



DETERMINATION OF MERGER NOTIFICATION M/21/021 – BANK OF IRELAND/CERTAIN ASSETS OF KBC

Section 22 of the Competition Act 2002

Acquisition of certain assets and liabilities of KBC Bank Ireland plc by the Governor and Company of the Bank of Ireland

Dated 23 May 2022

Determination

Pursuant to section 20(3) of the Competition Act 2002, as amended (the “Act”), the Governor and Company of the Bank of Ireland (“BOI”) has submitted to the Competition and Consumer Protection Commission (the “Commission”) the proposals set out below regarding measures to be taken to ameliorate any effects of the proposed acquisition on competition in markets for goods or services in the State, with a view to the said proposals becoming binding on BOI.

The Commission has taken the proposals into account and, in light of the said proposals (which form part of the basis of its determination), has determined, in accordance with section 22(3)(a) of the Act that the result of the proposed acquisition whereby BOI would acquire certain assets and liabilities from KBC Bank Ireland plc (“KBC”), an indirectly wholly-owned subsidiary of KBC Group N.V., including KBC’s performing mortgage loans, KBC’s customer deposit accounts and certain other assets and liabilities, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect. Before making a determination in this matter, the Commission, in accordance with section 22(8) of the Act, had regard to any relevant international obligations of the State, and concluded that there were none.

For the Competition and Consumer Protection Commission

Jeremy Godfrey
Chairperson
Competition and Consumer Protection Commission



Appendix A: Proposals

M/21/021–Bank of Ireland / Certain Assets of KBC: Proposals

Proposals by The Governor and Company of the Bank of Ireland to the Commission

23 MAY 2022

BOI (as hereinafter defined) hereby submits to the Commission (as hereinafter defined) the following proposals under Section 20(3) of the Act (as hereinafter defined):

Recitals

- A. On 16 April 2021, BOI notified to the Commission under Part 3 of the Act a transaction whereby BOI would acquire the KBCI Assets (as hereinafter defined) from KBCI (as hereinafter defined), an indirectly wholly-owned subsidiary of KBC Group N.V., including KBCI's performing mortgage loans, KBCI's customer deposit accounts and certain other assets and liabilities (the "**Proposed Transaction**").
- B. On 20 October 2021, the Commission made a determination that it intended to carry out a full investigation under Section 22 of the Act in relation to the Proposed Transaction.
- C. Pursuant to Section 20(3) of the Act, BOI has submitted the Proposals (as hereinafter defined) for the purpose of ameliorating any effects of the Proposed Transaction on competition in markets for goods or services in the State and with a view to alleviating concerns identified by the Commission and the Proposals becoming binding on BOI if the Commission takes the Proposals into account and states in writing that the Proposals form the basis or part of the basis of a Determination.

1 Definitions

- 1.1 In this Agreement, the following terms shall have the following meanings:

"Act" means the Competition Act 2002 (as amended);

"Affiliates" means all undertakings or persons which, directly or indirectly, control BOI, undertakings directly or indirectly controlled by BOI and / or by the ultimate parents of BOI, whereby the notion of control shall be interpreted pursuant to Section 16 of the Act;

"Agreement" means this agreement containing the Proposals;



“BOI” means The Governor and Company of the Bank of Ireland, a chartered corporation with limited liability registered in Ireland with Registered Number C1 having its registered office at 40 Mespil Road, Dublin 4, Ireland;

“BOI SVR” means a standard variable rate available to a mortgage customer originated by BOI;

“BPS” means one basis point equal to one hundredth of one percentage point;

“BTL” means a residential loan secured with a first-ranking mortgage granted to individuals and which is not a PDH;

“Completion Date” means the date of the completion of the Proposed Transaction;

“Commission” means the Competition and Consumer Protection Commission and its successors;

“Determination” means a determination of the Commission under Section 22(3)(a) of the Act that the Proposed Transaction may be put into effect taking into account the Proposals, which form part of the basis of the Determination;

“Determination Date” means the date of the issuance of the Determination by the Commission;

“Dilosk” means Dilosk DAC, with company registration number 531010;

“ECB Eligibility” or “ECB Eligible” means, in respect of any securities, that they satisfy the Eurosystem eligibility criteria as set out in Part Four of Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (ECB/2014/60), as amended;

“Escrow” has the meaning ascribed to it in clause 4.1;

“EU Securitisation Regulation” means Regulation (EU) 2017/2402 of the European Parliament and of the Council, of 12 December 2017, laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation;

