



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Settlement Agreement between the Central Bank of Ireland

and

Seamus Sutcliffe t/a The Mortgage Centre

Central Bank imposes a fine of €2,750 on Seamus Sutcliffe t/a The Mortgage Centre

for breaches of the European Communities (Insurance Mediation) Regulations, 2005

The Central Bank of Ireland (the “Central Bank”) has issued a fine of €2,750 and a reprimand to Seamus Sutcliffe t/a The Mortgage Centre (the “Firm”) in respect of a failure to hold professional indemnity insurance (“PII”) for a period of time. Insurance intermediaries are required to hold PII under Regulation 17 of the European Communities (Insurance Mediation) Regulations, 2005 (the “IMR”).

The findings have been accepted by the Firm as part of the settlement agreement concluded between the Central Bank and the Firm on 30 June 2016.

Derville Rowland, the Central Bank’s Director of Enforcement has commented as follows:

“The Central Bank views PII as a key prudential and consumer protection safeguard. It provides an assurance to consumers that, in the event of a valid professional negligence claim being established, there will be a source of funds available to them in connection with that claim. Ensuring compliance with PII obligations is therefore key to the Central Bank’s mandate of protecting consumers in the context of the regulation of the Retail Intermediaries sector.”

In recent years, the Central Bank has allocated considerable resources to deal with firms that fail to meet the required standards of compliance in respect of their obligations relating to key priority areas, including the requirement to hold adequate PII, resulting in fines being imposed and the involuntary revocation of firms' authorisations.

Firms should be aware that where consumers are put at risk through a failure to meet the required standards the Central Bank will robustly apply its supervisory and enforcement powers. In this case, following a full investigation by the Central Bank, this matter was referred to Inquiry further reflecting the importance that the Central Bank places on compliance in this area and that it will follow through on enforcement investigations. The Central Bank's approach aims to act as a deterrent to others and ensures standards are met.

The Central Bank will continue to focus its resources on firms that fail to achieve the standards of compliance in priority areas".

BACKGROUND

The Firm is a regulated financial service provider registered as an Insurance Intermediary by the Central Bank under the European Communities (Insurance Mediation) Regulations 2005.

PRESCRIBED CONTRAVENTION

The Firm has accepted that it failed to comply with Regulation 17 of the European Communities (Insurance Mediation) Regulations 2005 (the "Regulations") which requires that every insurance intermediary hold PII on a continuous basis.

EFFECT OF THE PRESCRIBED CONTRAVENTION

PII policies typically provide insurance cover on what is known as a "claims made" basis. This means that the PII policy in place at the time that a claim is made provides cover in respect of any valid claim, irrespective of when in the past the events giving rise to the claim occurred. The Firm's failure to hold PII on a continuous basis means that had a consumer sought to make a claim during the period when the Firm had no PII in place, the protections afforded by Regulation 17 of the IMR would not have been available to them.

For this reason, the Central Bank views non-compliance with the statutory requirement to hold PII seriously, as non-compliance represents a failure to provide consumers with key protections afforded to them under the Regulations in their dealings with insurance intermediaries.

CENTRAL BANK ACTION

The Central Bank's Consumer Protection Directorate became aware of the breach during a review of the Firm's Retail Intermediaries Online Return. As part of the Central Bank's engagement with the Firm in respect of the matter, the Firm was required to put in place a satisfactory PII policy.

The Central Bank's Enforcement Directorate conducted an enforcement investigation into this matter resulting in a decision being taken by the Central Bank to refer the matter to Inquiry to be conducted in accordance with Section 33AO of the Central Bank Act, 1942.

PENALTY DECISION FACTORS

In deciding the appropriate penalty, the Central Bank took the following into account:

- The Firm now has a satisfactory PII policy in place providing cover in respect of all insurance mediation business written since the date of the Firm's registration by the Central Bank under the IMR;
- The fact that the Firm failed to settle this matter at an early stage in the Administrative Sanctions Procedure and prior to the issuance of a Notice of Inquiry which resulted in no discount for early settlement being applied by the Central Bank;
- The fact that the contravention was denied by the Firm; and
- The lack of co-operation by the Firm with the Central Bank during the course of the investigation.

The Central Bank confirms that the matter is now closed and that an Inquiry into this matter will not now take place.

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NOTES TO EDITORS

The Central Bank released a public statement in respect of the referral of this matter to Inquiry on [10 February 2016](#).

Details of the Central Bank's Early Settlement Discount Scheme is outlined in Section 4.4 of the [Outline of the Administrative Sanction Procedure \(2013\)](#)