



Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Settlement Agreement between the Central Bank of Ireland and AXA Insurance Limited

The Central Bank of Ireland imposes a fine of €675,000 on AXA Insurance Limited in respect of Minimum Competency standards and Consumer Protection Code breaches

The Central Bank of Ireland (the “Central Bank”) fined AXA Insurance Limited (the “Firm”) €675,000 and reprimanded it for breaches of the Minimum Competency Requirements 2006 (the “MCR”), the Minimum Competency Code 2011 (the “MCC”) and the Consumer Protection Code 2012 (the “2012 Code”).

The Firm failed to:

- ensure that individuals operating a prescribed script function between January 2008 and April 2012 referred requests for information and advice to an appropriately accredited individual, in contravention of the MCR and the MCC;
- ensure that individuals operating a prescribed script function between January 2008 and April 2012 were supervised by an appropriately accredited individual, in contravention of the MCR and the MCC;
- maintain a register of accredited persons in the format prescribed by the MCC; and
- comply with the Complaints Resolution provisions of the 2012 Code over a six month period from January to June 2014.

The breaches have been accepted by the Firm as part of the Settlement Agreement between the Central Bank and the Firm entered into on 26 July 2016.

The Central Bank's Director of Enforcement, Derville Rowland, has commented as follows:

"The MCR and its successor, the MCC, were introduced to establish minimum professional standards for financial service providers, with particular emphasis on areas dealing with consumers. The purpose of these standards is to ensure individuals acting for or on behalf of regulated entities in the provision of advice and associated activities, have a minimum acceptable level of competence to deal with consumers. In accordance with the standards, regulated entities must ensure that staff who provide advice to consumers on retail financial products hold a recognised qualification or have gained an appropriate level of experience through working in the industry.

Non-adherence to the Minimum Competency standards can affect the quality of service provided to consumers and creates an unacceptable level of risk to consumers in their dealings with regulated entities by, amongst other things, exposing them to unqualified and/or inexperienced staff.

This is the first enforcement action to be taken against a firm for breaches of the MCC since it replaced the MCR. The protection of consumers of financial services remains a high level goal for the Central Bank and compliance with consumer focused legal and regulatory requirements is a key priority."

BACKGROUND

The Firm's authorisation and core business

The Firm is a Non-Life Insurance Undertaking, authorised by the Central Bank under the European Union (Insurance and Reinsurance) Regulations 2015 to carry out non-life insurance business. The principal activity of the Firm is the provision of motor and other non-life insurance. It is the second largest insurance provider in the Republic of Ireland.

On-site inspection

In November 2014, the Central Bank's Consumer Protection Supervision Division conducted an on-site inspection of the Firm's branch office in Derry and the Firm's Head Office in Dublin. The inspection focused on the Firm's claims department, in particular on the team whose main function

is to process motor and property claims. Members of that team operate a 'prescribed script function', which means that they operate within a narrow and rigid set of criteria and according to a prescribed script and routine.

During the course of the inspection, a number of suspected breaches of the MCR, the MCC and the 2012 Code were identified.

PRESCRIBED CONTRAVENTIONS

MCR

The MCR required firms to ensure that individuals operating according to a prescribed script and routine must:

- refer requests for additional information and advice to an appropriately accredited individual; and
- be supervised by an appropriately accredited individual.

Between January 2008 and November 2011, the Firm failed to ensure that members of the claims team which operated according to a prescribed script function referred requests for additional information and advice to, or were supervised by, appropriately accredited individuals.

MCC

Sections 1.6(d) and (e) of the MCC require firms to ensure that individuals operating according to a prescribed script and routine must:

- refer requests for information and advice that are outside the specific content of the script to a person who is a qualified person or a grandfathered person for that function; and
- operate under the supervision of a person who is a qualified person or a grandfathered person for that function.

Between December 2011 and April 2012, the Firm failed to ensure that members of the claims team which operated according to a prescribed script function either referred requests for additional information and advice, or were supervised, by qualified or grandfathered persons.