“Finance Ireland” means Finance Ireland Credit Solutions Designated Activity Company, with company registration number 549222;

“Fixed Rate” means a fixed-rate mortgage loan secured against a property where the interest rate does not change for a defined period of the loan;



“Funding” means the funding that will be made available to Dilosk and Finance Ireland pursuant to clause 3.1;

“Funding Commitment Term” means a period of 3 years beginning on the date that the Funding Recipients are informed that the Funding is available pursuant to clause 5.2.1;

“Funding Recipient” means Dilosk or Finance Ireland and “Funding Recipients” means both;

“Innovation Entity” has the meaning ascribed to it in clause 4.2;

“ISIN” means International Securities Identification Number;

“KBCI” means KBC Bank Ireland plc, a company incorporated in Ireland with company registration number 40537 and having its registered office at Sandwith Street, Dublin 2, D02 X489, Ireland;

“KBCI Assets” means KBCI’s performing mortgage loans, KBCI’s customer deposit accounts and certain other assets and liabilities;

“KBCI SVR” means KBCI’s standard variable rate available to a KBCI mortgage customer as advertised by KBCI at or most recently prior to the Completion Date;

“Liquidity Coverage Ratio or “LCR” means with respect to a residential mortgage backed securitisation, the requirements pursuant to Article 13 of the Delegated Regulation (EU) 2018/1620 on liquidity coverage requirement for credit institutions dated 13 July 2018, amending Delegated Regulation (EU) 2015/61 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity;

“LCR Eligibility” means compliance with the criteria necessary for a residential mortgage backed securitisation to be designated as compliant with the LCR;

“Proposals” means the proposals as set out in this Agreement;

“PDH” means residential loans secured with a first-ranking mortgage granted to individuals for the acquisition of their main residence (also known as Owner Occupier);

“Request” has the meaning ascribed to it in clause 4.5;

“RMBS” means Residential Mortgage Backed Securities;

“State” means the Republic of Ireland;

“STS Eligibility” means compliance with the criteria necessary for a residential mortgage backed securitisation to be designated as a “simple, transparent and standardised”



securitisation by a third party authorised pursuant to Article 28 of the EU Securitisation Regulation in connection with an assessment of the compliance of the notes with the requirements of Article 18 and Articles 19 to 22 of the EU Securitisation Regulation;

“Securities” has the meaning ascribed in Clause 3.1;

“SVR” means standard variable rate;

“Transferred Mortgage” means a mortgage transferred from KBCI to BOI pursuant to the Proposed Transaction;

“Transferred Mortgage Customer” means the holder(s) of a Transferred Mortgage;

“Transferred Mortgage SVR” means a standard variable rate made available by BOI to a Transferred Mortgage Customer in accordance with this Agreement; and

“Working Day” means a day (other than a Saturday or a Sunday or public holiday) on which banks are open for retail business in Dublin.

2 **Transferred Mortgages**

2.1 KBCI Fixed Rate

2.1.1 BOI undertakes that, for any Transferred Mortgage, it shall honour any Fixed Rate agreed between KBCI and its customers for the remainder of the agreed Fixed Rate term which is in place at the Completion Date.

2.2 KBCI Current Account Discount

2.2.1 BOI undertakes that, for any Transferred Mortgage, it shall ensure that every Transferred Mortgage Customer who benefits from a 20 BPS ‘current account discount’ on the interest rate applicable to that Transferred Mortgage on the Completion Date shall continue to receive that discount for so long as the Transferred Mortgage Customer holds the Transferred Mortgage with BOI.

2.2.2 BOI undertakes that any such discount referred to in clause 2.2.1 shall not be conditional on the Transferred Mortgage Customer purchasing or consuming any products or services from BOI other than the Transferred Mortgage and in particular shall not be conditional on an obligation to open a BOI current account.

2.3 KBCI SVR

2.3.1 BOI shall, from the Completion Date, make available a set of Transferred Mortgage SVRs to Transferred Mortgage Customers on the date of their first expiry and roll-off from a



Fixed Rate that was agreed with KBCI before the Completion Date, which are independent of any BOI SVR.

