



## **Unauthorised release of funds from the Central Fund of the Exchequer**

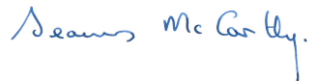
## Section 2 Report of the Comptroller and Auditor General

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### Unauthorised release of funds from the Central Fund of the Exchequer

I have, in accordance with the provisions of section 2 (7) of the Comptroller and Auditor General (Amendment) Act 1993, prepared this report on circumstances where the account of the Exchequer at the Central Bank has been operated to a material extent otherwise than as set down in law.

I hereby submit my report for presentation to Dáil Éireann in accordance with Section 2 (7) of the Act.



**Seamus McCarthy**  
**Comptroller and Auditor General**

20 December 2022

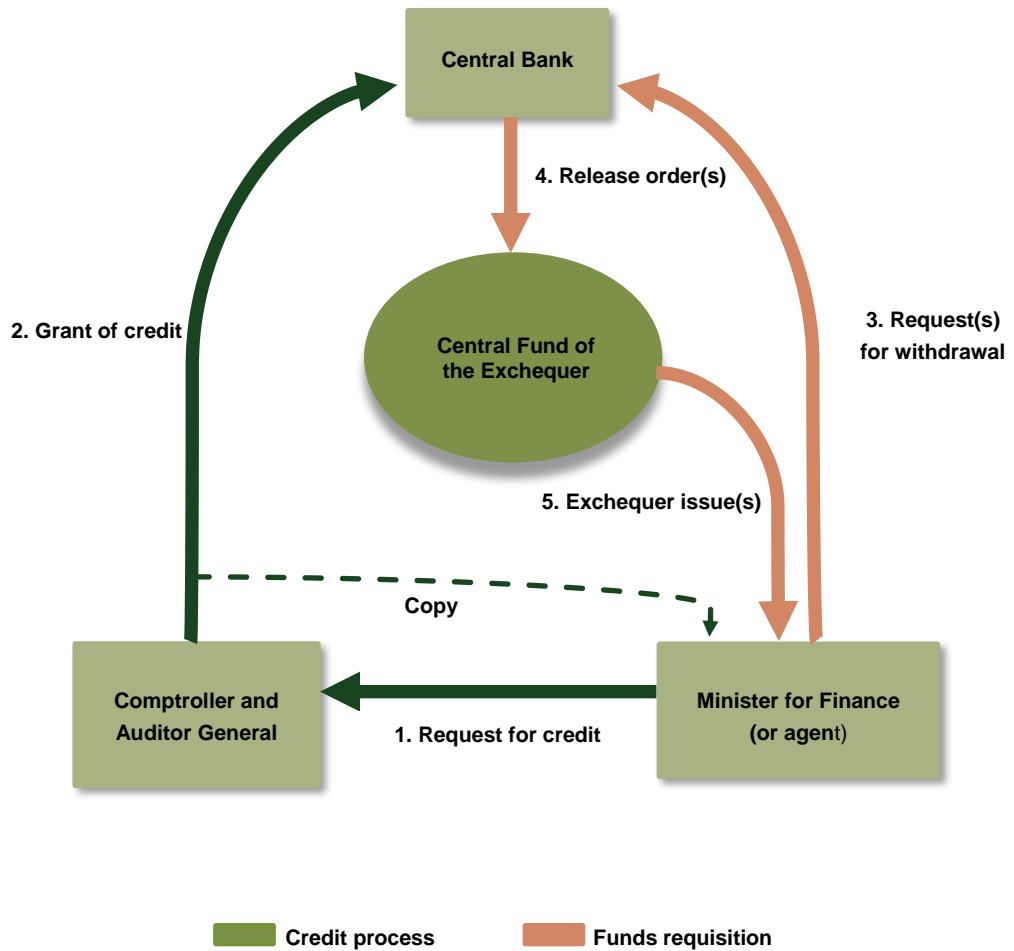
# Unauthorised release of funds from the Central Fund of the Exchequer

## Legislation regarding the operation of the Central Fund

- 1 Article 11 of the Constitution of Ireland/Bunreacht na hÉireann provides for the existence and operation of the Central Fund of the Exchequer, as follows.

