

## **“Competency”**

### Consultation Paper on Review of Minimum Competency Requirements

We welcome the opportunity to give our views on the proposed amendments to the Minimum Competency Requirements.

By way of background, the Financial Services Ombudsman Bureau is an Independent Statutory Body that arbitrates on unresolved disputes between consumers and financial services providers, such as banks and insurance companies.

Following an investigation, the Financial Services Ombudsman will adjudicate on the complaint i.e. make a decision to either uphold fully, partially uphold or reject the complaint. If the complaint is partially or fully upheld, the Financial Services Ombudsman can direct the provider to do a number of things, including paying compensation to the consumer.

The Financial Services Ombudsman scheme is designed to be the last port of call for complaints, not the first. A complaint can only be referred to the Financial Services Ombudsman after it has gone through the internal complaints procedures of the financial services provider and is ‘signed off’ by the provider as being unresolved to the satisfaction of the customer.

The complaint has to be about the conduct of a financial services provider either the provision of a service, an offer to provide a service, or a failure to provide a requested service. Most complaints will be about the actual provision of a financial service.

All financial services providers regulated by the Financial Regulator are financial services providers, for the purposes of the Financial Ombudsman Scheme.

Complaints will typically relate to the way a particular financial product was sold to the customer or about the interpretation of the terms and conditions of a financial product.

#### **In the Financial Services Ombudsman’s 2009 Annual Report it is recorded that:**

- 7,619 complaints were received – a significant increase of 28%;
- Approximately 25,000 complaints have been received since the Bureau was set up in April 2005;
- Over 17,000 telephone calls were received while over 200,000 visits were made to the website;
- The administration of the Bureau continues to be highly effective even though it is more challenging to maintain throughput in the current climate.

Our views on the proposed amendments to the Requirements are as follows:

### **Loan Restructuring**

Our view is that advising / educating a client from the outset about Loan Restructuring would be beneficial. Additionally, as the Advisor's role can extend beyond the set up of, or arrangement of a loan, advice would inevitably be sought where the client experiences difficulties with repayments. The Advisor should be competent to provide information / advice on loan restructuring at all times and this should be included as part of the Requirements.

### **Administrative Functions**

We consider that where amendments to policies take place, such amendments would have to be fully explained in the same manner as the original wording was explained. Such amendments should also be discussed as part of the regular review of the client's financial needs and resources. We are satisfied that this activity falls within the scope of the Requirements as dealing with arranging and / or providing advice on the policy concerned.

We are otherwise satisfied with the Proposals included in the draft revised Requirements.

---

Our views on the Additional Proposals are as follows:

### **Grandfathering**

We agree with the proposal for phasing out of the grandfathering arrangements and find that the proposed time frame is reasonable.

### **Internet**

Given the amount of transactions carried out over the internet we consider that the Requirements should indeed apply to those providing financial services in this way. From an examination of complaints, one area in particular that stands out as requiring attention in this regard is the sale of travel insurance. The highlighting / explanation of the more important restrictions is paramount e.g. pre-existing medical conditions exclusions.

### **Outsourcing**

On a Principal / Agent relationship basis some responsibility should be put on the regulated firm to ensure that the Requirements are complied with by firms employed to undertake certain activities on an outsourced basis.

It is noted that there are a number of other issues that are being considered for the proposed amendments to the Requirements. In this regard we would like to have considered a matter not referred to in the Consultation Paper that in general needs addressing. This is the lack of a legal / regulatory requirement for a copy of the completed Application / Proposal Form to be given to the client as a matter of course after its signing by the client. This would help remove any doubts that exist over the contract that was entered into. Having a copy of the

Application Form allows the client to review the application and correct any inaccuracies that may be recorded. Presently the application form is only provided when specifically requested.