

27 June 2012

**Re: Themed Inspections: Sale of Payment Protection Insurance (“PPI”)**

Dear

I refer to previous correspondence and our recent meeting in relation to the above matter.

As you are aware, the Central Bank of Ireland (“Central Bank”) has carried out a review of sales files for PPI policies sold to Irish consumers, focussing in particular on instances where the consumer has made a claim under their policy for reasons of unemployment/redundancy and that claim appears to have been declined in accordance with the terms and conditions of the relevant policy. This review was carried out in order to determine compliance with the provisions of the 2006 Consumer Protection Code (“2006 Code”). The purpose of this letter is to provide feedback to the firms inspected in relation to areas of concern identified by the Central Bank following the review and to outline the actions that we expect these firms to take on foot of these concerns.

The Central Bank is concerned that not all the findings of previous reviews in relation to the sale of PPI appear to have been taken on board by all firms and issues that have arisen previously have been identified again during this review. A copy of our industry letter of 27<sup>th</sup> February 2007 can be found on the Central Bank’s website in the Consumer Protection area<sup>1</sup>.

The Central Bank is currently considering possible enforcement actions in respect of a number of firms based on concerns it has with the level of compliance with the requirements

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<sup>1</sup> <http://www.centralbank.ie/regulation/processes/consumer-protection-code/compliance-monitoring/Documents/Payment%20Protection%20Insurance%20Review-%20Industry%20letter%2027%20February%202007.pdf>

of the 2006 Code arising out of this review. The firms concerned will be contacted directly in due course.

A revised consumer protection code came into effect from 1 January 2012 (“2012 Code”). For the sake of completeness, as well as identifying issues of concern in relation to compliance with the 2006 Code, this letter also identifies the relevant equivalent or corresponding provisions of the 2012 Code with which firms are now required to comply.

### **1. Knowing the Consumer and Suitability**

The Central Bank is concerned that firms only used information gathered from consumers in order to determine their eligibility for PPI rather than the suitability of the product for them. Firms are reminded that while the consumer may have been eligible for PPI by virtue of criteria such as age, residency, and employment status, this does not mean that the PPI was a suitable product for their needs. Firms are also reminded of their obligations under Provisions 5.16 and 5.17 of the 2012 Code (Chapter 2, Common Rule 30 of the 2006 Code), to ensure that a product or service offered to a consumer is suitable for that consumer having regard to the facts disclosed by the consumer and any other facts about that consumer of which the firm is aware. In addition the Central Bank has concerns over compliance with Provision 5.19 of the 2012 Code (Chapter 2, Common Rule 31 of the 2006 Code) which requires firms to prepare a written statement setting out why the product is suitable, to give a copy of this written statement to the consumer and to retain a copy.

Firms are reminded that, when selling PPI in conjunction with another product, they must gather sufficient information from the consumer to enable them to determine whether the PPI policy being sold is suitable for the consumer in addition to determining that the primary product being sold is suitable. This applies equally to sales of PPI being made (or which have been made) under the 2012 Code.

## **2. Execution Only**

The Central Bank is concerned that some firms are not complying with the requirements of Chapter 2, Common Rules 24, 30 and 31 of the 2006 Code when selling PPI to consumers and are treating those sales as being made on an execution only basis. Firms are reminded that for sales to be made on an execution only basis, the consumer must have specified the product, the product provider and must not have received any advice (this is specified in Provision 5.24 of the 2012 Code (Chapter 2, Common Rules 24, 30 and 31 of the 2006 Code)). If all three of those requirements are not met then, notwithstanding the classification given by the firm to the sale, the sale cannot be deemed to be effected on an execution only basis and firms must meet their obligations under Provisions 5.1, 5.3, 5.16, 5.17, 5.19 and 5.20 of the 2012 Code (Chapter 2, Common Rules 24, 30 and 31 of the 2006 Code).

## **3. Timing of the provision of key information to consumers**

The Central Bank noted during the course of its review that some firms provided the terms and conditions of PPI policies sold to consumers **after** those consumers had agreed to purchase the policies (albeit within the cooling off period). As those terms and conditions contain information which is **key** to enabling a consumer to make an **informed** decision about whether or not to purchase a PPI policy (i.e. exclusions to cover), the Central Bank is concerned that consumers are not being provided with all relevant material information before deciding to purchase PPI.

General Principle 2.6 of the 2012 Code (General Principle 6 of the 2006 Code) provides that firms must make “...*full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer*”. Firms are reminded of their obligations under this provision to ensure that all relevant material information is provided to customers **prior** to the sale of the product.

#### **4. Key information on policies should be explicitly drawn to the attention of individual consumers.**

The Central Bank is concerned that some firms did not bring key information on PPI policies to the attention of consumers. As a general example, during the course of its review, the Central Bank identified some cases where the attention of policyholders who were employed on a contract basis was not drawn to policy restrictions relevant to this type of employment.

