



NEW IRELAND ASSURANCE

Consumer Protection Codes Department
Central Bank of Ireland
PO Box 559
Dame Street
Dublin 2

10th January 2011

Dear Sir/Madam,

Consumer Protection Code Review of Consumer Protection Code – Consultation Paper CP 47

I refer to your request for views on Consultation Paper CP47 and in this regard please find enclosed below New Ireland's comments and observations on the proposed revised draft code. More detailed comments are contained in the industry submission to be made by the Irish Insurance Federation.

Our key concerns/issues relate to:

- Consumer Communications
- Costs
- Product Producer Responsibilities
- Determining Risk
- Vulnerable Consumers
- Existing Regulatory/Legislative Requirements
- Unintended Consequences
- Structure and Layout

Introduction

New Ireland welcomes the review of the existing code and is fully supportive of proposals that will genuinely increase consumer protection and awareness in respect of financial products and services. We fully endorse the intention of the proposed code while we believe that the current draft would benefit from a number of amendments to both its contents and its structure which would serve to further enhance consumer protection, without creating undue administration, correspondence, complexity or excessive cost for the consumer.



Consumer Communications

In overall terms, we believe that the proposed revised code would require regulated entities to generate a wide range of additional correspondence to consumers. While we would be supportive of some of this additional correspondence, it is our view that many consumers will find much of the additional correspondence irksome and of no real value and possibly confusing. This could also have the effect of generating complaints of waste and increasing costs (which will ultimately be passed on to the consumer).

For example under Chapter 6.3 there is a requirement to issue separate statements to each joint account holder of a joint account. This requirement applies even if the parties reside at the same address and will require extensive systems changes to implement at considerable cost to the regulated entity but with limited value to the consumer.

At present the purchaser of a life assurance policy can receive, at a minimum, copies of the following documents at or around the time of the sale and during the lifetime of the policy:-

At initial stage

- Terms of business letter
- Factfind
- Quotation
- Product brochure/literature
- Application form
- Reasons why letter
- Disclosure information
- Cover letter enclosing policy conditions and schedule

Ongoing basis

- Annual benefit statements
- Existing business quotations
- Policy review letters

The revised Consumer Protection Code should be looking to refine both the volume and the content of the documentation that a consumer receives to ensure that it is not excessive and that it is relevant. There should also be consistency across the various product providers. We believe that the proposed revisions outlined in new code do not help address these issues instead they will simply create further confusion with consumers.



Costs

It is our view that if all of the provisions, as currently drafted, are included in the final code there will be a significantly increased cost to industry which industry will ultimately have to seek to recoup from the consumer. We do not believe this is in the interests of consumers or of the financial services industry. In this context, we believe the code would benefit from introducing a materiality dimension to a number of the provisions. For example Chapter 3.7 requires specified warnings (which are in bold, big type and in a box) to appear alongside the benefits of the product. This may not be practical in a brochure as the “benefits” may be stated over a number of pages. However while agreeing with the sentiment perhaps this requirement could be modified to state that the warnings must appear in the brochure etc. in a prominent position.

Also Chapter 6.2 prohibits the use of abbreviations, acronyms or numerical references to depict any of the items of information listed in a statement of transactions. This may not be practical to implement however while agreeing with the sentiment the outright prohibition could be modified to require such terms where used to be clearly explained.

Product Producer Responsibilities

We fully accept that there is an obligation on a product producer to provide intermediaries (and consumers) with accurate product information. However we are of the view that this should be satisfied by an “objective” test in relation to the information concerned. Chapter 3.44 appears to introduce an element of “subjectivity” as a product producer cannot be sure that an intermediary (or indeed every intermediary) will understand the product literature and in turn whether the intermediary will be able to properly explain the product to the consumer. As an intermediary is itself a separately regulated entity we believe that the onus should therefore be on the intermediary to understand the product and the product information and if necessary to seek additional information from the product producer if the intermediary feels that there is the need to do so.

Also under Chapter 3.45 there is an obligation to review investment products annually and we would suggest that this paragraph is too inflexible in its requirements and that the obligation to review such products should be on a periodic basis.

