Response from IBA and IMAF to

Consultation on the Authorisation Requirements and Standards for Debt Management Firms and the Amendment of the Minimum Competency Code 2011

Consultation Paper CP 70

23 September 2013

Response under
Appendix 1
Part A of the Authorisation Requirements and Standards for Debt Management Firms

Part A: Authorisation Requirements

Irish Brokers association

independent mortgage advisers federation

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Opening comments from IBA & IMAF

We in the Irish Brokers Association and Independent Mortgage Advisers Federation thank you for the opportunity to comment on the Authorisation Requirements and Standards for Debt Management Firms and the Amendment of the Minimum Competency Code 2011 Central Bank consultation process. We have sought the views of the members of the IBA and IMAF to inform the response contained in the following reply. You will note from correspondence by e mail on 11 September 2013 that we would have welcomed an opportunity to have a short meeting with you in advance of our formal response to clarify the contents of the Consultation Paper. We are disappointed that this meeting did not take place. The Consultation Paper refers to the proposed Authorisation of Debt Management Firms which, in principle, we support. However as the proposed 'Authorisation Requirements' appear to on the one hand not include a service that includes the collection, control and distribution of clients' funds, yet on the other apply standards of audit and Professional Indemnity insurance that extend far beyond what is reasonable for those who provide Debt management Services as defined in the Act but do not handle collect, control or distribute consumers' funds causes much concern amongst our members. .

Large numbers of our members are authorised and regulated by The Central Bank in offering a broad range of Financial Services products, mortgages being one. Over the last 5 years, our members have been providing a very valuable service to customers who are in distress and need a qualified, experienced financial person advising them in negotiating with their Creditors. We are seeking clarity on their behalf as the Proposals contained in CP 70 do not make reference to the advice provided by Qualified Financial Advisers or grandfathered individuals and they are not included in the list of excepted persons as defined in note 2. We would welcome further consultation as we believe this is essential to ensuring that we have a common understanding of the scope of the activities involved and the role of our members in debt management.

We absolutely support the need to safeguard customer funds which are in the hands of third parties but, we emphasize, our members do not handle clients' money. With 100,000 mortgage customers more than 90 days in arrears, qualified, experienced, independent advice is essential. Our members will not be able to continue to offer advice to vulnerable customers under the proposed changes in Consultation Paper CP70 2011. We are concerned that the 'Proposed Requirements' will preclude our members from providing this service as Qualified Financial Advisers. The proposals as they stand do not reflect the nature scale and complexity of the services provided by our members and do not appear to be proportionate to the nature of the business operations involved.

1.0 Introduction :

In principal we support the new legislation on debt management services.

However, the process is extensive and not in line with the existing authorisation requirements for retail intermediaries.

However we would like to highlight concerns which we have in the following areas.

2.0 Solvency

The solvency requirements are very strict and do not comply with existing authorisations requirements for retail intermediaries.

3.0 Professional Indemnity Insurance

The amount of insurance cover required equal to the value of the debts is an uninsurable figure for any business.

It is unlikely this type of cover will be available in the market. All our members have existing cover of 1.85 million in aggregate. Our members are currently providing debt advice using their existing PI policy and we are anxious that this remain in place.

4.0 Organisation and Management

We fully support the requirements for debt management firms to have an IT system compatible with the requirements of providing debt advice to customers.

4.1

- The IT system should manage the relationship between the debtor and the creditor and be fully compliant with all data protection act requirements.
- The system should take note of the following:
- All documentation and customer information
- All correspondence both written and verbal between the debtor and creditor.

4.5

The requirement to have a full time compliance officer or the ability to outsource this function will be prohibitive for the vast number of our members because of the cost involved.

4.6

The cost requirement to have an internal audit function will again be cost prohibitive for our members as outlined above.

5.0 Relationship with Central Bank

All our members are currently authorised and regulated by the Central Bank of Ireland.

Due to the economic downturn, many customers have used the services of our members to provide debt advice under their existing authorisation and P I cover. They do not manage or distribute client's funds, but purely provide an invaluable debt advice service which is recognised by their customers.

We would ask that our members be allowed to continue this valuable service under their existing authorisations without the requirement of prior approval from the Central Bank of Ireland.

6.0 Ownership

This clause appears restrictive in relation to any change in ownership above a shareholding of 10%.

7.0 Outsourcing

We have no issue with this requirement.

8.0 Other Places of Business

Where customers have moved abroad for various reasons but still have debts in Ireland that need to be managed. Can our members deal with such customers outside the state?

9.0 Record Keeping

In general we are in agreement with the requirements under this section other than our concerns previously mentioned in Section 4.5 and 4.6.

CONCLUSION

We would welcome the opportunity to meet with the Central bank and go though the points made in this submission in greater detail