

THE FACTS SET OUT IN THIS DOCUMENT HAVE BEEN AGREED BETWEEN EXECUTIVE COUNSEL AND THE RESPONDENT FOLLOWING AN INVESTIGATION INTO THE CONDUCT OF THE RESPONDENT. THE SETTLEMENT AGREEMENT DOES NOT FOLLOW A HEARING OF EVIDENCE BY A TRIBUNAL. NO FINDINGS HAVE BEEN MADE, NOR SHOULD BE TAKEN TO HAVE BEEN MADE, AGAINST ANY OTHER PERSONS.

IN THE MATTER OF

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

-and-

MARTIN RYAN

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## SETTLEMENT AGREEMENT

*Edited for publication*

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1. This Settlement Agreement (“**Agreement**”) is made on the 13<sup>th</sup> day of December 2016 between Gareth Rees QC as the Executive Counsel of the Financial Reporting Council (“**FRC**”), of 8<sup>th</sup> Floor, 125 London Wall, London, EC2Y 5AS (“**the Executive Counsel**”) of the first part, and Mr Martin Ryan of Co. Dublin, Republic of Ireland (“**Mr Ryan**”) of the second part. The Executive Counsel, and Mr Ryan together are described as “**the Parties**”.
2. The Agreement is evidenced by the signatures of the Executive Counsel on his own behalf, and by Mr Ryan on his own behalf.
3. The Particulars of Fact and Acts of Misconduct against Mr Ryan (“**the Particulars**”) as a member of the Institute and Faculty of Actuaries (“**IFoA**”) were prepared by the Executive Counsel in accordance with the FRC Actuarial Scheme (“**the Scheme**”) and are annexed. The Particulars relate to the conduct of Mr Ryan in relation to his conduct as an Actuary (Chief Actuary from September 2011) at RSA Insurance Ireland Limited (“**RSA**”). More specifically in respect of the financial years ending 31 December 2009 to 31 December 2012 (inclusive). The allegations of Misconduct relates to Mr Ryan:
  - a. submitting Statements of Actuarial Opinion (“**SAO**”) to the Central Bank of Ireland / Financial Services Regulatory Authority that were inaccurate due to the Under-Reserving Practice (such practice is defined in the Particulars); and
  - b. failing to whistle-blow regarding the Under-Reserving Practice, or sufficiently challenge his colleagues in respect of it.
4. Mr Ryan admits the Particulars, including Allegations 1 and 2 as set out in the Particulars.
5. The Parties recognise that the determination to be made in this case is a matter for the Tribunal member in accordance with paragraph 8(4) (ii) of the Scheme.

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6. The Executive Counsel and Mr Ryan have agreed the following terms of settlement:

An Order that Mr Ryan be ineligible for 3 years (from the date when the Settlement Agreement takes effect) for a practising certificate or registration or authorisation or a licence (for the practice of any activity requiring such a certificate, registration, authorisation or licence) issued by the IFoA. At the expiry of 3 years, Mr Ryan may apply to the IFoA for award of a practising certificate, such application to be considered on its own merits according to the prevailing eligibility criteria.

A Condition that Mr Ryan shall not, for the period of 3 years from the date when the Settlement Agreement takes effect, undertake any of the following functions or roles in the Republic of Ireland:

- a. a Pre-Approval Controlled Function;
- b. a Controlled Function (save as permitted below);
- c. Signing Actuary (or otherwise sign any Statement of Actuarial Opinion);
- d. Appointed Actuary (or otherwise undertake the work of such actuary); or
- e. Any function which, if performed in the UK, would require a practising certificate issued by the IFoA.

The capitalised terms above have the meanings given by the Central Bank of Ireland or relevant Irish legislation and include those definitions as amended from time to time.

Notwithstanding paragraph b. of the Condition, Mr Ryan shall be permitted to perform an Actuarial role designated "CF2" by the Central Bank of Ireland provided that:

- i. he undertakes such role under the direct supervision of an Actuary performing a "CF1" role or an Actuary performing a Pre-Approval Controlled Function; or
- ii. he undertakes such role under the direct supervision of an Actuary performing a "CF2" role who him/herself is acting under the direct supervision of an Actuary performing a "CF1" role or an Actuary performing a Pre-Approval Controlled Function;

and in the case of (i) or (ii), he also meets the prevailing criteria set by the Central Bank of Ireland, or relevant Irish legislation, for such "CF2" role.

The functions and meaning of "CF1" and "CF2" roles are as prescribed by the Central Bank of Ireland or relevant Irish Legislation and shall be deemed,

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for the purposes of this document, to include any role bearing the same or similar characteristics of “CF1” and “CF2” roles as currently defined by the Central Bank of Ireland, whether or not expressly referred to as such.