Firms are reminded of their obligations under Provision 4.1 of the 2012 Code (Chapter 2, Common Rule 12 of the 2006 Code) which obliges firms to bring key information to the attention of the consumer. Such key information would include exclusions and/or limitations on policies, costs and benefits and also the fact that any changes to a consumer's employment status during the lifetime of the policy may impact on their ability to make a claim under that policy and should be highlighted to consumers.

#### **5. Record Keeping**

The Central Bank is concerned that not all firms reviewed by it are in compliance with their obligations under Chapter 2, Common Rule 49 of the 2006 Code. During the course of its review, the Central Bank identified cases where some firms were unable to provide entire files in relation to consumers, including records of telephone sales, while other files, which were provided were missing key documents such as application forms or statements of suitability.

Firms are reminded of their obligations under Provisions 11.5 and 11.6 of the 2012 Code (Chapter 2, Common Rule 49 of the 2006 Code) to ensure that any records, which includes documents, files or information (whether stored electronically or otherwise) are maintained for the period of time prescribed therein.

## 6. General Principles

When selling PPI, firms are reminded of their obligations under the General Principles set out in Chapter 2 of the 2012 Code (Chapter 1 of the 2006 Code). Specifically Provision 2.2 of the 2012 Code (General Principle 2 of the 2006 Code), which requires firms to “*act with due skill, care and diligence in the best interests of customers*”, Provision 2.5 of the 2012 Code (General Principle 5 of the 2006 Code) which requires firms to seek from their customers “*...information which is relevant to the product or service requested*”, Provision 2.6 of the 2012 Code (General Principle 6 of the 2006 Code) which requires firms to make “*...full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer*” and Provision 2.9 of the 2012 Code (General Principle 9 of the 2006 Code) which requires that a firm “*...does not exert undue pressure or undue influence on a customer*”. The Central Bank has concerns, arising from its review that not all firms are complying with these principles when selling PPI to consumers.

### Required Actions

1. On foot of the review which it has undertaken, the Central Bank now expects the firms inspected to conduct a comprehensive review of their sales processes and procedures in place since the introduction of the 2006 Code on **1 August 2007**. Such a review must encompass an examination of sales files for sales of PPI carried out since this date.

This must include:

- A review of all execution only sales to ensure that these sales meet the criteria set out in Provisions 24, 30 and 31 of chapter 2 of the 2006 Code (Provision 5.24 of the 2012 Code)
- For all other sales, a review to ensure that suitability, in addition to eligibility, was assessed.
- Following the above, a further review of all policies on which claims were declined to determine whether the reason for the decline should have been identified at the time of the sale.

Arising from its review, each firm must determine what action is required, including contacting consumers and making refunds where necessary. The Central Bank requires that such reviews and the resultant actions, would be overseen by an external independent third party acceptable to the Central Bank.

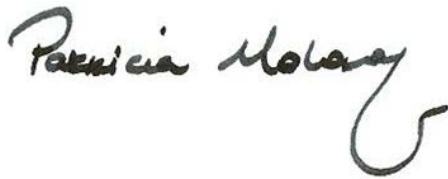
Please respond to this letter by 17<sup>th</sup> August 2012, setting out:

1. The terms of reference for your review, including scope;
  2. The timelines for completion of the review;
  3. Plan and timelines for communicating with affected consumers;
  4. Who will be performing the review; and
  5. Who will be overseeing the review.
2. Firms must ensure that procedures have been implemented to ensure that all future sales of PPI are conducted in accordance with the requirements of the 2012 Code. Specific attention is drawn to the requirements set out in section 3.24 (Payment Protection Insurance) and Chapter 5 (Knowing the Consumer and Suitability).
  3. Firms must also consider whether their sales process explicitly informed the consumer that a change in their circumstances could impact on the on-going suitability of the PPI policy for them and that the firm should be informed of such a change in circumstances. Where this was not the case, firms must contact the policyholders to determine whether their circumstances have changed and, if so, whether the policy is still suitable for them.
  4. The Central Bank expects that all complaints received by firms in respect of the sale of PPI policies will be fully investigated and will be handled in a consistent manner. In particular we expect that firms will carefully assess whether the policy sold was suitable for the policyholder and that the policyholder was eligible to claim on the policy. Where this was not the case we expect that policyholders will be refunded

their premiums, unless that policyholder wishes to retain their policy and the seller is satisfied that the product is suitable.

If you have any queries in relation to the contents of this letter please contact Joe Morley at 224 4540.

Yours sincerely

A handwritten signature in black ink that reads "Patricia Moloney". The signature is written in a cursive style with a large, looping flourish at the end of the name.

**Patricia Moloney**  
**Head of Consumer Protection: Insurance, Investment & Intermediaries**