



Name & Address

19 November 2007

Re: Provision 4.14 of the Consumer Protection Code

Dear Name

It has come to our attention that there is uncertainty in the mortgage sector amongst both lenders and mortgage intermediaries about their respective obligations under provision 4.14 of the Code.

Chapter 4, Provision 14 states:

“Before a mortgage can be drawn down, a mortgage intermediary must submit to a mortgage lender a signed declaration that such mortgage intermediary has had sight of all original supporting documentation including bank statements, P60/certificate of earnings and other supporting documentation evidencing the consumer’s identity and ability to repay.”

For the purposes of clarification, please note that this provision places obligations on lenders and mortgage intermediaries as follows:

Lenders

Lenders must ensure that they receive a signed declaration from a mortgage intermediary confirming that the mortgage intermediary has seen all original documentation supporting the consumer’s application (as listed in provision 4.14), before the lender releases a mortgage for draw down. [Any documentation issued by the office of a mortgage intermediary is considered to be issued by the mortgage intermediary.]

Mortgage Intermediaries

It has been brought to our notice that there are differing practices in use amongst mortgage intermediaries in implementing provision 4.14. While mortgage intermediaries are free to design their own declarations, part of the wording contained therein must reflect the requirement of provision 4.14. We understand that the wording contained in declarations varies to the extent that the intermediary either “*has had sight*” of the relevant documentation or that he “*will have sight*” of the relevant documentation.

The wording of provision 4.14 clearly envisages that the mortgage intermediary “*has had sight*” of the relevant documentation prior to completing the declaration which is to be submitted to the lender. Declarations containing wording such as “*will have sight*” or words to that effect which imply future actions, are not acceptable for compliance with provision 4.14. Accordingly, the declaration must only be issued to the lender after the intermediary “*has had sight*” of the relevant documentation.



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As previously stated in our Consumer Protection Code Clarification document we would reiterate that the requirement in this provision must be carried out for each mortgage application.

If you have any queries on the above please submit your query to code@financialregulator.ie.

Yours sincerely

Bernard Sheridan
Head of Consumer Protection Codes Department