- 2.3.2 BOI undertakes that this set of Transferred Mortgage SVRs referred to in clause 2.3.1 above shall be the same interest rates, from the Completion Date, to the set of KBCI SVRs advertised by KBCI at or most recently prior to the Completion Date.
- 2.3.3 For the avoidance of doubt, the Transferred Mortgage SVRs are variable rates which may change from time to time. However, BOI may not adjust the interest rates associated with the Transferred Mortgage SVRs other than by the same number of BPS by which BOI SVR customers who fall within the same customer cohorts are adjusted by BOI.
- 2.3.4 BOI shall, from the Completion Date, offer the relevant Transferred Mortgage SVR to a Transferred Mortgage Customer on the first expiry and roll-off from a Fixed Rate that was agreed with KBCI before the Completion Date, in addition to any interest rates offered by BOI to all BOI customers.
- 2.3.5 The relevant Transferred Mortgage SVR offered to a Transferred Mortgage customer shall be determined on the basis of the relevant loan-to-value range and other SVR cohort identifiers used by BOI (e.g., BTL) applicable to that customer on the date of the first expiry and roll-off from the Fixed Rate agreed with KBCI before the Completion Date.

2.4 Communication to Transferred Mortgage Customers

- 2.4.1 BOI shall send a letter to all Transferred Mortgage Customers notifying them of the proposals described in 2.1 to 2.3 above by two weeks after the Completion Date at the latest.

3 Funding Commitment

- 3.1 During the Funding Commitment Term, BOI commits to offer to purchase on the primary market up to €1 billion in aggregate of Class A rated AAA (by two rating agencies) publicly syndicated RMBS securities (the “**Securities**”) originated by Dilosk and Finance Ireland, subject to a maximum of €500 million funding being provided to either of them.
- 3.2 BOI commits to purchase up to a maximum of a 50% stake in any single AAA tranche of Securities within the Funding Commitment Term, with BOI’s stake being subject to the allocation mechanism of the Funding Recipients.
- 3.3 The Securities to be purchased shall be on standard market terms with the following eligibility/label requirements applying to no less than 90% (€450 million) of the total Securities volume to be purchased from either Funding Recipient: ECB Eligibility, LCR



Eligibility, STS Eligibility, secured entirely on PDH/ Owner Occupier mortgages with no mixed pools. Up to 10% (€50 million) of the total volume of Securities to be purchased from either Funding Recipient may be secured in whole or in part on BTL mortgages providing these Securities also meet the criteria for ECB Eligibility.

- 3.4 The Securities must on issuance have been structured and checked for compliance in advance with the relevant ECB Eligibility guidelines and the Funding Recipients must be satisfied that the structure should not cause the ECB to withhold (or delay beyond their usual timing) listing them as eligible assets. The application to the ECB for ECB Eligibility for each issuance must be made by each Funding Recipient no later than one month from the Securities issuance date.
- 3.5 The Securities will be purchased at re-offer and will have a coupon of 3 month Euribor (or equivalent benchmark) plus a spread.
- 3.6 The Securities will be held by BOI until the issuer optional redemption dates of each RMBS transaction.
- 3.7 The Securities will have the following market standard structural features:

Issuer optional redemption date	Call date of 4 years or shorter
Incentive to redeem	Minimum 50% step up in coupon All excess revenue (on and post step up) pays down Class A notes
Credit Enhancement	Subordinated notes and a general reserve fund
Amortisation	Notes to redeem sequentially starting with Class A notes
0% bond floor	Securities issued at or above par and higher spread to Euribor, or unless otherwise agreed
Arrears Provisioning	Principal deficiency ledger to provide for expected losses after loans enter into arrears (i.e. no less than 50% at 6 months in arrears, no less than 75% at 9 months in arrears and no less than 100% at 12 months in arrears).

- 3.8 For the avoidance of doubt, BOI will not be bound to purchase any Securities issued in the primary market pursuant to these Proposals following the expiration of the Funding Commitment Term.



