



FINANCIAL REGULATOR
Rialtóir Airgeadais

“Financial Regulator concerned about delays in paying home insurance claims”

Press Release

May 2010

The Financial Regulator today (xx May 2010) published the findings of three themed inspections; the handling of home insurance claims, the renewal of motor insurance policies and mortgages referred to specialist lenders by mortgage intermediaries. The three examinations commenced in 2009 and focussed on compliance with the Consumer Protection Code.

Insurance Themes

In the case of the home insurance claims theme, the Financial Regulator inspected the eight largest firms in terms of the number of claims processed. These firms were responsible for over 98% of the claims processed during the review period. The nine firms chosen for inspection by the Financial Regulator in relation to the motor renewals issue were the nine largest in terms of motor insurance renewals at the time of the review.

It is important for the consumer who is making an insurance claim that any resultant payment is made promptly. The Consumer Protection Code (“the Code”) requires that firms pay all claims to the claimant within 10 business days of settlement being agreed. The main finding of the home insurance inspection was that while in the main, firms are processing claims in line with the requirements under the Code, there were a small number of cases where claims cheques were not being issued to the claimants within 10 business days. These breaches of the Code are being considered for regulatory action by the Financial Regulator.

The Financial Regulator also wishes to alert consumers to the fact that their policy may be invalidated if they do not disclose previous claims history or other relevant information when completing an application for home insurance.

In the course of the home insurance claims inspection it was noted that some firms were moving to a process where claims can only be settled using the firms' approved repairers. The Financial Regulator has told firms that it expects that they should satisfy themselves that their use of approved repairers is consistent with the Code and where firms intend using approved repairers, they must ensure that consumers are aware of this before entering into an insurance contract. In addition, the Financial Regulator has concerns that as the claimant is in most cases not an expert, a claimant should not have to sign a document for the insurer attesting to the quality of the work completed or to give a view on whether it was completed in accordance with the scope of the work, as per the firms' specifications. Firms should make it clear to claimants that where the firm appoints a repairer, the firm is ultimately responsible for the work undertaken.

The Financial Regulator also recommended that firms write to claimants when a payment is made to builders or other similar third parties, to inform claimants of the amount paid in respect of their claim, as this could impact on their future premiums.

With regard to the renewal of motor insurance policy themed inspection, the Financial Regulator was encouraged to find that, in the main, firms are processing motor insurance renewal documentation in line with the requirements of Statutory Instrument 74 of 2007 – the Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007. However there were a very small number of cases where the 15 day rule for issuing renewals had been breached. In addition there were some instances where the actual renewal documentation issued did not contain some information required by the Regulations. The breaches referred to above are being considered for regulatory action by the Financial Regulator

Review of mortgages referred to specialist lenders by mortgage intermediaries

The scope of the review focused on sales through intermediary channels referred to non-bank/ specialist lenders. 20 mortgage intermediaries were chosen for inspection based on the volume of business done with specialist lenders. The inspections focused on the following areas of the code: Knowing the Consumer, Suitability and Mortgages. The compliance issues identified during this inspection are subject to separate engagement by the Financial Regulator with the individual firms concerned.

The following are the main findings in relation to this theme:

- Suitability statement/reasons why letter – A number of firms were found to be producing statements of suitability lacking detail and containing vague generic statements. All firms should be satisfied that written statements reflect an assessment of each individual consumer’s specific circumstances and needs, thereby meeting the ‘Knowing the Consumer’ requirements of the Code, and must set out why the product is considered suitable, or most suitable, as appropriate.
- Suitability and affordability – Whilst affordability is a prime component of suitability, a fuller consideration of a consumer’s individual circumstances and needs is required in order to comply with the suitability provisions of the Code.
- Affordability considerations – In a number of cases firms did not appear to be conducting sufficient research into the consumer’s ability to repay, and firms seemed to rely solely on the lender’s criteria for assessing ability to repay and suitability for a mortgage. Firms must satisfy themselves that a product they recommend is suitable for the consumer’s circumstances.

From a consumer protection viewpoint, the ability to meet future repayments is clearly consumer and product specific. Firms should therefore consider the future ability of each individual consumer to service the product being purchased up to the full term of the mortgage which in some cases may be into a consumer’s retirement.

Appropriate documentation. Firms are reminded of the importance of documenting research done and client information gathered, relevant to ascertaining whether a product is the most suitable. While the firms reviewed could demonstrate that systems were in place in relation to researching the market, there was a lack of evidence on the files reviewed to back this up. Up to date file notes are an important tool and aid the audit trail. Firms should document all work carried out and retain it on the client file.

- Areas of responsibility. There was a perception in a number of firms, that it was the lenders and not the intermediaries’ responsibility to comply with certain sections of the Code.

Intermediary firms must remain cognisant that they are a regulated entity and therefore must satisfy themselves that they are in compliance with the Code.

Any breach of a legislative provision or regulatory requirement, such as the Consumer Protection Code or Statutory Instrument, may be considered under the Administrative Sanctions Procedure.

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Notes to Editor

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Any breach of a legislative provision or regulatory requirement, such as the Consumer Protection Code, may be considered pursuant to the Administrative Sanctions Procedure.

The Financial Regulator can take a number of actions from directions, cautions and reprimands up to and including monetary penalties. It is also important to note that: *In determining sanctions, under the terms of our administrative sanctions procedure, the conduct of the regulated financial service provider or person concerned in its management after a contravention is taken into account:*

- (a) How quickly, effectively and completely the financial service provider or person concerned in its management brought the contravention to the attention of the Financial Regulator or any other relevant regulatory authority;*
- (b) The degree of co-operation with the Financial Regulator or other agency provided during the examination of the contravention; and*
- (c) Any remedial steps taken since the contravention was identified, including: identifying whether consumers have suffered loss and compensating them; taking disciplinary action against staff involved (where appropriate); addressing any systemic failures; and taking action designed to ensure that similar problems do not arise in the future.*