*All revenues of the State from whatever source arising shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law.*
- 2 The Central Fund account is held at the Central Bank of Ireland. The account receives most State revenues and is the source of most State spending.
- 3 Strong control over the Central Fund is fundamental to a properly-functioning public financial system. The purpose of such control is to ensure that the State's funds are only released to the Minister for Finance, or to his/her authorised agent, where Dáil Éireann has approved such expenditure as part of the annual appropriations process, or where there is a specific legal basis for the expenditure.
- 4 Under article 33 of the Constitution, the Comptroller and Auditor General is required to control the release of money from the Central Fund. Section 2 of the Comptroller and Auditor General (Amendment) Act 1993 (the Act) sets out the Exchequer control process, which is summarised in Figure 1 (see overleaf).
- 5 In essence, funds can only lawfully be released from the Central Fund when what is referred to as a 'credit' has been granted by the Comptroller and Auditor General. The amount of the credit is the maximum amount that may be drawn by the Minister for the declared purposes in the time period specified.
- 6 Both the Department of Finance and the Office of the Comptroller and Auditor General supply the Central Bank with formal notification of the persons who may act on behalf of the Minister or the Comptroller and Auditor General in respect of credits and funds withdrawal requests. Sample signatures of the persons nominated are supplied together with the notifications.
- 7 Under Section 2(7) of the Act, where the Central Fund has been operated to a material extent otherwise than as set down in law, the Comptroller and Auditor General is required, as soon as practicable, to draw up a report on the matter, and to present the report to Dáil Éireann.
- 8 This report details such an occurrence on 28 October 2022.

**Figure 1 Procedure for release of money from the Central Fund of the Exchequer<sup>a</sup>**



Source: Section 2 of the Comptroller and Auditor General (Amendment) Act 1993 (see Appendix)

Note: a For certain expenditure, it is the National Treasury Management Agency, rather than the Department of Finance, that undertakes this role on behalf of the Minister for Finance.

## Credits to allow for the supply of services

- 9 The legal authority to incur expenditure on the ordinary services of government departments and offices — usually referred to as ‘voted services’ or ‘supply services’ — involves a sequential process which extends over the full fiscal year.
  - Estimates of the amount to be provided in the fiscal year for each vote/supply service are published in December of the previous year, incorporating spending changes announced in the Budget — these are often referred to as the ‘revised estimates’.
  - Dáil Éireann considers the estimate for each service and passes the relevant financial resolution (voting of expenditure); additional spending resolutions can be approved in the form of a ‘supplementary estimate’, if required.
  - Legislation to give final effect to the financial resolutions for each year must be enacted within that year — this is done through an annual Appropriation Act, which typically is passed in December of the year to which it relates.
- 10 In order to ensure that spending on the vote-funded public services can begin from the start of each financial year, the Central Fund (Permanent Provisions) Act 1965 gives the Minister the power to request credits for funds to be issued from the Exchequer once the Appropriation Act for the preceding financial year has been passed. However, the 1965 Act caps the amounts which can be spent on each service at the lower of 80% of the sum appropriated for the service in the preceding year, or of 80% of the current year’s estimate for the vote until Dáil Éireann has passed the estimate. Once the vote on the estimate has been passed, funding up to the full voted amount can be drawn.
- 11 Within this legislative framework, the Department of Finance typically applies for three Exchequer credits to fund supply services in a fiscal year, as follows.
  - The first supply services credit is typically requested and issued in December of the preceding year. Based on the provisions of the Central Fund (Permanent Provisions) Act 1965, this is normally sufficient to maintain the funding of services of departments and offices until the estimates are passed by Dáil Éireann.
  - When the estimates have been passed (usually mid-year), a second supply services credit is normally requested and issued. The amount of the second credit typically reflects the total value of the approved estimates, less the amount already granted under the initial supply services credit.
  - At the end of the year, following the enactment of the Appropriation Act, a third supply services credit is normally requested and issued. This credit provides for the balance of issues for departments for the year, including the value of any supplementary estimates approved by Dáil Éireann.

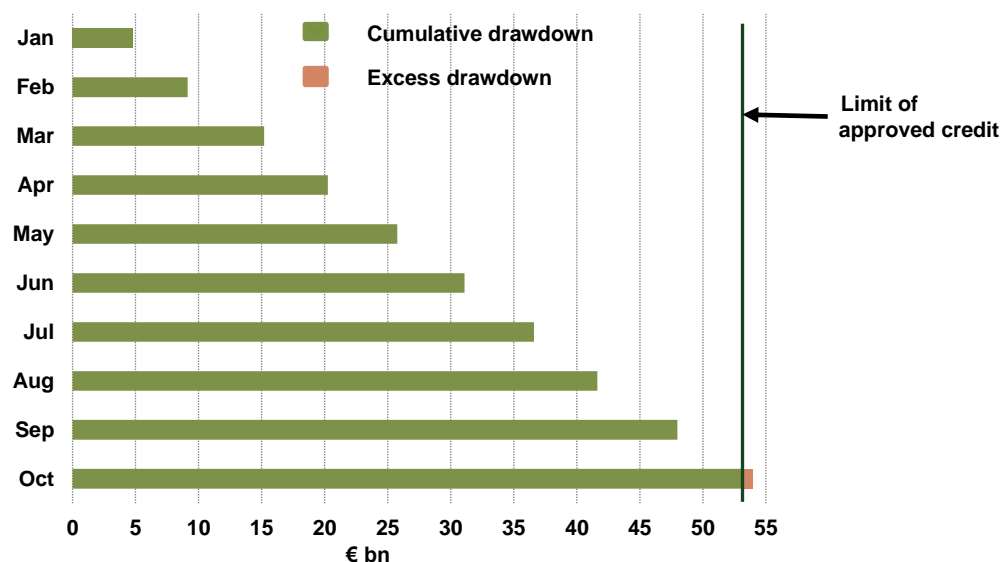
## Procedures for monitoring unutilised credit amounts

