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Central Bank of Ireland

Eurosystem

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29 September 2014

Strictly Confidential

Ms Oonagh Buckley
Department of Public Expenditure & Reform
7-9 Merrion Row
Dublin 2

Dear Ms Buckley

Re: Retention of Staff in Strategically Critical Roles

Further to our recent conversation, I wish to advise you that the Central Bank of Ireland has implemented a Retention Policy for staff in Strategically Critical Roles.

Whilst this policy will apply to very few individuals (currently expected to be less than 10) we require such a policy to ensure we are able to deliver upon our mandate in very specific and strategically critical areas.

I attach for your information a copy of our policy and I am of course happy to answer any queries you may have. We have taken legal advice on the matter to ensure that the policy is compliant with FEMPI legislation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Elizabeth Joyce', written over a horizontal line.

Elizabeth Joyce
HR Director

CENTRAL BANK OF IRELAND

STRICTLY CONFIDENTIAL

Retention of Target Employees -Interim Policy
Re: Critical Roles in Critical Projects

Human Resources Directorate
July 2014

Executive Summary

Whilst the overall average rate of Central Bank staff turnover is low, the Central Bank is vulnerable to loss of key employees on strategically vital matters to the Central Bank. The Central Bank has reviewed this issue and considers that there may be certain strategic roles, “**Critical Roles**”, critical to the strategically significant projects with regard to the functions of the Central Bank as may be identified from time to time (a “**Critical Project**”). In these instances, the Budget and Remuneration Committee has considered the implications of making retention payments to staff in Critical Roles in Critical Projects.

Arising from the review the Central Bank proposes to issue new contracts of employment to employees in Critical Roles, Target Employees (defined below), to facilitate their retention as employees throughout forthcoming critical periods in which projects, each having been approved by GovCo as a Critical Project, are completed. A proposed new contract, if accepted by a Target Employee, will require that a Target Employee agree a six-month notice period, (to substitute the standard three month notice period), in consideration for payments to be made as set out at (i) to (iii) below in addition to payment of the Target Employee’s usual salary.

Background

The level of turnover in key areas of the Central Bank has been a cause for concern for some time. The attraction and retention of talent by the Central Bank has been identified as one of the reasons for commissioning the current external organisational review. As the organisational review is likely to take some time to complete, including the implementation of recommendations, both senior management and the Central Bank Commission have agreed that consideration be given to options available in the short to medium term to retain individuals in Critical Roles with regard to Critical Projects (“**Target Employees**”).

Target Employees are employees as may be identified by GovCo from time to time, who are at the time of their identification as Target Employees engaged in work in Critical Roles on strategically critical Central Bank projects of significance having regard to the functions of the Central Bank as identified from time to time, namely Critical Projects. The decision to seek to agree new contract terms involving the making of payments to Target Employees is in recognition of the fact that such Target Employees are required by the Central Bank in order to ensure continuity of expertise and experience to enable it to efficiently and effectively implement the Critical Projects. Payments shall be structured so as to seek to ensure that the Central Bank secures the retention of the key skills, knowledge and experience possessed by the Target Employees until the Critical Projects come to an end.

Objective of this Policy

The purpose of this Policy is to establish an objective basis upon which the Central Bank may lawfully make retention payments to Target Employees in order to ensure that they are retained in employment by the Central Bank over identified strategically-critical periods.

General Principles of this Policy

The Central Bank has determined a non-exhaustive list of criteria to be considered in identifying Target Employees.

GovCo, in its absolute discretion, will decide whether or not to designate an employee as a Target Employee by reference to some or all of the criteria set out below and/or by reference to such other criteria as it may deem to be appropriate in the particular circumstances that prevail at the relevant time.

