to act with due skill, care and diligence in the best interest of its customers;
- Failed to act honestly, fairly and professionally in the best interests of its customers; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

- **Failed to handle customer complaints in a fair and consistent manner**

In addition to the contractual failings towards Prevailing Rate Customers, the investigation found that AIB implemented an unfair strategy in dealing with complaints from Prevailing Rate Customers who had previously availed of a tracker rate on their mortgages prior to fixing their interest rates.

When these customers pursued their complaints to the FSPO, AIB settled their complaints and restored them to their original tracker margin, whereas those who did not complain, but who had identical terms and conditions, received no such rate rectification and redress and compensation.

This strategy commenced in early 2014 and continued until the commencement of the TME in December 2015. AIB's differential treatment of customers with identical entitlements was unfair and in breach of the CPC. AIB should have taken proactive steps to rectify how it had treated not just the customers who complained but all of its customers who had been impacted by AIB's failings.

In total, out of 648 customer accounts, 35 customer complaints were settled in this manner.

AIB has admitted to one regulatory breach in relation to its complaints handling. Specifically, it admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers.

- **Failed to offer a tracker rate to certain customers after the reintroduction of the tracker product in 2013**

In the advanced stages of its investigation, the Central Bank continued to uncover failings by AIB in respect of its contractual obligations to customers. Whilst AIB re-introduced a tracker rate for customers rolling off their fixed rates after December 2013, it nonetheless failed to offer customers of a further 258 mortgage accounts their entitlement to the re-introduced tracker rate.

Although AIB was aware of its failings to some of these customers since 2015, it did not rectify the issue nor inform all impacted customers of its wrongdoing. It was only after further intervention by the Central Bank that AIB acknowledged and compensated customers for these failings.

AIB has admitted to two regulatory breaches in respect of its failure to offer these customers a prevailing tracker rate. Specifically it had admitted that it:

- Failed to act with due skill, care and diligence in the best interest of its customers; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

- **Failed to properly manage its mortgage services to customers, resulting in breaches of consumer protection requirements and/or contractual rights**

The investigation found that AIB failed in the provision of the day-to-day mortgage services it provided to customers. Significant weaknesses and limitations in AIB's internal mortgage systems meant that it was unable to meet its tracker mortgage obligations to customers. These deficiencies, including the lack of a proper IT infrastructure caused AIB to place a heavy reliance on outdated manual procedures and workarounds, which were prone to human error. More than 1,447 customers' accounts were impacted when AIB:

- (a) charged an incorrect and higher tracker margin;
- (b) removed their tracker rate entirely; or
- (c) denied customers the opportunity of choosing a tracker rate.

Customers seeking changes to their mortgage accounts such as amalgamating their loans and even basic adjustments such as changing to “interest only” repayments for a short period of time, resulted in customers being charged an incorrect rate of interest. These failings were particularly prevalent in AIB’s Staff Business Unit, which operated on a wholly manual basis for an extended period of time. The financial burden brought by the resulting overcharging to AIB’s own employees holding over 600 staff business mortgage accounts lasted from May 2006 until the last customer had their correct tracker rate restored in January 2018.

The investigation found that, although AIB was on notice from 2006 of the risks associated with reliance on its manual processes, it failed to address those risks in a timely manner, resulting in varying levels of customer detriment.

The resulting overcharging on these customers’ accounts led to the loss of 10 buy to let properties.

AIB has admitted to 26 regulatory breaches in respect of its failure to properly manage its mortgage services to customers. Specifically it has admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers;
- Failed to act with due skill, care and diligence in the best interest of its customers; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

- **Failed to adequately warn customers of the consequences of their decisions relating to their mortgage**

The Central Bank found that after AIB withdrew the tracker product on 10 October 2008, it failed to disclose to 347 mortgage account holders, who either sought to fix their interest rate for a finite period of time, or sought certain changes to their mortgage accounts, that this would result in the permanent loss of their tracker mortgage. In doing so, AIB failed to fully disclose relevant information to enable customers to make informed financial decisions. The resulting over-charging caused significant harm to customers, including the loss of ownership of six family homes and two buy to let properties.

In addition, certain Prevailing Rate Customers who entered into their mortgage contracts, which still provided for the entitlement to a prevailing tracker rate after the withdrawal of the tracker, were not warned that a tracker rate would not be made available to them as AIB had withdrawn the tracker.

AIB has admitted to eight regulatory breaches in respect of its failure to warn customers. Specifically it had admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers;
- Failed to act with due skill, care and diligence in the best interest of its customers
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls;
- Failed to ensure that, in all of its dealings with customers, it made full disclosure of all relevant material information in a way that sought to inform the customer; and
- Failed to ensure that all information it provided to customers was clear and comprehensible, and failed to bring key items to their attention.

- **Failed to adequately implement the TME's Stop The Harm principles<sup>10</sup>**

The investigation found deficiencies in STH processes put in place by AIB in December 2015, as required by the TME framework. The design of AIB's STH process was inadequate, and failed to ensure that impacted or potentially impacted customers did not lose possession of their homes until deemed unaffected by tracker related issues. As a result, certain customers progressed the sale of their properties without realising that they should be ring-fenced under the TME.

In addition, AIB progressed legal proceedings against certain customers at a time when STH processes required a pause on this legal activity. These failures caused serious harm, including the loss of two family homes and seven buy to let properties.

AIB has admitted to six regulatory breaches in respect of STH failures. Specifically it has admitted that it:

- Failed to act honestly, fairly and professionally in the best interests of its customers;
- Failed to act with due skill, care and diligence in the best interest of its customers;
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls;
- Failed to ensure that, in all of its dealings with customers, it made full disclosure of all relevant material information in a way that sought to inform the customer; and
- Failed to supply information to a consumer on a timely basis.

