

CENTRAL BANK OF IRELAND IMPOSES A FINE OF €443,000 ON APPIAN ASSET MANAGEMENT LIMITED

On 13th June 2018, the Central Bank of Ireland (the “CBI”) fined Appian Asset Management (“Appian”), €443,000 and reprimanded it for significant breaches across three regulatory regimes:

- client asset,
- anti-money laundering, and
- fitness and probity.

Appian was first authorized by the CBI in March 2003 under the Investment Intermediary Act 1995, providing portfolio management functions, including receipt and transmission of investment orders, in addition to providing investment advice. The breaches have been admitted by Appian.

Appian’s historic regulatory failures left it exposed to a cyber-fraud by a third party where, acting on the instructions of a fraudster impersonating a client, it facilitated a series of transactions resulting in the loss of €650,000 of a client’s funds. The client was fully reimbursed.

The CBI’s enforcement investigation identified that the loss of client funds was caused by Appian’s failures in the following areas:

1. it had defective controls to protect client assets against fraud;
2. it had inadequate policies and procedures to monitor transactions, detect and report money laundering and provide its staff with appropriate training; and
3. it failed to ensure that an employee, performing a role that might expose Appian to financial, consumer or regulatory risk, was fit for that role.

Seána Cunningham, the CBI’s Director of Enforcement and Anti Money Laundering, has commented as follows:

“This is the first time the Central Bank has imposed a sanction on a firm where there has been a loss of client funds from cyber-fraud as a direct result of the firm’s significant regulatory breaches and failures.

Appian’s failures in this case demonstrated serious deficiencies in its governance arrangements, risk management, compliance oversight, and systems of internal control. These failings, combined with a culture in which clients’ instructions were given primacy over security and regulatory concerns, rendered the Firm exposed to the cyber-fraud that occurred.

It placed client assets at heightened risk and that risk crystallised. The Central Bank views such fundamental failings as completely unacceptable.

The Central Bank expects the Board and senior management of all firms permitted to hold client assets to take active measures to ensure they hold such assets safely and securely.”

During the cyber-fraud, there were numerous red flags, which were not investigated by Appian, namely:

- Despite the investor’s expressed intention for a long-term investment, the redemption request was received within 2 months of the initial investment;
- Further inconsistencies included:
 - Redemption request was to multiple third party corporate accounts outside of Ireland (residency of investor);
 - The signatures on the two account mandates for the third party corporate accounts bear questionable resemblance signature list which Appian had on file;
 - The general communication skills, including grammatical and spelling errors, in redemption instructions and subsequent communications, were not consistent with the investor’s profile, that of an articulate businessperson;
 - Appian was “baited” into believing a further investment of €2 million following the sale of a purported Swiss property. Real Client did not own Swiss property. Appian continued to process further fraudulent redemptions even after the passing of the purported sale completion date without considering why he still needed funds; and
 - The naming of one of the corporate accounts was explained to be in the name of the investor’s son, whereas in fact, the investor did not have a son with the name referenced.
- The UK bank returned one tranche of funds on three occasions to Appian because Appian had been given the incorrect account names twice and SWIFT details once.
- It was requested that the payments be split into smaller amounts with the intent of avoiding UK banking controls, and Appian complied without raising any question.
- The fraudster changed his own (fake) profile during his engagements with Appian. For example, he initially said proceeds would be paid into his personal UK account but later provided details of two corporate accounts instead.

The full press release, including further detail on the cyber-fraud and breaches that occurred is available on the CBI’s website [here](#).