- 12 Under section 2(5) of the Act, issues of money from the account of the Central Fund of the Exchequer shall be made on the authority of credits.
- 13 The Department maintains a rolling total of the remaining supply services credit by subtracting daily drawdowns as recorded on its system. At the end of each day, the remaining credit is identified.
- 14 As the party responsible for issuing the funds, the Central Bank also tracks issues of funds against the overall credit in place, based on its records, and separately produces an end-of-day figure for the remaining credit.
- 15 Each morning, the Department and the Central Bank compare their preceding end-of-day figures for the remaining credit, to ensure that they agree.

## Exchequer issues for supply services in 2022

- 16 On 22 December 2021, on foot of a request from the Minister on the same day, the Comptroller and Auditor General issued the first supply services credit for 2022, for a total of €53.2 billion.<sup>1</sup>
- 17 The Central Bank duly released funding from the Central Fund between January and October 2022 under this credit, in response to requests from the Minister. Figure 2 indicates the cumulative withdrawal of the funds.

**Figure 2 Cumulative withdrawal of funds — first supply services credit for 2022**



<sup>1</sup> Credits referred to in this section were issued by the Secretary and Director of Audit of the Office of the Comptroller and Auditor General, following requests from the Secretary General of the Department of Finance on behalf of the Minister.

Source: Department of Finance. Analysis by the Office of the Comptroller and Auditor General.

- 18 On Thursday 27 October 2022, at end of day, the remaining unspent amount of the supply services credit was €1,858,945,400. This figure was agreed by the Department and the Central Bank on Friday 28 October, as part of the standard reconciliation process described above.
- 19 On Friday 28 October, the Department submitted two payment orders to the Central Bank in the amounts of €648,089,000 and €1,948,976,000. The Department did not identify that the total amount requested — €2,597,065,000 — exceeded that morning's remaining credit by €738,119,600.
- 20 The Central Bank executed both payment orders submitted by the Department. Prior to issue of the funds, it did not identify that the total amount requested by the Department for the day exceeded the remaining credit.
- 21 In its end-of-day reconciliation on 28 October, the Central Bank identified the excess release of funds and it immediately notified the Department of this.
- 22 The Department notified the Comptroller and Auditor General of the incident on the following business day (Tuesday 1 November 2022).
- 23 The Secretary General of the Department of Finance issued a request on 1 November 2022 for a new supply services credit. On Thursday 3 November, the Secretary and Director of Audit of the Office of the Comptroller and Auditor General issued the second supply services credit for 2022, with a value of €14.9 billion.

### ***Department of Finance response***

- 24 After the excess issue, the Department carried out an internal review of how this event occurred. This identified two problems.
  - First, there was an oversight whereby the Department did not seek a credit from the Comptroller and Auditor General earlier in the year, after Dáil Éireann had approved all of the revised estimates for 2022.
  - Second, at the time the payment orders were submitted, no check was made of the existing credit to ensure that sufficient credit was available to cover the request.
- 25 The Secretary General has stated that a number of changes have been introduced within the Department to prevent a re-occurrence. This involves
  - ensuring all staff in the Department's Exchequer Section are aware of the supply service credits that are required during the year, including a prompt to ensure that users check that the second supply services credit is in place once the revised estimates have been passed, prior to issuing payment orders
  - improving the process to track usage of supply service credits, in tandem with a warning to all users of the system when the available credit falls below a designated level (currently €5 billion)
  - including the remaining supply service credit limit with the payment order when it is sent for final approval internally, prior to transmission to the Central Bank.

All manuals, training and instructions will be amended to reflect these changes.

- 26** The Department has identified a number of other changes that it wishes to make to the overall credit process, as follows
- for Central Fund payments other than supply services payments, aligning the process for reconciling and monitoring credits with the updated process for supply services payments
  - agreeing a process with the Central Bank for a 'four eyes approach' on the checking of available credit limits upon the submission of payment orders
  - examining the process for requesting credits from the Comptroller and Auditor General in respect of any supplementary estimates during the year, rather than awaiting publication of the Appropriations Bill.

