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

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Re: Review of Consumer Protection Code Consultation Paper CP 47

Dear Sir/Madam,

With reference to the above consultation paper, I wish to make a submission on behalf of Standard Life Assurance Limited (SLAL) on the proposed changes to the Consumer Protection Code requirements.

SLAL adheres to codes of conduct issued by the Central Bank of Ireland and is authorised and regulated by the Financial Services Authority in the UK.

We understand that the code is being reviewed to identify areas where existing provisions should be strengthened to provide increased consumer protection across the Financial Service industry and SLAL fully support the Central Bank in this regard. We have detailed our comments and concerns to the questions outlined in the consultation paper in the attached document.

On reviewing the content of the consultation paper, there are also a small number of additional items where SLAL believe it would be beneficial to the industry for the Central Bank of Ireland to provide further clarification. This will enable regulated entities to consider potential impacts in greater detail. We would be grateful if the following could be considered and/or clarified:

1. Power of Attorney - Chapter 3, Provision 8 b)

From a best business practice perspective SLAL agrees with Chapter 3, Provision 8 (a) "obtain a certified copy power of attorney". SLAL currently fulfils this requirement and ensures power of attorney documents are original, certified and that the identity of the appointed power of attorney is obtained. However Chapter 3, Provision 8 (b) states a

regulated entity must “ensure that it operates within the limitations set out in the power of attorney”. This could lead to potential misinterpretation due to the legal nature of the document.

It is therefore our view that the operation and limitations of the power of attorney document should remain the responsibility of the appointed power of attorney and not the regulated entity.

2. Exemption from knowing the consumer and suitability – Chapter 5, Provision 20 a)

Regarding the drafting of the proposed exemption from knowing the consumer, the exemption applies only to circumstances where the consumer has specified both the product and the product producer and has had no other interactions with the regulated entity. Circumstances exist where consumers approach producers to obtain factual information in order to inform their decision prior to a transaction for a particular product. If a producer provides factual information to enable the consumer to make an informed decision to purchase, as currently drafted, the exemption could not apply. We believe that this is overly restrictive and excludes consumers from being able to transact on an execution only basis even though they have obtained factual information from the regulated firm.

3. Requirement for contemporaneous record of verbal exchange at point of sale - Chapter 12.1

We propose that records are kept as part of the knowing the customer/suitability requirements process and any verbal exchanges are incorporated into the fact find document or reasons why letter (statement of suitability letter). The customer should then review and sign the document to ensure that this becomes an effective control.

4. PRSA Requirements

The introduction of rules for PRSA’s will mean that PRSA providers will now need to comply with two sets of different regulations from the Central Bank of Ireland and the Pensions Board. In addition PRSA providers will need to report any issues or errors identified to two regulatory bodies. We feel that these requirements are onerous and suggest that the improved requirements in relation to knowing the customer and suitability should be adequate.

The above responses are given in good faith and I wish to be consulted if this submission is to be considered to be published in whole or part.

Yours faithfully,



Ian Quinn
Senior Risk Manager Ireland
Standard Life Assurance Limited

Consumer Protection Code – A Review of Proposed Amendments

Questions from the Central Bank of Ireland

Vulnerable Consumers

- 1. Do you agree with the indicative list of circumstances that could render a consumer vulnerable that have been included in the definition of vulnerable consumer?**

While we recognise that some consumers require a greater level of care the introduction of this definition has a number of potential concerns and practical difficulties for implementation by regulated entities.

The list of criteria for determining a vulnerable consumer as outlined in Chapter 13 (Definitions) is vague, lacks limitation and will therefore lead to inconsistency across firms.

Consumers will need to provide more information than they might be willing and it will be difficult to obtain without potentially causing offence.

Furthermore the gathering of such information has the potential to conflict with other regulatory requirements i.e. Data Protection Act ensuring information is adequate, relevant and not excessive.

We propose that the emphasis remains on suitability being demonstrated for all consumers rather than for a specific category of consumer. This requirement for providing suitable advice should already provide the correct level of protection to consumers on the basis that the reason for the advice is clearly documented and personalised to the consumer and their circumstances.