Chapter 5.1 sets out certain details which a regulated entity must gather before offering, arranging or recommending a product or service. The list is not prescriptive and by including only examples of certain information we are of the view that this might only serve to cause potential confusion. We would suggest that either a complete list of requirements be set out or that no examples whatsoever are provided.

Determining Risk

We note that there is a proposal to consider introducing a traffic light system of risk disclosure for investment products (including insurance products). We believe that

such a system may be too simplistic and indeed may result in unintended consequences.

We have spent considerable time in designing and developing a risk classification system for our investment products and would suggest that solely assigning a risk category to a particular product or fund is of limited value unless the categories of risk are also clearly defined and the consumer's own attitude to risk has been comprehensively determined. Determining a consumer's own attitude to risk should reflect the particular consumer's individual circumstances and include, where relevant, their age, net assets, net disposable income, emergency fund requirement, investment experience, dependants etc.

In addition at present the number of risk sub-categories within the investment industry is subjective with ranges varying from a simple red/amber/green to a nine-point scale. We believe that there is a requirement to balance transparency and simplicity with the provision of sufficient information and definitions to enable the consumer to make an informed decision on risk.

Vulnerable Consumers

New Ireland agrees with the intent in the proposed new vulnerable consumer provisions but questions the ease and practicality of applying the provisions in practice. We note that even by designating a particular consumer as a "vulnerable consumer" may in itself even offend a consumer who does not deem themselves to be within the category for such treatment. Also we note that the proposed new definition of "vulnerable consumer" would be impractical in the context of the full definition of "consumer" set out in Chapter 13 other than in the context of a consumer who falls within part a) of the definition. Furthermore although the proposed code defines "vulnerable consumers" it does not specify how such consumers should be dealt with. We would therefore suggest that the enhanced provisions relating to knowing your customer and suitability as set out in Chapter 5 should be adequate protection for the vast majority of consumers. If specific rules are to apply to certain consumers then both the impacted consumers and the specific rules should be clearly defined.

Existing Regulatory/Legislative Requirements

There appears to be overlap with a number of existing regulatory/legislative requirements and we would seek confirmation that compliance with an existing regulatory/legislative requirement will be sufficient for compliance with the code.

For example under Section 30 of the Investment Intermediaries Act 1995 the consumer is obliged to receive a receipt which must contain certain information as set out in Section 30. The proposed code in Chapter 3.4 sets out similar but not identical requirements.

Also life assurance undertakings comply with certain disclosure requirements under life assurance and other regulatory requirements. We would suggest that the code should specifically state that compliance with a particular regulatory/legislative



requirement (where that requirement applies to the particular regulated entity) means that the regulated entity (product) complies with the code.

Unintended Consequences

New Ireland also believes that some of the new provisions may result in significant unintended consequences that may run contrary to the objectives of the Central Bank of Ireland to promote financial stability and increase the efficiency and effectiveness of the financial sector. Indeed we believe that some of the provisions may in fact disadvantage and/or frustrate consumers rather than affording additional protection. We acknowledge the intention to strengthen the Code to provide increased consumer protection but we believe that any new provisions need to be proportionate to the benefits to the consumer and should not unduly increase the cost base of the financial sector.

For example under Chapter 3.2 a regulated entity must acknowledge in writing receipt of an instruction where it cannot be acted on within two business days and outline the reasons for the delay and confirm when it will be processed. This will lead to confusion especially if the instruction has been acted upon by the time the consumer has received the letter advising that it cannot be acted on within the relevant period.

Structure and Layout

In terms of format and structure, the previous code made it relatively straightforward for those implementing the code to understand which sections were specific to individual products and areas (e.g. Investment Products/Insurance Products etc.) and which sections were generic and applied to all. We believe that a similar approach in the new Code would greatly facilitate implementation and understanding by both consumers and regulated entities. As presently drafted the structure of the document is confusing as it is not clear exactly which provisions apply to which financial sector.

For example certain terms are used in a general manner but their meaning is not defined – e.g. “account” does this mean bank account, credit card account or indeed personal retirement savings account? There should also be a sufficient lead in time to allow for financial institutions to make any necessary system changes etc..

We would welcome the opportunity to meet with the Central Bank of Ireland to discuss the proposed new code in more detail in due course.

Yours faithfully,



Joseph O'Brien
Legal & Compliance Adviser