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<sup>10</sup> Stop the Harm failures encompass both AIB and EBS failures.

- **Failed to provide clear mortgage documentation to customers**

A key theme identified by the investigation was AIB's failure to ensure that mortgage documentation as provided to customers was clear, easy to understand and that key information was brought to their attention.

AIB failed to ensure that it complied with its obligations to certain customers for whom it had created a reasonable expectation to a tracker rate as a result of documentation available to them during the course of their mortgages. The investigation determined that AIB included language in its documentation to certain customers indicating that their tracker margin was guaranteed for the life of their mortgage and AIB failed to act in their best interests when it denied these customers their entitlements to that tracker rate.

Other customers of over 925 mortgage accounts were not provided with the option to return to their tracker rate or any tracker rate at all, notwithstanding that they had received ancillary loan documents from AIB, which may have created such an expectation. In particular, marketing material available to these customers could also have created an expectation that these customers could return to their tracker rates at the expiry of their fixed rate period.

The investigation also found that certain other customers were denied their specific entitlement to a tracker interest rate as provided for in their terms and conditions.

AIB's failure to act in the best interests of these customers of 1,440 mortgage accounts resulted in significant harm being caused, including the loss of ownership of three family homes and 19 buy to let properties.

AIB has admitted to six regulatory breaches in respect of AIB's failure to meet contractual entitlements of customers and provide clear mortgage documentation to customers.

Specifically it had admitted that it:

- Failed to act with due skill, care and diligence in the best interest of its customers; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

### **Penalty Decision Factors**

In determining the appropriate sanction to be imposed on AIB, the Central Bank has considered the guidance on the sanctioning factors set out in Part II of the ASP Sanctions Guidance issued in November 2019. The following factors are of relevance in this case:

## **The nature, seriousness and impact of the contraventions**

- AIB's failings impacted 10,015 individual customer accounts from August 2004 to March 2022, resulting in many customers being overcharged interest for an extended period;
- 53 properties were lost as a result of AIB's failings, including 13 family homes and 40 buy to let properties;
- AIB's recklessness in its treatment of its customers, with regard to how it:
  - Withdrew its tracker offering without considering its clear obligations to, and impacts on, its customers; and
  - Delayed in rectifying the breach of contract for prevailing rate customers.
- The contraventions represent a significant departure from the requirements of the Consumer Protection Codes; and
- The negative impact on consumer confidence in the market as a result of AIB's failings.

## **Aggravating Factor**

- Previous record of the Firm: AIB has been the subject of 4 prior Central Bank enforcement actions.

## **Mitigating Factors**

- The work carried out by AIB prior to the commencement of the TME to identify certain groups of impacted customers.
- Overall, AIB engaged purposefully and constructively with the Central Bank and co-operated with the Central Bank's enforcement investigation. AIB's engagement with the Central Bank saved time, resources and reduced the costs of the investigation. AIB's co-operation with the investigation, in particular the timely provision of documentation and information, facilitated the progress of the investigation.

## **Other Considerations**

- The turnover of AIB.<sup>11</sup>
- The need to have a credible deterrent for AIB, and the regulated financial service sector in general.

This enforcement action against the Firm is now concluded.

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<sup>11</sup> For the purposes of the fine AIB has excluded EBS from its turnover.

## Notes to Editors

1. The Central Bank imposed a fine of €83,300,000 on AIB, which represents an applicable penalty of €119,000,000 with a settlement discount of 30%. The Central Bank's "Outline of the Administrative Sanctions Procedure" provides for an early settlement discount of up to 30% in order to promote early resolution of matters, which in turn leads to better utilisation of the resources of the Central Bank. For further information on the discount scheme, see the Central Bank's 'Outline of the Administrative Sanctions Procedure', which is here [link](#).
2. The Central Bank's sanctioning powers were increased in 2013, pursuant to Section 68(b) of the Central Bank (Supervision and Enforcement) Act 2013. The maximum penalty which the Central Bank may now impose is €10,000,000, or an amount equal to 10% of the annual turnover of a regulated financial service provider, whichever is the greater.
3. This is the largest monetary penalty ever imposed by the Central Bank under the ASP, is reflective of the very serious long-running nature of the consumer protection failings identified, and is proportionate to the financial position of AIB.
4. This, and the settlement of the ASP against EBS on the same date, are the Central Bank's 148th and 149th settlement under its Administrative Sanctions Procedure. The settlement of AIB and EBS together marks the first concurrent settlements the Central Bank has conducted to date, bringing total fines imposed by the Central Bank to over €298 m.
5. 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.
6. The Consumer Protection Codes 2006 and 2012 are available on the Central Bank's website [www.centralbank.ie](http://www.centralbank.ie) or to download [here](#) and [here](#). The 2006 Code ceased to have effect on 31 December 2011 and the 2012 Code came into effect on 1 January 2012.
7. A copy of the ASP Sanctions Guidance November 2019 is available here: [link](#) This guidance provides further information on the application of the sanctioning factors set out in the Outline of the Administrative Sanctions Procedure 2018 and the Inquiry Guidelines prescribed pursuant to section 33BD of the Central Bank Act 1942 (a copy of which is here: [link](#)). These documents should be read together.
8. The Tracker Mortgage Examination commenced in December 2015. The Examination required all lenders to review their loan book to ensure compliance with both regulatory and contractual requirements in relation to tracker mortgages. Where impacted customer accounts are identified, the Central Bank expects that those customers will receive redress and



compensation commensurate with the detriment suffered and to have their account balance adjusted accordingly. Information on the Examination is available on the Central Bank's website [www.centralbank.ie](http://www.centralbank.ie).