- 2. Do you think that the inclusion of a definition for a vulnerable consumer and the proposals and amendments outlined above will be effective in improving the level of care afforded to vulnerable consumers during the sales process? If not, please outline any further measures you think are necessary?**

We acknowledge that this definition, if more clearly defined, ought to ensure that companies increase the awareness of issues surrounding vulnerable consumers. Nonetheless it will be onerous for companies to determine who falls into this category at the point of sale and throughout the lifecycle of the product concerned unless there is a prescribed industry standard and definition.

We propose that emphasis is placed on suitability for all consumers rather than for a specific category of consumer.

In reviewing this section of the consultation paper it would be beneficial to the industry to seek clarification on the following:

- How and what types of information would need to be collected to demonstrate that a consumer is vulnerable?
- Should there be a declaration signed by the customer which states that their categorisation as vulnerable is accurate?
- Where the relationship with the consumer is through an intermediary, will it be for the intermediary to determine “vulnerability” at the point of sale.
- More guidance is necessary on the identification of vulnerable consumers throughout the life cycle of the product, for example around switching funds, handling disinvestments and treatment of consumers who are deemed to have become vulnerable post sale e.g. approaching retirement, ill health.

Suitability of Mortgages

3. **Do you think the inclusion of these provisions will result in a greater level of responsible lending or is more needed? If you think more is needed, what additional requirements would be appropriate?**

N/A

4. **Do you agree with our proposal that the SFS should be used when assessing whether a mortgage is affordable for a consumer?**

N/A

Information about Products

5. **Do you think the proposed requirements in relation to the provision of information about products are adequate? If not, please set out how you think the requirements could be strengthened?**

We fully endorse this; the proposed requirements are sufficient nonetheless we would seek clarification on what format this information should be provided to consumers, to avoid duplication of provision of information to consumers.

6. **In light of the developments at European level, do you think we should introduce requirements in relation to the presentation of information on investment products in a short ‘Key Facts’ Document?**

We agree with this in principle provided that there is no duplication with the existing key features requirement under Life Disclosure Regulations.

7. Is there any specific information that should be provided, either in a 'Key Facts' Document or otherwise, in respect of other types of product?

Yes, more emphasis should be placed on the underlying fund investment. As the performance of a fund dictates the performance of the product where a risk is being disclosed, it should relate not only to the product but to the investment options available.

The key facts document should clarify where the risk sits e.g. the responsibility of the provider, intermediary and/or consumer.

It should outline the types of funds available as investment options and direct clients to research the performance of the funds, its term and underlying assets.

If any information is disclosed about guarantees it should be explicit about which regulated entity is providing the guarantee.

8. Do you have any ideas about how to disclose risk in the case of investment products in a way that would be consistent enough to be useful for consumers?

There should be a clear distinction outlined in consumer documentation between the Product and the Investment Option where a risk is being disclosed. A rating, matrix or flag system prescribed by the Central Bank or relevant industry body would ensure consistency in the market place and be easily recognisable for consumers. This could be used as an industry guide to risk rate products prior to launch to a given target market.

9. In a system such as a 'traffic light' system, how do you think the different categories of risk, i.e. red, amber and green, should be determined?

We agree that there should be standardised categorisation of risk across the industry however a traffic light system may not be the most appropriate mechanism to use. Concerns exist that "Red" for example means danger and stop. Equally in using this method there is a possibility that all vulnerable consumers could be directed towards green (safe) investments only when this may not be an appropriate product or investment to meet their particular individual needs.

We suggest that a rating, matrix or flag system prescribed by the Central Bank or relevant industry body would ensure consistency in the market place and be easily recognisable for consumers.

In developing this system for products etc assumptions, spectrum of funds to choose from re volatility, industry sectors, asset classes, geographic regions, currency and any alternative investment options available could be used as a guideline.

A balance needs to be struck between a standardised approach across the industry whilst retaining the need for personalised recommendations that explain suitability to the consumers needs.