- the position being performed by the Target Employee is related to a core activity of the Central Bank;
- the project upon which the Target Employee is currently engaged is a Critical Project identified by the Central Bank from time to time, having regard to its functions;
- the Target Employee acts in a position which requires professional expertise and extensive knowledge of the organisation of the Central Bank and of what is required to successfully implement the Critical Project;
- the Target Employee has a current satisfactory performance rating;
- the Target Employee possesses the potential to have a significant impact on the ability of the Central Bank to deliver on its' mandate in an effective and efficient manner with regard to the Critical Project; and
- the Target Employee acts in a position that has a short supply in the external labour market and which would be difficult to fill in a timely manner so as not to have a detrimental effect on the completion of the Critical Project.

A potential Target Employee may be employed at any grade within the Central Bank.

Application of the policy

A payment made to the Target Employees upon:

- (a) the signing of the new contracts; and
- (b) a second payment on the earlier of either: (i) the Target Employee no longer being considered by the Central Bank to be a Target Employee (i.e. upon completion of the Critical Project); and (ii) twelve (12) months from the date of signing of the new contract of employment; and
- (c) a third payment on the earlier of either (i) the Target Employee no longer being considered by the Central Bank to be a Target Employee (i.e. upon completion of the Critical Project, and in twenty four (24) months from the date of signing of the new contract of employment.

Each payment at (a), (b) and (c) above will be made only where the following conditions are met at the time the payment falls due:

- (i) the Target Employee remains in the employ of the Central Bank;
- (ii) the Target Employee has not given or received notice of termination of employment with the Central Bank, whether in writing or otherwise;
- (ii) the Target Employee has a current satisfactory performance rating;
- (iv) the Target Employee is not the subject of any investigation into his/her conduct whether under the disciplinary procedure or otherwise. Any payment to the Target Employee may be paid after the completion of all relevant investigation, hearing and appeals if GovCo considers it appropriate to make such payment having considered the outcome of the investigation, hearing and appeals.

The amount of each payment will be determined by GovCo in its sole discretion in respect of each Target Employee and will be specified in the new contract offered to the Target Employee.

Responsibility for the implementation of this Policy

HRD is responsible for the implementation and day-to-day management of this Policy. HRD shall take steps to ensure that the Target Employees are issued with new contracts of employment in the immediate future.

Minister,

Please see attached on a confidential basis which notes that the Central Bank (GovCo) intends to award new contracts to a small number (up to 10) of selected employees permitting retention payments.

Although the quantum of the retention payment, spread over 3 tranches, is to be determined on a case by case basis, I understand informally that current thinking is that the payments will total around 50% of salary.

Although this is likely to be kept confidential, as part of the public service "family", news that these payments are being made available to a small group may become publicly known.

As you know, save for the FEMPI Act controls, the Central Bank is not subject to the normal pay/conditions sanctioning powers of this Department, nor indeed of its parent Department, the Department of Finance. In fact the Bank has a special status in European law under the Maastricht Treaty that they guard jealously.

The Bank confirms in their letter that they have secured legal advice that confirms that this arrangement is not contrary to FEMPI. Given that new contracts are to be issued, I would concur with that analysis.

However, as the Bank is not subject to our sanctioning powers and therefore it is a matter for itself to determine how best to design its remuneration system so as to recruit and retain its own staff, I would intend to reply thanking the Bank for informing of us of the proposed course of action by the Bank, and noting that they have secured legal advice to the effect that it does not contravene the FEMPI Acts.

It has been indicated to me that the Bank are reviewing the remuneration arrangements more generally and would intend to move in time to a different form of salary/reward structure (i.e. off incremental scales). However they are clear that any such arrangements would have to comply with the FEMPI Acts and is more a medium term ambition.

Oonagh Buckley,

Assistant Secretary.



