



STATUTORY INSTRUMENTS.

S.I. No. 35 of 2019



ANGLO IRISH BANK CORPORATION ACT 2009 (SECTION 36)
REGULATIONS 2019

S.I. No. 35 2019

Anglo Irish Bank Corporation Act 2009 (Section 36)
Regulations 2019

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 36 of the Anglo Irish Bank Corporation Act 2009 (No. 1 of 2009), hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Anglo Irish Bank Corporation Act 2009 (Section 36) Regulations 2019.

(2) These Regulations shall come into operation on 8 February 2019.

Definitions

2. In these Regulations:

“Act” means the Anglo Irish Bank Corporation Act 2009 (No. 1 of 2009);

“company” means a company formed and registered under the Companies Act 2014 (No. 38 of 2014) or an existing company within the meaning of that Act;

“draft report” has the meaning given to it by Regulation 7;

“eligible person” means a person referred to in section 24(1) of the Act;

“former rights holder” means a person whose rights have been extinguished under section 10 of the Act;

“former shareholder” means a person whose shares were transferred to the Minister by section 5 of the Act;

“submission”, other than in Regulations 7 and 8, means a submission under section 24(1) of the Act in respect of the aggregate value of the transferred shares and extinguished rights;

“website” means the internet website established by the Assessor under Regulation 3(8).

Making of submissions

3. (1) The Assessor shall -

- (a) publish in at least 2 national daily newspapers published and circulating in the State,
- (b) publish in at least one daily newspaper circulating in the United Kingdom of Great Britain and Northern Ireland,
- (c) publish in the *Iris Oifigiúil*,
- (d) subject to paragraph (4), give to the persons specified in paragraph (5), and
- (e) publish on the website,

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” 12th of February, 2019

a notice stating the information specified in paragraph (2).

- (2) The notice under paragraph (1) shall state-
- (a) that submissions are invited from eligible persons for the purpose of determining the fair and reasonable aggregate value of the transferred shares of each class and the extinguished rights as at 15 January 2009,
 - (b) that submissions shall be made –
 - (i) in the form and manner,
 - (ii) to the postal or email address, as the case may be, and
 - (iii) not later than the date, specified in the notice,
 - (c) that submissions shall include the information, as specified in the notice, required by the Assessor for the purpose referred to in subparagraph (a), and
 - (d) the contact details and website details of the Assessor.

(3) The Assessor may include in the notice under paragraph (1) such other information as the Assessor considers appropriate.

(4) Where the names and addresses of persons, as specified in paragraph (5)(d) and (e), required to be given notice under subparagraph (d) of paragraph (1), cannot be ascertained by reasonable enquiry, the notice published under subparagraphs (a), (b) and (c) of paragraph (1) shall be deemed to be notice for the purposes of the said subparagraph (d).

- (5) The persons referred to in paragraph (1)(d) are –
- (a) the Minister,
 - (b) the Central Bank,
 - (c) the Governor,
 - (d) the former shareholders and former rights holders identified by the Assessor from the register and records referred to in section 29(2) of the Act, and
 - (e) any other person from whom the Assessor invites a submission under section 24(1)(f) of the Act.

(6) An eligible person who makes a submission shall identify information in the submission that in the opinion of the eligible person is confidential or commercially sensitive.

(7) The Assessor shall be entitled to rely on the information included in a submission unless the Assessor is aware or ought reasonably to be aware that the information is manifestly out of date, inaccurate or incomplete.

- (8) (a) The Assessor shall establish an internet website which shall include at least the following:
- (i) the notice published under paragraph (1)(a);
 - (ii) details of the information to be provided by an eligible person in a submission for the purpose referred in paragraph (2)(a);
 - (iii) details of the information to be provided by a former shareholder or former rights holder, as the case may be, to verify the identity of the former shareholder or former rights holder, as the case may be, and status as such;
 - (iv) information on the form and manner in which submissions are to be made;
 - (v) details of the means by which confidential or commercially sensitive information shall be protected from public disclosure;
 - (vi) the contact details of the Assessor.
- (b) The Assessor may include on the website such other information as the Assessor considers appropriate.