### ***Central Bank of Ireland response***

- 27** The Governor has noted that the Central Bank's existing processes, with a focus on post-payment tracking of the credit limits, were not robust enough to prevent this incident from occurring, as they did not identify an instance of non-compliance with the credit limit before the Central Bank issued the funds.
- 28** The Governor has advised that the Central Bank is engaging with the Department on the need to put additional controls in place in advance of payments. In particular, this is to include a 'four eyes' approach on the checking of available limits upon the submission of payment orders before the Central Bank issues funds.
- 29** The Central Bank will look to achieve these changes in a revised service level agreement (SLA) with the Department (which would also need to cover escalation procedures if there were to be issues with limits or payments). The Central Bank will work with the Department to agree operational details and implement this control as soon as is possible.

### **Conclusions**

- 30** The money in the account of the Central Fund belongs to the State. By law, the Minister for Finance (directly or through an agent) is entitled to apply to withdraw the money as required for purposes approved by Dáil Éireann, either through the annual estimates process or as provided for specifically in legislation. However, the law requires the Minister, in advance, to seek independent assurance of the appropriateness of the withdrawals, by applying to the Comptroller and Auditor General for a grant of credit.
- 31** The Exchequer control process is designed to ensure that funds issued by the Central Bank from the Central Fund account are in accordance with the law. There was a failure in this respect on 28 October 2022 when the Central Bank issued to the Minister over €738 million more than the amount of credit that was available to him at the time.
- 32** The Minister was entitled to apply for an additional supply credit based on the voted estimates, and this could have been done much earlier. Had this been requested prior to 28 October 2022, the release of funds requested on 28 October would have been an authorised release.



- 33**      Notwithstanding this, it is a matter of serious concern that the Department of Finance issued a payment request to the Central Bank, for which there was insufficient credit in place.
- 34**      It is also a matter of serious concern that the Central Bank of Ireland released significant funds without the necessary authorisation being in place.
- 35**      The subsequent actions and intended changes detailed by both the Secretary General and the Governor reflect the need to strengthen controls. Proper and timely implementation of these changes should reduce the possibility of similar breaches occurring in the future.

## Appendix

### Extract from Comptroller and Auditor General (Amendment) Act 1993

- 2 (1) Upon receipt of a requisition in that behalf from the Minister, the Comptroller and Auditor General shall, if he is satisfied as to the correctness thereof, grant to the Minister, on the account of the Exchequer at the Central Bank or on the growing balance thereof, credits —
  - (a) that are to meet disbursements in respect of supply services and do not exceed the amounts authorised by the Central Fund (Permanent Provisions) Act 1965, or, as the case may be, voted by Dáil Éireann, for any supply service for the financial year to which the requisition relates, or
  - (b) (i) that are to meet disbursements in respect of Central Fund services the making of which is certified by the Minister to fall due during the period of 3 months commencing with the commencement of the period in respect of which the credits are sought,
  - (ii) that are of the amounts estimated to be required for the purpose specified in subparagraph (i) (being amounts not exceeding in aggregate any relevant limits specified by or under any enactment), and
  - (iii) that comply in all other respects with the provisions of the enactments relating to them.
- (2) A requisition under subsection (1) shall be signed by the Minister or an officer of the Minister or of the National Treasury Management Agency authorised by the Minister in that behalf.
- (3) A credit granted under this section shall be used only for a purpose specified in the requisition therefor from the Minister.
- (4) A credit under this section granted for the purpose specified in subsection (1) (b) (i) shall, if not used during the period of 3 months for which the credit was granted, lapse.
- (5) Issues or transfers of money from the account of the Exchequer aforesaid required for the time being to meet disbursements referred to in subsection (1) shall be made on the authority of credits under this section upon orders issued in writing or by means of an electronic funds transfer system to the Central Bank —
  - (a) in the case of disbursements referred to in paragraph (a) of subsection (1), by an officer of the Minister, authorised in that behalf by the Minister, and
  - (b) in the case of disbursements referred to in paragraph (b) of subsection (1), by an officer of the Minister or of the National Treasury Management Agency so authorised.
- (6) A daily account of all issues or transfers made from the account of the Exchequer at the Central Bank shall be sent by the Central Bank to the Comptroller and Auditor General.

- (7)      Where the account of the Exchequer at the Central Bank has been operated to a material extent otherwise than in accordance with this section, the Comptroller and Auditor General shall, as soon as practicable —
- (a)      draw up a report in writing of that fact, and
  - (b)      cause the report to be laid before Dáil Éireann.