



STATUTORY INSTRUMENTS.

S.I. No. 164 of 2014



CENTRAL BANK ACT 1942 (FINANCIAL SERVICES OMBUDSMAN
COUNCIL) (AMENDMENT) REGULATIONS 2014

CENTRAL BANK ACT 1942 (FINANCIAL SERVICES OMBUDSMAN COUNCIL) (AMENDMENT) REGULATIONS 2014

The Financial Services Ombudsman Council, in exercise of the powers conferred on the Council by Section 57BF of the Central Bank Act 1942 (as inserted by Section 16 of the Central Bank and Financial Services Authority of Ireland Act 2004 (No. 21 of 2004)) and as authorised by the Council, with the consent of the Minister for Finance, hereby make the following regulations.

Citation and commencement

1. (1) These Regulations may be cited as the Central Bank Act 1942 (Financial Services Ombudsman Council) (Amendment) Regulations 2014.

(2) These Regulations and the Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005 (S.I. No. 190 of 2005) may be cited together as the Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005 and 2014 and shall be construed together as one.

(3) These Regulations come into effect on 7 April 2014.

Definitions

2. In these Regulations—

“the 2005 Regulations” means the Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005 (S.I. No. 190 of 2005);

“group of persons” includes limited companies and unincorporated bodies such as partnerships, charities, clubs, trusts and sole traders;

“person” includes a natural person acting in the course of or in connection with, carrying on a business;

“turnover”, in respect of a credit institution or other financial service provider, means the sum of the following income items after deduction of value added tax and other taxes indirectly related to those items where appropriate:

(i) interest income;

(ii) interest from securities, including

(a) interest from shares and other variable yield securities,

(b) income from participating interests, and

(c) income from shares in affiliated undertakings;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 8th April, 2014.

- (iii) commissions receivable;
- (iv) net profit on financial operations; and
- (v) other operating income.

Amendment of 2005 Regulations

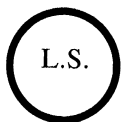
3. The following Regulation is substituted for Regulation 2 of the 2005 Regulations:

“2. (1) The following classes of persons are prescribed by Council as consumers for the purposes of subsection (b) of the definition of “consumer” in Section 57BA of the Central Bank Act 1942 (as inserted by Section 16 of the Central Bank and Financial Services Authority of Ireland Act 2004):

Person or group of persons having an annual turnover of 3 million euro or less in the financial year prior to the year in which the complaint is made to the Ombudsman, provided that such person or persons shall not be a member of a group of persons having a combined turnover greater than 3 million euro.

(2) In these Regulations “turnover” of the person or group of persons referred to in paragraph 1 shall be determined by calculating the income received from the person’s or group of persons’ sales and services falling within the person’s or group of persons’ ordinary activities after deduction of sales rebates.

(3) For the purposes of paragraph (1), “turnover” shall be calculated in respect of the financial year prior to the year in which the complaint is made to the Ombudsman and not the year or years in which the conduct complained of occurred.”



GIVEN under the seal of the Financial Services Ombudsman Council,

4 April 2014.

DERMOTT JEWELL,

Chairperson.

Financial Services Ombudsman Council
Lincoln House
Lincoln Place
Dublin 2

EXPLANATORY NOTE.

(This note is not part of the Regulations and does not purport to be a legal interpretation.)

The purpose of these Regulations is:

- (a) To amend and clarify the definition of “consumer” to include (i) a natural person when acting in the course of or in connection with the carrying on of a business and (ii) sole traders;
- (b) To apply the limit of €3m annual turnover to all persons, groups of persons and incorporated bodies;
- (c) To provide for a definition of “turnover” in respect of a person/group of persons and in respect of a financial service provider.

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