Minimum information requirement

4. Where a former shareholder or former rights holder, or a representative appointed under section 24(4)(a) of the Act, makes a submission to the Assessor, such person shall –

- (a) in addition to any other information, as specified in the notice under Regulation 3(1), required by the Assessor for the purpose referred to in Regulation 3(2)(a), include in the submission the following information:
 - (i) the person's name;
 - (ii) in the case of a company, the address of its registered office,
 - (iii) in the case of a person (other than a company), the person's postal address for correspondence, including for the giving of notices by the Assessor,
 - (iv) the person's e-mail address (if any) and telephone number;
 - (v) whether the person is a former shareholder or a former rights holder;
 - (vi) the number of shares or the nature of the rights held immediately before 15 January 2009;
 - (vii) the information to be provided for the purposes of verifying the person's identity as a former shareholder or former rights holder and status as such,and
- (b) provide a certificate in writing signed by or on behalf of the person that to the best of the person's knowledge and belief the information in the submission is true, complete and accurate.

Period for making submissions

5. (1) Subject to paragraph (2), eligible persons may make submissions to the Assessor not later than the date specified in the notice under Regulation 3(1).

(2) The period specified in paragraph (1) may, on one or more occasions, at the request in writing of an eligible person or otherwise at the discretion of the Assessor, be extended by the Assessor for such further period as the Assessor considers necessary and appropriate.

Period for review of submissions

6. (1) Subject to paragraph (2), the Assessor shall review submissions not later than 60 days after the expiration of the period for making submissions specified in Regulation 5(1) or of any extension of that period under Regulation 5(2).

(2) The period for reviewing submissions specified in paragraph (1) may, on one or more occasions, at the request of an eligible person or otherwise at the discretion of the Assessor, be extended by the Assessor for such further period as the Assessor considers necessary and appropriate.

(3) The Assessor may, during the period for reviewing submissions specified in paragraph (1), or any extension of that period under paragraph (2), by notice, require a person who made a submission to give to the Assessor not later than 21 days after the date of the notice -

- (a) such additional information relating to the submission, in such form and manner, as the Assessor may reasonably require for the purpose referred to in Regulation 3(2)(a), and
- (b) such evidence as the Assessor may reasonably require in order to verify the information given to the Assessor under this paragraph.

(4) The Assessor may, on one or more occasions, at the request in writing of a person to whom a notice is given under paragraph (3) or otherwise at the discretion of the Assessor, extend the period of 21 days specified in paragraph (3) for such further period as the Assessor considers necessary and appropriate.

Circulation of draft report

7. The draft of the report sent by the Assessor under section 26(1) of the Act (in these Regulations referred to as the “draft report”) shall be accompanied by a notice –

- (a) stating –
 - (i) the date of the notice, and
 - (ii) that the person to whom the draft report is sent –
 - (I) may, not later than 28 days after the date of the notice, make written submissions to the Assessor concerning the draft report in the form and manner specified in the notice, and
 - (II) commits an offence under section 26(4) of the Act if the person discloses the draft report or its contents or any part of the draft report to any person other than for the purpose of obtaining professional advice,
- and
- (b) including any other matters that the Assessor considers appropriate for the purposes of section 26 of the Act.

Period for making submissions concerning draft report

8. (1) Subject to paragraph (2), each person to whom the draft report is sent under section 26(1) of the Act may, not later than 28 days after the date of the notice given under Regulation 7, make written submissions concerning the draft report to the Assessor.

(2) The Assessor may, on one or more occasions, at the request in writing of a person referred to in paragraph (1) or otherwise at the discretion of the Assessor, extend the period specified in paragraph (1) for making submissions for such further period as the Assessor considers necessary and appropriate.

Giving of notices

9 Where a notice is required to be given to a person under these Regulations, it shall be in writing and addressed to the person and shall be given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) in the case of a company, by leaving it at its registered office;
- (c) in the case of a person (other than a company), by leaving it at the address given by the person for the giving of notices;
- (d) by sending it by prepaid registered post -
 - (i) in the case of a company, to its registered office, or
 - (ii) in the case of a person (other than a company), to the person at the address referred to in paragraph (c);
- (e) by sending it to the email address (if any) given by the person but only if it is also given in one of the other ways mentioned in any of the preceding paragraphs.



GIVEN under my Official Seal,
7 February 2019

PASCHAL DONOHOE,
Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434)

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434)

€3.00

