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Financial Regulator Highlights Concerns about Sales of Investment Products

The Financial Regulator has written to all intermediaries, banks and insurance companies that sell investment products reminding them of its concerns in relation the sale of investment products regarding:

- the duty of care that all firms have to their consumers;
- the need to provide clear and accurate information; and
- the need to ensure that all advice and recommendations provided must be suitable and based on the information obtained from and provided by the consumer.

Firms were reminded of their important obligations to older and vulnerable consumers and the findings of a sales process review carried out by the Financial Regulator that highlighted the need for firms to have appropriate controls and procedures to deal with them.

The Financial Regulator expects firms to bring the following issues to the attention of all staff involved in the sale of investment products to the consumer:

1. Duty of care
All firms are required to act honestly, fairly and with due skill and care. This duty of care commences from the very first contact with a consumer.

2. Ensure consumers are fully informed
Firms are required to make full disclosure of all relevant material information in a way that seeks to inform the consumer. Consumers should be fully informed and aware of all the risks and benefits before they make any investment decision. Key information and especially verbal assurances should be clear and accurate. The method of presentation must not be misleading or obscure important information such as the risks associated with an investment decision.

A particular concern was raised in regard to consumers who are advised to move from lower risk assets, such as deposits, to investments with a higher degree of risk. Consumers must be made aware of the risk of a partial or total loss of their investment and the impact of any early exit penalties and charges that can apply.

3. Knowing the Consumer/Suitability
Firms must obtain sufficient information from the consumer. Information should be proportionate and relevant to the product or service sought in order that they can provide a suitable recommendation.

Experience has shown that a large part of the sales process is the verbal interaction between the advisor and the consumer. Consumers place reliance on and trust what advisors tell them during the sales process. In this regard, the Financial Regulator warned that firms must have mechanisms in place to monitor what is actually being said to the consumer to 'bridge the gap' between the verbal assurances provided by advisors and the written documentation given to the consumer.
The Financial Regulator also noted that verbal assurances and promises made by regulated entities during the sales process are a basis for legitimate consumer expectations and grievances post sale of the investment.

4. Sales to older/vulnerable customers
The Financial Regulator's Annual Report in 2005 detailed issues arising from a Sales Process Review that was conducted in 2004 and 2005. Feedback was issued to the firms involved in that review, which highlighted the need for firms to have appropriate controls and procedures in place when selling to older or vulnerable customers. In particular the Financial Regulator highlighted the need for firms to have:

- a practical definition for older and vulnerable consumers (we suggested 60 for older as a useful benchmark as this is the normal retirement age);
- additional controls and procedures for older and vulnerable consumers; and
- consideration for the particular needs of older consumers such as:

- greater capital security needs (it is worth noting that the Financial Regulator's Preliminary Report on Financial Capability in Ireland finds that consumers are generally very risk averse and that such appetite for investment risk that may exist diminishes noticeably as consumers get older);
- the term or time period of the investment;
- the need for access to funds (health care needs, emergency funds); and
- the impact of early exit penalties and charges.

Firms were reminded of this feedback and are expected to have robust and fair procedures for dealing with older and vulnerable customers. It is the responsibility of senior management and boards of directors to ensure that their firms have the necessary controls, checks and balances in place for selling products.

The Financial Regulator has requested all firms to take immediate action to:

- review their existing sales processes and procedures to ensure they are in full compliance; and
- identify any weaknesses or deficiencies and rectify these immediately.