10. Personal Retirement Savings Accounts (PRSAs) - Do you think these requirements continue to be appropriate?

The obligations of the provider in relation to oversight of advisers should be clearer. PRSA providers must comply with Pension Act requirements and we feel the requirements prescribed under the Consumer Protection Code are onerous.

Specific points to note:

- The wording “Charges on Non-Standard PRSAs are not capped and, in most cases, are higher than on Standard PRSAs.” At present in the market the majority of non standard PRSAs are often cheaper than the standard equivalent. This sentence is misleading and may put consumers off buying a non standard PRSA which may offer the investment choice they need.
- From recent research on PRSAs, it is clear that non standard PRSAs have a reduced investment choice and clearer charging structure. The standard PRSA could be considered a simpler investment choice, but calling it a cheaper investment choice is no longer appropriate.
- The Central Bank has not clarified who needs to file and store the non standard PRSA declaration once it has been completed. Who does the obligation fall on – the seller or provider of the PRSA?

Product Producer Responsibilities

11. In relation to identifying a target market of consumers for a product, what are the key consumer criteria that you believe should be used?

The following criteria could be used in identifying a target market of consumer:

- Market research,
- Industry research,
- Management Information on existing consumers and products,
 - Policyholder does not require income from the product over the next 5 years
 - Policyholder wants the ability to create their own investment portfolio within the ‘Investment Bond’
 - Policyholder wants access to a broad spectrum of fund choices and self invested options
 - Policyholder comfortable to pay an AMC (annual management charge) of 1% for access to this product and the benefit of administration
 - Policyholder wants to invest in a ‘Life Bond’ to avail of gross roll up

12. Is the consumer information listed in Chapter 4, Provision 32 useful when identifying a target market?

The consumer information listed are key product features that are explained to customer before sale, they allow the customer and the broker to assess whether the product is appropriate however, the headings will not necessarily identify a target market on their own.

13. Do you agree with the requirements outlined in Chapter 3, Provision 45? How often do you think that reviews of products should be undertaken?

We do have some concerns about the cost of implementation across the industry as this could lead to increased costs to the end consumer.

While we feel annually is too arduous, we do acknowledge that a review of products needs to be undertaken to ensure it still meets the general needs of the target market that it was designed for. The frequency of review should be undertaken at regular intervals, potentially informed by the term of the contract and with the ability to take into account any material market issues that could impact the product and its target audience.

14. Should product producers be required to periodically review applications for their investment products, received through their direct sales force and through the intermediary channel, to ensure that actual sales are consistent with the targeted market? Do you foresee any hurdles to the implementation of this requirement in practice?

From the product producer's perspective, this constitutes good business practice for direct sales, but not for intermediary sales.

Ultimately the firm who sell the product to the consumer has responsibility for ensuring the suitability of the product to the consumers needs. Product producer's responsibility should include providing clear information to intermediaries about the target market i.e. the types of consumers/consumer needs that can be met with respective products that are being marketed.

We agree that product producers should review sales of their own product via a direct sales force as they bear the responsibility of the advice provided and have access to the KYC information/suitability letter etc to assess the product recommended and target market.

We do not believe product producers should or could carry out an equivalent exercise for sales via the intermediary channel as at most they will only have access to information based on the application form.

This could at best provide a review of age of customers compared with their product/investment choice where relevant to the sale. Whilst this may provide some high level indications it would lack the ultimate verification of product suitability in regard to target market / consumer needs.

If product producers were to review applications received from intermediaries, this would place a large cost burden on companies which in turn may have to be factored into the pricing of policies to the detriment of consumers.

Recommendations from the Review of the Intermediary Market

- 15. Termination of appointment - Do you agree with this proposal? If not, what specific issues arise in respect of appointments from entities other than insurance providers?**

We fully agree with this proposal as it will create a transparent industry standard. Guidelines should be made available in relation to scenarios where providers can terminate appointments for example in cases of churning, misconduct etc.