A Fine of £145,000 adjusted for aggravating and mitigating factors and discounted for settlement to £101,500. The Fine shall be paid not later than 28 days after the date when the Settlement Agreement takes effect

In reaching this Agreement with Mr Ryan, the Executive Counsel considered the following stages and took account of the following factors in accordance with the FRC’s Sanctions Guidance (the “**Sanctions Guidance**”) approved on 15 November 2016:

***Nature and Seriousness of the Misconduct***

- a. Mr Ryan held a senior position, being the most senior Actuary at RSA from early 2010, with statutory and supervisory responsibilities.
- b. Part of the Misconduct (Act 1) related to returns be made to the Central Bank of Ireland.
- c. The nature, extent and importance of the standards breached. The Misconduct relates to the Respondent’s breaches of the Core Principles of the IFoA Actuaries Code which actuaries are expected to observe in their professional lives. As set out in the Actuaries Code, actuaries have a core obligation to serve the public interest; compliance with the Core Principles is one of the ways in which the Actuarial Profession discharges that obligation.
- d. Whilst it is acknowledged that Mr. Ryan had no involvement in design or implementation of the under-reserving process, Mr Ryan was solely responsible for the Misconduct as set out in Act 1 and Act 2 of the Particulars.
- e. The Misconduct could undermine confidence in the standards of conduct in general of Members and the profession generally.
- f. The Misconduct was not dishonest or reckless.
- g. The inappropriate practice to which the Misconduct relates was significant to the financial statements and actuarial surplus estimates of one of the largest insurance companies in Ireland.

***Identification of Sanction***

Having assessed the seriousness of the Misconduct, the Executive Counsel has determined that the appropriate sanctions are: an order that Mr Ryan not be permitted to hold a practicing certificate, and a Fine. Executive Counsel has then taken into

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account any aggravating and mitigating factors that exist (to the extent that they have not already been taken into account in relation to the seriousness of the Misconduct) and any considerations relevant to deterrence. Having considered those additional factors set out below, Executive Counsel has determined that, for the purposes of deterrence, an adjustment to sanction is necessary. Accordingly, Executive Counsel determined that a condition on the roles Mr Ryan can undertake in practice is appropriate and, in circumstances where Mr. Ryan practices exclusively in Ireland, the sanction has been designed and is expressly intended to apply in both the UK and Ireland. Executive Counsel is satisfied that the sanctions, taken in their entirety and having regard to the fact that they are intended to regulate and restrict, for a 3 year period, Mr. Ryan's practice in his own country of practice (Ireland), are both sufficient and appropriate and that further sanction ought not be required to achieve intended deterrent effect and the objective of credible deterrence

***Aggravating Factors***

The Misconduct occurred over an extended period of time (four financial years).

***Mitigating Factors***

- a. Mr Ryan has a good compliance history and disciplinary record.
- b. Mr Ryan has fully co-operated with Executive Counsel throughout the investigation of Misconduct.
- c. Mr Ryan has acknowledged and accepted responsibility for the Misconduct and has demonstrated contrition.
- d. Statutory legal protection was not available to Mr Ryan in respect of any whistle-blowing disclosure he could have made to the Central Bank of Ireland.
- e. During the period of the Misconduct, Mr. Ryan states that he was subjected to an oppressive organisational and working environment within RSA and that his actions took place against the backdrop of direct pressure put on Mr. Ryan not to interfere with or otherwise expose the improper decisions taken by senior members of RSA's management at the time.

***Deterrence***

Paragraphs 55 and 56 of the Sanctions Guidance state:

*"If the Tribunal considers that the sanction arrived at, after making any adjustment to reflect any aggravating and mitigating factors, is insufficient to deter...other*

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*Members...from committing...further or similar Misconduct, the Tribunal may adjust the sanction to ensure that the intended deterrent effect will be achieved...*

*...Examples of the circumstances where a Tribunal may consider it appropriate to make such an adjustment include where a Tribunal considers that:*

*the sanction is too small to meet the objective of credible deterrence.”*

Whilst Mr Ryan is a Member of the IFoA, he practices in The Republic of Ireland rather than the UK. The performance of senior Actuarial roles in Ireland (such as Chief Actuary or Signing Actuary) does not require a Practising Certificate issued by the IFoA. Accordingly, the imposition of an Order that he be ineligible for a Practising Certificate issued by the IFoA may have limited deterrent effect for other Members.

In light of such considerations, Executive Counsel has determined that a condition restricting Mr Ryan’s practice in Ireland is necessary to achieve intended deterrent effect and the objective of credible deterrence.

***Discount for Admissions and Settlement***

Having taken into account full admissions by Mr Ryan and the stage at which those admissions were made (in Stage 1 of the case in accordance with paragraph 59 of the Sanctions Guidance), the Executive Counsel determined that a reduction of 30% as to the Fine as a settlement factor is appropriate.

***Other Considerations***

In accordance with paragraph 32 (iii) of the Sanctions Guidance, the Executive Counsel has taken into account Mr Ryan’s financial resources; and that there are no arrangements that would result in part or all of the Fine being paid or indemnified by insurers.

***Costs***

7. The Executive Counsel and Mr Ryan have agreed the following terms of settlement:

A sum of £11,000 to be paid by Mr Ryan, as a contribution towards the Executive Counsel’s costs of, and incidental to, the investigation. The costs shall be paid not later than 28 days after the date when the Settlement Agreement takes effect.

In accordance with paragraph 62 of the Sanctions Guidance, the Executive Counsel has taken into account Mr Ryan’s financial position and the impact of the Fine; and that there are no arrangements that would result in part or all of any award of costs being paid or indemnified by insurers or his firm.

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8. If the decision of the Tribunal member is to approve the Agreement, including the sanctions set out above, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to Mr Ryan in accordance with paragraph 8(4) (iv) of the Scheme.
9. The Agreement and annex will remain confidential until publication in accordance with paragraph 8(6) of the Scheme.

GARETH REES QC

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**Gareth Rees QC**  
**Executive Counsel**

13 DECEMBER 2016

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**Date**

MARTIN RYAN

.....  
**Mr M. Ryan**

9 DECEMBER 2016

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**Date**