Section 2.3.1 of the MCC requires firms to maintain a register of all accredited persons acting as, for or on behalf of the Firm. The register must include specific details as set out in (i)-(vii) of Section 2.3.1 (i.e. name and qualification details of the accredited person). As at 4 November 2014, the Firm's register of accredited persons was not maintained in the format prescribed by Section 2.3.1 of the MCC.

2012 Code

Chapter 10, Provision 10.9 of the 2012 Code requires firms to have a written procedure in place for the proper handling of complaints. Such procedure must contain certain minimum requirements as set out in Provision 10.9.

Chapter 10, Provision 10.10 of the 2012 Code requires firms to maintain an up-to-date log of all complaints from consumers subject to the complaints procedure. That log must contain certain details as set out in Provision 10.10.

Between 1 January 2014 and 30 June 2014, the Firm breached the requirements of Provisions 10.9 and 10.10 by failing:

- to provide complainants with an acknowledgement of their complaint within 5 business days of the complaint being received (Provision 10.9(a));
- to provide a written update to complainants on the progress of its investigation of the complaint at intervals not greater than 20 days (Provision 10.9(c));
- to resolve a complaint within 40 business days or if not so resolved, to inform the complainant for the resolution of the complaint (Provision 10.9(d));
- on the completion of an investigation, to provide complainants with all of the required information within the required 5 day timeframe (Provision 10.9(e)); and
- to maintain an up-to-date log of complaints (Provision 10.10(b)).

Effect of the Breaches

The Minimum Competency standards were introduced to ensure individuals acting for or on behalf of regulated entities in the provision of advice and associated activities, have a minimum acceptable level of competence to deal with consumers. In this instance, significant levels of claims (58,118 in

total) were being dealt with, over a period of more than 4 years, by individuals who were not supervised by, and did not have their requests for additional information and advice addressed by, appropriately accredited individuals in accordance with the provisions of the MCR and the MCC . The Firm was therefore not in a position to ensure that its customers received the level of expertise and competence required to adequately deal with their claims as envisaged by the Minimum Competency standards.

While no individual instances of consumer detriment have been identified, the significant level of claims being dealt with in the manner described in the paragraph above over an extended period of time, created an unacceptable level of risk to consumers in the management of their claims.

Further, the Complaints Resolution provisions of the 2012 Code are designed to ensure the speedy, efficient and fair handling of complaints from consumers. The failure by the Firm to process complaints by consumers in accordance with the manner and timeframes specified in the 2012 Code jeopardised the level of protection owed to those consumers enshrined in that code.

PENALTY DECISION FACTORS

In deciding the appropriate penalty to impose, the Central Bank considered the following matters:

- The number of claims processed by individuals who were not supervised by, and did not have their requests for additional information and advice addressed by, appropriately accredited individuals in accordance with the provisions of the MCR and the MCC (58,118 in total);
- The duration of the breaches of the MCR and the MCC (4 years and 4 months in total);
- The action taken by the Firm to rectify the breaches once made aware of them;
- The co-operation of the Firm during the investigation and in settling at an early stage in the Central Bank's Administrative Sanctions Procedure; and
- The need to have an appropriate deterrent impact.

The Central Bank confirms its investigation into the Firm in respect of this matter is now closed.

- End -

NOTES TO EDITORS

1. The fine reflects the application of the maximum percentage settlement discount of 30%, as per the Early Discount Scheme set out in the Central Bank's "Outline of the Administrative Sanctions Procedure" which is [here](#).
2. The Minimum Competency Code (the "MCC"), which is [here](#), replaced the Minimum Competency Requirements (the "MCR"), which is [here](#), with effect from 1 December 2011.
3. A grandfathered arrangement shall exist in circumstances where an existing experienced individual, who has carried out accredited activities, or specified accredited activities, prior to 1 January 2007, continues to do so after that date, provided the person has four years' experience carrying out the function to be exercised in the eight-year period 1 January 1999 to 1 January 2007.