- 16. Remuneration disclosure - Do you agree with the proposal that a requirement to disclose remuneration from product producers should be imposed in circumstances where there are currently no requirements in place in this regard?**

We fully agree that remuneration should be disclosed for all financial products to allow a level playing field. This will ensure consistent and transparent industry practice to exist.

Errors Handling

- 17. Do you think this approach to errors handling will reduce the incidence of errors and lead to an improvement in the way in which regulated entities handle errors involving consumer detriment?**

As a starting point it is vital that a clear definition of what the Central Bank considers to be an error is provided to ensure a consistent approach is adopted across the wider financial services industry.

Provisions 1, 2, 6 and 7 should reduce the incidence of errors by providing an internal system control framework requiring procedures to be in place. This should ensure a more effective and timely preventative control environment to identify and rectify errors more quickly. The revised code will have limited effect on the control of external systems where the function has been outsourced to another regulated entity e.g. in the UK.

We are seeking clarification in relation to the reporting of errors regarding PRSAs. Currently the Pension Board requires that any issues relating to PRSAs are reported to them. Given that PRSAs are also covered under this consultation paper, please clarify that the proposed requirements under the code will avoid the need for duplicate reporting of issues to two regulatory bodies.

18. Do you think the proposals are adequate to prevent repeat errors from occurring?

The proposals will have a preventative effect but will not reduce the potential for errors completely. As stated in 17 above, the control environment will be improved, leading to speedier detection and remediation of issues.

19. Do you think the six-month timeframe to rectify errors involving consumer detriment is appropriate?

The 6 month timeframe should be a reasonable benchmark for the majority of errors. A fixed 6 month timeframe does not however take account of the nature and size of a particular error and the potential complexity of designing and implementing control enhancements within regulated entities processes and systems. In complex or larger cases we would suggest that once factors are determined and a material error is reported (per point 6, chapter 11), there should be flexibility for a discussion to take place with the Regulator to agree a timeframe for resolution where appropriate.

20. Do you think our proposal that only errors that cannot be resolved within one month should be reported is an improvement on the current situation? Is the one-month timeframe appropriate? If not, please suggest an alternative.

No we do not believe this proposal is an improvement. The current requirement that only material errors should be reported should remain and be enhanced with the addition of a clear definition of the criteria firms should use to determine the 'materiality' of an error.

The proposed one month requirement could prove onerous for both the company and Central Bank as a large volume of small errors will be required to be reported, potentially distracting regulated entities from taking a risk based approach to rectifying the material issues identified within their respective operations.

From experience the time taken to identify the cause, understand the scale and impact of the issue will rarely take less than one month meaning that under the current proposal all errors would require to be reported.

This reporting may prove disproportionate to the impact of minor errors which will not have been fully established until a full analysis has been completed.

The key element is to improve the control environment and hence the identification and rectification of material errors.

- 21. Do you think that the proposed times for permitting unsolicited contact are appropriate?**

We feel the change in time is too restrictive, by removing Saturday as a day of contact this may possibly result in an inconvenience for both the business and consumer.

- 22. Do you think the restriction on the sale of products or services to protection policies only and the prohibition on the sale of protection policies on a first unsolicited contact will enhance consumer protection?**

N/A

Arrears Handling

- 23. Do you agree with the proposals in relation to arrears handling? If not, please set out your suggestions on appropriate measures.**

N/A

- 24. Do you agree with the proposal to prevent the closure of accounts in arrears cases?**

N/A

Small Print

- 25. Do you agree with our definition of 'key information'?**

We agree in principle however our concern that by placing warnings beside benefits will clutter literature and make it more difficult for the consumer to read rather than enhancing a consumer protection outcome.

- 26. Do you think that we should go further than proposed? In particular, we would welcome your views with regard to the usefulness of small print in advertisements.**

We do not think further enhancements are necessary to these requirements.

Review on the transparency of Credit Card Statements

27. Do you think this proposal will provide clear and useful information for consumers? Do you think the method of presentation is suitable?

N/A