

MERCER

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Consumer Protection Codes Department
Central Bank of Ireland
Po Box 559
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10 January 2011

RE: Consultation Paper 47: Review of the Consumer Protection Code

Dear Sir / Madam,

Mercer welcomes the opportunity to provide comments on the Central Bank of Ireland's consultation paper 47, Review of the Consumer Protection Code

While we broadly support the proposed changes contained in the Code we do have some concerns in relation to certain aspects and provisions of the Code. Please find attached our relevant comments on the specific issues.

Yours sincerely



Colin Babe

Head of Financial Regulation

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Mercer comments on Consultation Paper 47

Comments on specific issues:

Introduction of new definition for Vulnerable Consumers:

Mercer response:

Whilst we agree with the proactive approach of the CBI to increase protection for certain consumers we feel that it could be difficult to define a list of circumstances that could render a consumer as vulnerable, i.e. date of birth, mental health, etc. We also believe that including such a detailed list of definitions as to what a vulnerable consumer is could be confusing, and in some cases perceived as discriminatory to some of our clients. We feel that the guidance issued in June 2008 in relation to this same topic would be adequate to incorporate into the Code.

Suitability – Chapter 5

Assessing Suitability - point 10, line C

We have one comment in relation to the following requirement. The regulated entity must consider and document at a minimum whether:

- The consumer has the necessary experience and knowledge in order to understand the risks involved.

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Mercer response:

We believe that this point could be problematic due to its vague nature. We believe it could be difficult to ascertain exactly how you could definitively document certain points, for example 'defining what is the necessary experience and knowledge required to know and understand vales of market related investments can fall as well as rise'.

Provision of Information – Chapter 4

Information about Regulatory Status – point 11

This provision proposes that regulated entities must use separate business stationery and electronic communications where it engages in an activity that falls outside of its Central Bank authorisation, or registration. In the case of a website, a regulated entity must have separate sections for the activities that fall inside and those that fall outside of its authorisation, or registration

Mercer response:

Mercer provides various different services to our clients, regulated and unregulated. Due to the diversified nature of our business model we feel that it would not be practical to implement such measures. We understand the need to be transparent in all our dealings with clients, especially in relation to what service or product we are providing is regulated. We believe that having a breakdown of our regulated status and services outlined in letters of engagement and detailed information on our website is sufficient to address this point.

Information about products – Investment products – point 32

Before offering, arranging, or recommending an investment product the regulated entity must provide the consumer with information about certain items:

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Mercer response:

We feel that offering, arranging and recommending are all one of the same. We would suggest removing the reference to recommending as we wouldn't offer or arrange any product without it being suitable for the client.

Chapter 5 – Knowing the Consumer and Suitability

Knowing the customer – point 3

A regulated entity must ensure that, where a consumer refuses to provide information sought in compliance with Provisions 1 and 2, the refusal is noted on that consumer's records and that it advises the consumer that it does not have the information necessary to assess suitability and cannot offer the consumer the product or service sought.

Mercer response:

This requirement has the potential to expose Trustees of Occupational Pension Plans if they refuse or can't supply adequate information as to ensure compliance with this point. Trustees have an ongoing obligation to act in the best interest of their members. We believe that clarity is required in relation to this matter.