4 **Innovation Funding**

- 4.1 BOI undertakes that, within 3 months of the Completion Date, it shall transfer €1 million to an escrow account ("**Escrow**"). BOI shall provide a copy of Escrow details to the Commission within ten (10) Working Days of the transfer of such monies.
- 4.2 BOI will use its reasonable endeavours to appoint an established entity with experience of awarding funding to companies ("**Innovation Entity**") for the purposes of the Innovation Entity making funding available to companies, other than licensed retail banks and their subsidiaries, developing innovations relevant to the market for the provision of mortgages in the State. BOI will inform the Commission of the identity of the Innovation Entity within ten (10) Working Days of the appointment.
- 4.3 When the Innovation Entity confirms to BOI that a framework to enable operation of the innovation funding is successfully established, all monies in Escrow shall be released to the Innovation Entity for the purposes of the distribution of such funding. Within ten (10) Working Days after the release of all monies in Escrow, BOI will confirm the occurrence of same to the Commission.
- 4.4 Any costs or expenses incurred in identifying and/or appointing the Innovation Entity shall be borne by BOI. To the extent there are there are any costs or expenses incurred by the Innovation Entity in operating and distributing the innovation funding, these will be borne by BOI and/or the Innovation Entity and shall not be deducted from the €1 million innovation funding.
- 4.5 Within ten (10) Working Days of appointing the Innovation Entity under Clause 4.2, BOI will make a request ("**Request**") to the Innovation Entity to seek expressions of interest from companies, other than licensed retail banks and their subsidiaries, developing innovations relevant to the mortgage market in the State, in being awarded such funding. BOI shall provide a copy of the Request to the Commission.
- 4.6 If, within 12 months of the Completion Date, an Innovation Entity has not been appointed pursuant to Clause 4.2, all monies in Escrow shall be distributed by BOI to not-for-profit organisations working in fields related to supporting and empowering consumers to make better choices in the market for the provision of mortgages in the State.

5 **Compliance Certificates**

- 5.1 BOI shall submit to the Commission within twelve (12) months of the Completion Date, and, at intervals of one year thereafter for a period of three years from the Completion Date, a written certificate in the form set out in Schedule A, signed by a senior executive



confirming that BOI has complied in all material respects with its obligations set out in this Agreement in the preceding 12 month period.

- 5.2 Additionally, for the Funding Commitment outlined in clause 3 above:
- 5.2.1 within fifteen (15) Working Days of the Determination Date, BOI shall inform the Commission and each of the Funding Recipients that the funding is available on request in accordance with the terms set out in clause 3 above;
- 5.2.2 within two (2) months of the date that the Funding Recipients are informed that the Funding is available pursuant to clause 5.2.1, BOI shall inform the Commission of the identity of an internationally recognised accounting firm that BOI intends to instruct to supply the written confirmation provided for in clause 5.2.3 to the Commission and unless the Commission objects within five (5) Working Days of being so informed, BOI shall proceed to instruct the identified firm;
- 5.2.3 within six (6) months of the date that the Funding Recipients are informed that the Funding is available pursuant to clause 5.2.1, within twelve (12) months of the date that the Funding Recipients are informed that the Funding is available pursuant to clause 5.2.1, and within intervals of 12 months until the end of the Funding Commitment Term (a total of four (4) reports), BOI will supply a written confirmation from an internationally recognised accounting firm, approved by the Commission, confirming the aggregate value of Securities purchased by BOI along with the ISINs of the individual Securities during the reporting period.
- 5.3 The Commission reserves the right to require BOI to provide to the Commission, at any time, such additional information as the Commission requires in order for the Commission to verify compliance with its obligations set out in this Agreement. BOI shall, and shall procure that its Affiliates shall, promptly provide to the Commission all such information in its possession.
- 5.4 The Commission may provide such written directions to BOI from time to time as needed to require compliance with this Agreement. BOI shall, and shall procure that its Affiliates shall, comply promptly with any written direction issued by the Commission pursuant to this Agreement.
- 5.5 BOI shall nominate a senior executive who shall have responsibility for monitoring compliance by it with this Agreement, for responding to any request(s) for information and for complying with any written direction(s) received from the Commission in connection with this Agreement.
- 5.6 BOI shall provide the name and contact details of such senior executive to the Commission and shall provide written notice to the Commission in advance of any



change of the senior executive nominated pursuant to clause 5.5 of this Agreement and shall promptly provide to the Commission the name and contact details of any senior executive who is to replace the prior nominated senior executive.

- 5.7 This Agreement shall come into effect on the Determination Date. This Agreement shall, however, cease to apply if completion of the Proposed Transaction does not occur and BOI has informed the Commission of such occurrence. For the avoidance of doubt, insofar as Funding has been provided pursuant to the Funding Commitment and completion does not occur, such Funding as has been provided will remain in place according to the relevant terms but no additional Funding will be provided pursuant to this Agreement.

6 **Review Clauses**

- 6.1 The Commission may at its sole discretion waive any provision in this Agreement of its own motion at any time, subject to consultation with BOI.
- 6.2 The Commission may at its sole discretion waive or modify any provision in this Agreement in response to a reasoned written request from BOI.
- 6.3 Nothing in this Agreement shall convey any rights upon any person or entity which is not a party to this Agreement.

Dated ____ May 2022

SIGNED for and on behalf of
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND, by its duly
authorised representative