Banc Ceannais na hÉireann
Central Bank of Ireland
www.cbi.ie

Ms Oonagh Buckley
Assistant Secretary
Dept of Public Expenditure and Reform

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Assistant Secretary
Department of Public Expenditure and Reform

30 November 2015

Re: Retention Payments 2011

Dear Ms Buckley

I refer to your email of Thursday 26 November 2015 and respond as follows:

1. Retention payments for eight employees were approved in May 2011 and individual agreements were signed in June 2011. Those employees were engaged in critical roles on a strategically critical project and at the time the Bank was experiencing significant difficulties in attracting and retaining suitable candidates for these roles. The skills of those individuals were in high demand in the market place and management had concerns about the Bank's ability to retain existing staff in these roles. This was further accentuated by pay constraints for existing employees within the Bank. The payments were approved by senior management (The Governor's Committee) and were designed to manage specific key person risk. As the requirement was limited to one skillset and one critical project at that time, a policy was not developed until it emerged subsequently in 2014 that it was likely there could be similar requirements for more than one critical project. We cannot identify the critical project or skillset in question for data protection and other legal reasons.
2. The payments were phased over three years with no payment in 2011 or 2012, one payment in 2013 and one payment in 2014. Full details of the payments are attached. As these payments were made on the basis of confidential contractual provisions



between the Bank and the individuals in question, it would not be appropriate for the Bank to disclose any further details in respect of the arrangements.

3. The payments were agreed and made in recognition of the key role of the particular skill set and specialist knowledge of these employees to the Bank and the need for the Bank to achieve savings in its expenditure by retaining these employees. The Bank's employment agreements with the individuals in question were changed, introducing requirements to be fulfilled to receive retention payments. The Bank's aims and actions were compatible with the purposes of FEMPI 2009.
4. Specific legal advices were not obtained at the time but we have since consulted with our external legal advisers and, based on the advices received, we are satisfied that the Bank had a valid and legal basis for making the payments at the time.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Elizabeth Joyce', written over a horizontal line.

Elizabeth Joyce

HR Director

Details of Payments

Staff No	Retention Schedule Payment #1 €	Payment Due Date	Amount Paid on Due date	Payment #1 as % salary	Retention Schedule Payment #2 €	Payment Due Date	Amount Paid on Due date	Payment #2 as % salary	Total Paid to date
XXXX *	16,000	Feb-13	16,000	19%	32,000	Jan-14	32,000	38%	48,000
XXXX *	17,000	Jun-13	17,000	19%	33,000	Jun-14	0	0%	17,000
XXXX *	16,000	Jun-13	16,000	13%	32,000	Jul-14	32,000	25%	48,000
XXXX*	16,000	Jun-13	8,000	9%	32,000	Jun-14	0	0%	8,000
XXXX *	16,000	Jun-13	16,000	15%	32,000	Jul-14	32,000	31%	48,000
XXXX*	20,000	Feb-13	0	0%	40,000	Feb-14	0	0%	0
XXXX*	17,000	Jun-13	0	0%	33,000	Jul-14	0	0%	0
XXXX*	16,000	Feb-13	0	0%	32,000	Feb-14	0	0%	0

*Staff numbers redacted for data protection and other legal reasons.

Ms Elizabeth Joyce,
HR Director,
Central Bank of Ireland,
Postbox 559,
Dame Street,
Dublin 2.

2 December 2015.

Re: Retention Payments 2011.

Dear Liz,

Thanks for your letter of 30 November 2015.

In it, you state that the “retention payments” agreed with certain staff in 2011 (after the passage of the Financial Emergency Measures in the Public Interest (No. 2) Act, 2009) and paid to some of them in 2013 and 2014 respectively, were, in the Bank’s view, “compatible with the purposes of FEMPI 2009”. You also state that, based on your external legal advisers’ advice, obtained after the payments were made, the Bank is satisfied that you had a “valid and legal basis for making the payments at the time”.

In light of the letter from Minister Howlin to the former Governor of 23 November, 2015, relating to the ongoing application of the FEMPI Acts to the Bank, I would be grateful if you can confirm that you have legal advice stating that the payments made were in compliance with the terms of the 2009 Act, and that the Bank agrees with that advice.

In the absence of such advice, or agreement, I would be grateful if you could detail what steps will be taken on behalf of the Bank to recover monies paid to employees that were not in compliance with the terms of the Act.

Yours sincerely,


Oonagh Buckley,
Assistant Secretary.