



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland and Irish Mortgage Corporation Limited, t/a Moneyzone

The Central Bank of Ireland (the “**Central Bank**”) has entered into a Settlement Agreement with effect from 24 October 2012 with, Irish Mortgage Corporation Limited, trading as Moneyzone (the “**Firm**”), a regulated financial services provider. The trading arm “Moneyzone” ceased business in October 2008. This settlement agreement relates to breaches of the Consumer Protection Code (2006)(the “**Code**”) and the Minimum Competency Requirements (July 2006)(the “**MCR**”).

Reprimand and fine

The Central Bank reprimanded the Firm and required it to pay a monetary penalty of €65,000.

Breaches of the Code and the MCR

During the period July 2007 and October 2008, the following breaches occurred:

- General Principle 1, Chapter 1 of the Code, in that, the Firm failed to act professionally in the best interests of its customers.
- Rule 24 and 30, Chapter 2 of the Code, in that the Firm failed to gather and record sufficient information of pension planning provision to repay long term mortgages and consequently was unable to ensure that the mortgages recommended were suitable to those consumers.

- Rules 46 and 48, Chapter 2 of the Code in that the Firm failed to comply with certain aspects of its complaints handling procedures and to maintain up-to-date records of complaints made by certain consumers.
- General Principle 6 of the Code in that the Firm failed to make full disclosure to certain customers that incorporating the arrangement fee into their mortgage would incur interest charges from the lender.
- Rule 57, Chapter 2 of the Code in that the Firm did not always have and employ systems and controls to ensure compliance with the Code.
- Rule 31, Chapter 2 of the Code in that the Firm failed to retain, in some instances, a copy of a written statement setting out why the product recommended was suitable or the most suitable for consumers.
- Paragraph 14, Chapter 4 of the Code in that the Firm failed in certain cases to submit to the mortgage lender a signed declaration that the Firm had sighted all original supporting documentation evidencing certain consumers' identity and ability to repay, prior to the mortgage being drawn down.

During the period January 2007 and October 2008, the following breaches occurred:

- the Firm did not comply with the requirements of the MCR by failing to ensure that the immediate direction and supervision, in respect of "new entrants", was adequate.

The Code was introduced with the explicit intention of protecting consumers in their dealings with regulated entities and seeks to ensure that the same level of protection is offered to consumers regardless of the size and type of entity they are dealing with. The *"Suitability"* and the *"Knowing the Consumer"* requirements of the Code are at the heart of consumer protection and are designed to ensure that appropriate recommendations are made to consumers taking account of the particular circumstances of those consumers. In this case these requirements were of even greater importance given the nature of the sub-prime mortgages which were recommended and the circumstances of the affected customers.

The MCR were introduced to ensure that consumers obtain a minimum acceptable level of competence from individuals acting for or on behalf of regulated firms in the provision of advice and associated activities in connection with retail financial products.

Background

The Central Bank conducted a number of on-site inspections of the Firm, reviewed customer documentation and conducted interviews with affected customers, former employees of the Firm and third party lenders who provided the underlying sub-prime mortgage products.

Penalty decision factors

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

- The seriousness with which the Central Bank views:
 - breaches of the Consumer Protection Code and in particular the provisions relating to “*Suitability*” and the “*Knowing the Consumer*”; and
 - compliance with the MCR, in relation the immediate direction and supervision of “new entrants”.
- The breaches identified occurred within “Moneyzone”, a trading arm of the Firm, which ceased business in October 2008.
- Investment by the Firm, both before and after inspections, on training, systems and third party review.
- The proactive co-operation 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 Derville Rowland, Head of the Enforcement 1 Division:

“Where those in financially precarious positions are not afforded the protections provided to them under the provisions of the Consumer Protection Code and the Minimum Competency Code, we will act.”

Consumer protection is one of the Central Bank’s high level goals. Compliance with consumer focused legislation/requirements continues to be a key priority for the Central Bank.

Firms should note the introduction of the revised Consumer Protection Code (2012)(the “**Code**”), which came into effect from 1 January of this year, and the Minimum Competency Code (the “**MCC**”) which replaced the Minimum Competency Requirements with effect from 1 December 2011.

Compliance with all aspects of the Code is mandatory. However, the Central Bank views compliance with the requirements of “Suitability” and “Knowing your Customer” to be at the core of ensuring that consumers are recommended products which are suitable to their needs. Accordingly, irrespective of their size and impact rating within our model for supervision, firms that fail to meet our standards and breach regulatory requirements in respect of these priority areas, can expect the financial penalties and other enforcement tools available to us to be applied robustly in a manner that reflects not only the seriousness of the issue at hand but also acts as a meaningful deterrent to others, thus promoting an improvement in standards across the industry.

Minimum competency, as outlined in the MCC, is one of the key concepts in assessing whether a person is fit to exercise certain functions in a regulated financial services provider, pursuant to the Central Bank's Fitness and Probity Regime. These requirements ensure that in their dealings with firms, consumers obtain a minimum acceptable level of competence from individuals acting for or on behalf of those firms in the provision of advice and associated activities. Firms operating with individuals who are not appropriately accredited and therefore not deemed competent to deal with consumers constitute an unacceptable risk to those consumers, greatly increasing the risk of poor advice or the mis-selling of products. Individuals and regulated entities must therefore ensure their compliance with all relevant aspects of the MCC.