



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

T +353 1 224 6000 F +353 1 671 6561

Bosca OP 559, Sráid an Dáma, Baile Átha Cliath 2, Éire.
PO Box No. 559, Dame Street, Dublin 2, Ireland.

www.centralbank.ie

27 February 2015

Re: Themed Inspection of compliance by Debt Management Firms (themed inspection)

Dear CEO/Director,

The Central Bank of Ireland (Central Bank) recently undertook a themed inspection to assess how newly authorised debt management firms were complying with the conditions of their authorisations.

The inspection included desk-based analysis¹ and on-site inspections². In total 35 firms were inspected, which accounts for 73% of the 48 firms who were authorised at the time of the inspection.

The purpose of this letter is to provide you with general feedback in relation to the findings of the themed inspection and we hope that it will be of assistance to you in developing and ensuring your own firm's compliance. It is important that you consider the issues set out below and their relevance to your firm. Firm specific feedback has been issued in a separate letter to the firms inspected and, where necessary, the appropriate supervisory action will be taken.

¹ Compliance with the Advertising Requirements set out at Chapter 9 of the Consumer Protection Code

² Compliance with the Authorisation Standards and Requirements for Debt Management Firms, the Consumer Protection Code and the Minimum Competency Requirements.



The Central Bank's findings are as follows:

Failure to meet *knowing the customer and suitability* requirements

Under the Consumer Protection Code (Code), debt management firms are required to gather and record sufficient information from the consumer prior to offering, recommending, arranging or providing a product or service. However, just over half of 10 firms reviewed collected the supporting documentation, or sought further information needed to recommend a proposed course of action to the consumer.

Furthermore, a similar number of firms did not issue a written/signed statement of suitability, outlining their proposed or recommended course of action for consumers.

Poor information on fees and charges

A schedule of fees and charges must be publicly available in the public office as well as on the firms' websites. However, only one of the 26 websites reviewed contained information on fees and charges for consumers. Where a firm chooses to include its '*fees and charges*' within its online Terms of Business it must be clear to the online user that this is the particular section where to find such information.

Failure to provide Terms of Business and/or inconsistent or lack of required content

The Code sets out certain information that must be included in a Terms of Business document for consumers, including complaints procedures, details of the relevant statutory compensation scheme, etc. However, just 12% of the online documents reviewed contained the required information that must be included in a Terms of Business document. In addition, just half of the firms inspected were able to demonstrate that they had provided each consumer with their Terms of Business, as is required under the Code. Firms must have the necessary processes and systems in place to ensure that all formats of their Terms of Business (in hardcopy provided in the office, in soft copy provided via email or online provided in the website) are consistent, up-to-date and updated simultaneously so that consumers have the right information at the right time.



The Central Bank reminds firms that the new Chapter of the Code applying specifically to debt management firms, which became effective on 1 January 2015, requires that a firm must provide consumers with a standard information template on ‘*What you should know about Debt Management Services*’ (set out in Appendix D of the Code).

Inaccurate status disclosure and potentially misleading information on websites

The Central Bank found a small number of cases where there was:

- out of date information on websites;
- an absence of a regulatory disclosure and warning statements; and
- a regulatory disclosure being used in a manner which could be deemed to be an endorsement of the firm by the Central Bank.

In many cases, firms informed us that they do not have the ability to amend the websites themselves and the maintenance of their websites is outsourced. Firms are reminded that where they outsource any regulated activity to a third party that they remain fully responsible for that activity and must ensure that the outsourced firm is in compliance with the requirements of the Code. Consequently, these firms must take down their websites until such time as all relevant information is correct.

In keeping with the spirit of the Code, to be clear, fair, accurate and not misleading, firms must:

- keep details of fees and charges clear and concise (pre-testing of consumer documents is recommended) and confirm if/when fees or charges are refundable;
- review and update material as changes occur, i.e. fees and charges, rates, appointments, references to old names;
- ensure the design of the advertisement is clear; and
- use the correct warning statements and regulatory disclosure statement, as required by the Code, ensuring that any such statement is not presented in a way that could indicate any type of endorsement of the firm by the Central Bank.



Minimum Competency Code (MCC)

Certain employees within the firms providing debt management services were in a position to avail of the 'transitional' arrangements under the MCC, while other employees were new entrants. Persons availing of the transitional arrangements are required to sit a debt management course as prescribed under Appendix 4 of the Addendum to the MCC, which came into force in June 2014, while new entrants must be working under supervision and working towards attaining the relevant qualifications. It was found that, in 8 of the 10 firms inspected, staff members providing debt management services had not registered for the first available sitting of the examinations required by the MCC.

It is appreciated that not all of the issues referred to in this letter may be applicable to your firm. These findings should be brought to the attention of your Compliance Officer and Internal Audit and the Central Bank expects that they are incorporated into the review of your firm's compliance with the Code.

Should you have any queries in relation to the contents of this letter, please contact Toni McIntyre at advertising@centralbank.ie in relation to the advertising requirements and Yvonne Tracey at yvonne.tracey@centralbank.ie or Eamon McSharry at eamon.mcsharry@centralbank.ie in relation to the other findings.

Yours sincerely

A handwritten signature in cursive script that reads "M Stewart".

Mick Stewart
Deputy Head
Consumer Protection: Supervision