



AN POST FINANCIAL SERVICES

Introduction

With regard to the Consultation Paper CP54, we refer to the provisions included in section 2 and respond below.

We have also commented on additional amendments throughout the code which we believe need further clarity or amendment.

ii) Complaints Resolution

In light of our recent themed inspection work in this area and our ongoing work with the Financial Services Ombudsman, we are proposing to further extend the requirements on regulated firms in relation to complaints handling and resolution. In particular, we are proposing that regulated firms will be required to analyse complaints in order to identify if any patterns of consumer complaints are emerging. This analysis must be escalated to the regulated entity's compliance/risk function and senior management.

Response;

We agree with the proposals in regard to complaints resolution, they will be very beneficial to both consumer and regulated entity.

iii) Unsolicited Contact

Pressurised selling of financial products to consumers, under any circumstances, is of particular concern to the Central Bank in light of the consumer detriment which can occur. Where unsolicited contact is allowed, strict rules must be in place covering the circumstances of how and when it is allowed in the interest of protecting consumers from unwanted selling tactics which can be perceived as aggressive and overly intrusive or pushy. Consequently, we have decided to further restrict the circumstances in which unsolicited contact can be made with consumers. In particular, we are proposing that the informed consent of the consumer is required before any contact can be made to sell or market a financial product or service to an existing customer. In addition, we are proposing that regulated firms will not be allowed in any circumstances to make an unsolicited personal visit or telephone call to a consumer who is not an existing customer.

Response;

We believe that there is a requirement for a definition of "unsolicited contact" to be included in the revised code.

We agree that informed consent be required before any unsolicited contact can be made to sell or market a financial product, however, we do not agree that the informed consent should be in writing - Verbal consent over a recorded telephone call should suffice as informed consent.

v) General Principles

We have included a proposed revision to General Principle 2.4 to require firms to undertake staff training and quality control checks to ensure compliance with the Code.

Response;

We agree with this proposal.

vi) Advertising

In CP47, we raised concerns about the amount of information included in the small print in advertisements. We advised that, in our view, key information should not be included in the small print and we requested views on our proposals. Interested parties will note that we have retained, and expanded, the provision that key information must be included in the main body of an advertisement. In addition, this information must not be obscured or disguised in any way. The definition of key information has been amended to mean *'any information which is likely to influence a consumer's actions with regard to a product or service.'* We also included a provision restricting the type of information that can appear in the small print of an advertisement. Where small print or footnotes are used, they must be of sufficient size and prominence to be clearly legible and should not be directly related to the product or service being advertised.

In addition to the concerns that we raised in CP47 on small print in advertisements, the Central Bank remains concerned that the advertising of financial products and services is not meeting the overriding requirement that advertisements must be clear and not misleading and must contain all relevant information. Consequently, a number of additional provisions are now proposed for regulated firms to adhere to, including requirements that:

- a) advertisements must clearly state any qualifying criteria of a product or service,
- b) warnings must appear alongside the benefits of the product to which they refer,
- c) the annual equivalent rate set out in an advertisement must not be misleading and any assumptions used to calculate it must be reasonable and up to date, and,
- d) more detailed disclosure requirements be included in advertisements.

Response;

- a) We do not agree that an advertisement must clearly state any qualifying criteria for a product or service. This proposal is not practical, as there may be a number of qualifying criteria attached to a product or service when you consider A) availing of the advertised product or service, B) maintaining a minimum price for the advertised product or service or C) benefiting from potential maximum savings relating to the advertised product or service. There is more significant information that should be, and is already required on advertisements, such as warnings, regulatory disclosure statements, APR etc. There would never be a situation where a consumer can purchase a product or service without going through the sales process of the regulated entity and therefore receiving a quotation/product pack that includes all the Key information relating to the product or service is part of the normal sales process. A potential customer is also given adequate cooling off period to allow them cancel a policy if it does not suit their needs. The Advertisement is designed to generate interest from consumers in relation to the particular product/Service. The sales

process will cover all the key information disclosure therefore there should be no additional requirements on advertisements.

vii) Errors Handling

Any consumer affected by a charging or pricing error identified in a regulated firm must be refunded in the most efficient and speedy manner possible. While accepting that there may be systems issues around the identification of both the error itself, and the resulting population of consumers affected, our view is that errors need to be identified, rectified and resolved promptly. Consequently, while we have taken on board some of the operational issues identified in responses to CP47, we remain of the view that the requirements as proposed, with some amendments, must be implemented in the interests of consumers who may be impacted by errors.

Response;

We remain of the view that only material errors should be reported to the regulator and a definition of a material error should be included in the code.

viii) Claims Processing

A number of additional provisions are proposed in the revised Code in relation to Claims Processing. In addition to the requirements relating to direct settlement of claims, of particular note are new proposals in the following areas:

- a) a claimant must be informed in writing of the reasons why a regulated firm decides to refuse a claim; and
- b) a regulated entity must ensure that a claim settlement offer to a claimant is fair and represents the firm's best estimate of the claimant's reasonable entitlement under the relevant policy.

Response;

- a) Yes we agree with this proposal
- b) Yes we agree with this proposal

ix) Conflicts of Interest

Additional requirements are proposed in relation to conflicts of interest. Suitable products and services should be sold to consumers on the basis of a consumer's circumstances, needs and objectives. We are concerned that consumers' best interests may not be protected if remuneration arrangements in place are focussed solely on sales volume. Interested parties should particularly note provisions 3.23 to 3.25 in this regard. The impact of these provisions is that regulated entities must ensure that their remuneration arrangements support the aims and objectives of the Code particularly in relation to ensuring sales are suitable and that remuneration arrangements are not structured in such a way as to have the potential to impair the regulated entity's obligations to act in the best interests of consumers when providing, arranging or recommending products or services. Attached to this paper is the latest version of the revised Consumer Protection Code.

Response;

We agree with the proposal

Additional areas that we would like to comment on;

Information about Remuneration;

4.77 Where remuneration is to be received by an intermediary from a **product producer** on an ongoing basis in respect of a product or service, the intermediary must disclose to the **consumer** in writing, prior to the provision of that product or service, the nature of the service to be provided to the **consumer** in respect of this remuneration.

4.78 In the case of non-life insurance:

a) An **Insurance Intermediary** must disclose in general terms to a **consumer** that it is paid for the service provided to the **consumer** by means of a remuneration arrangement with the **product producer**.

b) An **Insurance Intermediary** must disclose to a **consumer** the range of commission earned, either in percentage terms or the actual amount, in respect of each product type.

c) Prior to the sale of a product, an **Insurance Intermediary** must either inform the **consumer** of the amount of remuneration receivable in respect of that sale or that details of remuneration are available on request.

Comment;

A definition for remuneration would be beneficial in the revised code.

In respect of 4.77 and 4.78 above, we disagree with the requirement to disclose the range of commission earned, either in percentage terms or the actual amount, in respect of each product type. This information has is of no benefit to the consumer, and is commercially sensitive information and may be deemed to be anti competitive. In many cases, staff members of a financial services provider would not even be aware of this information.