



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

PO BOX 559
Dame Street
Dublin 2

T +353 1 224 4000
F +353 1 671 6561

Settlement Agreement between the Central Bank of Ireland and Aviva Health Insurance Ireland Limited

The Central Bank of Ireland (“the Central Bank”) has entered into a Settlement Agreement with effect from 9 March 2012 with Aviva Health Insurance Ireland Limited, a regulated financial service provider, (“the firm”) in relation to breaches of the Consumer Protection Code of 1 August 2006 (“the Code”).

These breaches related to the firm’s failure, during the period 1 June 2009 to 31 December 2010:

- 1) to comply with provision 47 of the Code in that the firm did not offer consumers the opportunity to have their verbal complaints treated as a written complaint;
- 2) to comply with provision 48 of the Code in that the firm did not maintain an up-to-date record of all complaints subject to the complaints procedure;
- 3) to comply with provision 57 of the Code in that the firm did not have adequate systems and controls in place to ensure compliance with the minimum complaints handling requirements set out in provision 46 (a) to (e) of the Code; and
- 4) to comply with General Principle 4 of the Code in that the firm did not have and employ effectively the resources and procedures, systems and control checks that were necessary for compliance with the Code.

The Central Bank reprimanded the firm and required it to pay a monetary penalty of €245,000.

The Central Bank detected the breaches in November 2010 during a thematic review of the complaints handling procedures in place in insurance undertakings providing products/services to Irish consumers.

A sample of one hundred and ninety eight of the firm's individual customer complaint files were reviewed. One hundred and sixty three out of the one hundred and ninety eight files examined were found to contain clear breaches of one or more of the complaints handling provisions of the Code. These breaches included a failure to:

- acknowledge each complaint in writing within 5 business days of the complaint being received;
- provide complainants with the name of one or more individuals appointed by the regulated entity to be the complainant's point of contact in relation to the complaint until the complaint is resolved or cannot be processed any further;
- provide complainants with a regular written update on the progress of the investigation of the complaint at intervals of not greater than 20 business days;
- inform complainants of their right to refer their complaint to the relevant Ombudsman and provide them with the contact details of the Ombudsman;
- maintain an up-to-date record of complaints in accordance with the Code; and
- offer complainants the opportunity to have their verbal complaints treated as a written complaint.

The foregoing breaches demonstrate a failure by the firm to have adequate systems and controls in place to ensure compliance with the complaints handling requirements of the Code.

The firm undertook immediate measures to rectify the issues that were identified on foot of the thematic review, including the implementation of new systems and procedures and an enhanced training programme in order to prevent reoccurrence.

The penalties imposed in this case reflect the importance the Central Bank places on consumer protection and the obligation of regulated entities to ensure that they comply with

the requirements of the Code and have adequate systems and controls in place to ensure compliance with those requirements.

In deciding the appropriate penalty to impose, the Central Bank has taken the following into account:

- the firm has taken appropriate remedial steps to rectify the breaches, which were not deliberate, including the implementation of enhanced systems and controls to ensure compliance with the complaints handling requirements of the Code.
- the cooperation of the firm during the investigation and in settling at an early stage in the administrative sanctions procedure.

The Central Bank confirms that the matter is now closed.

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The Central Bank of Ireland also issued a general comment from Director of Enforcement, Peter Oakes:

“Proper complaints handling policies and procedures are fundamental to ensuring the speedy, efficient and fair treatment of consumers who complain about products and services. Incomplete procedures, inadequate systems and controls and not employing effectively resources in the area of complaints handling can jeopardise the level of protection owed to consumers and accordingly undermines the special trust consumers place in financial service providers. The complaints handling provisions and, more generally, the Consumer Protection Code are underpinned by an important statutory objective of the Central Bank, that being consumer protection and the effective regulation of financial services providers. This important objective, together with the requirement for adequate systems and controls are

identified target areas in the Enforcement Directorate's Strategy Document published in 2010 and continue to be Enforcement priorities in 2012. We have publicly highlighted the importance of the complaints handling provisions of the Code on numerous occasions since the Code was published in August 2006.

Today's fine reflects the seriousness with which we view breaches of the Code and the importance that we place upon proper complaints handling by firms, including adherence to the complaints handling provisions as set out in the Code.

The existence of an adequate and robust complaints handling process is an integral part of the customer/financial service provider relationship and is a key feature of consumer protection. Adherence to the basic procedural requirements is an important starting point in the complaints process. Firms must ensure that consumers can have confidence from the outset in the way that their complaint will be treated. The first step in this process is ensuring that the complaint is processed in accordance with the manner and timeframes specified in the Code. Failing to comply with the minimum procedural requirements for complaints handling leads to a heightened risk that the qualitative aspects of customer complaints may also be deficient and may prevent management the opportunity to properly assess the root cause of complaints – an important management information tool.

The importance of complaints handling and the complaints process in general is emphasised by the inclusion of a new provision in the revised Consumer Protection Code, effective since 1 January 2012, requiring firms to undertake appropriate analysis of complaint patterns on a regular basis and to escalate this customer complaint analysis to their compliance/risk function and senior management.”