



Information Release

22 June 2010

Issues identified in themed inspections into mortgage referrals, home insurance claims and motor insurance renewals

The Financial Regulator today (22 June 2010) published the findings of three themed inspections of intermediary and insurance firms - mortgage referrals by mortgage intermediaries to specialist lenders; how home insurance claims are handled by firms; and the renewal of motor insurance policies by insurers. The three examinations commenced in 2009 and focussed on compliance by firms with the requirements of the Consumer Protection Code under each of the areas.

Compliance issues identified during these inspections are subject to separate engagement by the Financial Regulator with the individual firms concerned. Any breach of a legislative provision or regulatory requirements, such as the Consumer Protection Code, may be considered under the Administrative Sanctions Procedure.

Review of mortgages referred to specialist lenders by mortgage intermediaries

The review focused on mortgages applied for through intermediary channels which were referred to non-bank/specialist lenders. Twenty mortgage intermediaries were chosen for inspection based on the volume of business they had placed with specialist lenders. The main findings from the inspection are:

- Suitability statement/'reasons why' letter – A number of firms were found to be producing statements of suitability that were lacking in detail and contained vague generic statements. All firms should be satisfied that written statements reflect the assessment of each individual consumer's specific circumstances and needs as set out under the meeting the 'Knowing the Consumer' requirement of the Code. The statement must set out why the product is considered suitable, or most suitable, as appropriate.
- Affordability – In a number of cases firms did not appear to be conducting sufficient research into the consumer's ability to repay. There was evidence that firms appeared to

rely solely on the mortgage lenders criteria for assessing ability to repay and suitability for a mortgage. Intermediary firms must satisfy themselves that a product they recommend is suitable for the consumer's circumstances. From a consumer protection viewpoint, the ability to meet future repayments is specific to each individual consumer. Firms should therefore consider the future ability of each individual consumer to service the loan up to the full term of the mortgage which in some cases may be into a consumer's retirement.

- Appropriate documentation – researching and client information gathering is critical to ascertain whether a product is the most suitable. In order to demonstrate compliance, appropriate documentation must be maintained on client files. While the firms reviewed could demonstrate that systems were in place to research the market, there was a lack of evidence on a number of files reviewed to back this up. Up to date file notes are an important tool and aid the audit trail. Firms should document all work carried out and retain it on the client file.
- Areas of responsibility – There was a perception in a number of firms that it was the lenders and not the intermediaries' responsibility to comply with certain sections of the Code, e.g. Chapter 4 (14) relating to declarations of sight of original documentation. In some cases if the lender had not requested a declaration from the intermediary, it had not been forwarded to the lender. Intermediary firms must remain aware that they are a regulated entity and must satisfy themselves that they are in compliance with the Code.

Home Insurance Claims

The Financial Regulator inspected the eight largest firms in terms of the number of claims processed for the inspection into home insurance claims. The firms chosen were responsible for over 98% of the claims processed during the review period.

The main finding of the home insurance inspection was that while the majority of claims are processed in line with the requirements of the Code, there were a small number of cases where claims cheques were not issued to claimants within 10 business days. The Code requires that firms pay all claims to the claimant within 10 business days of an agreed settlement as it is important for consumers payment is made promptly.

It was also found that some firms are moving to a process where claims can only be settled using the firms' approved repairers. Firms are expected to satisfy themselves that their use of approved

repairers is consistent with the Code and where firms intend using approved repairers, they must ensure that consumers are aware of this at the time of entering into an insurance contract. There are also concerns that as the claimant is not an expert, a claimant should not have to sign a document for the insurer attesting to the quality of the work completed or to give a view on whether it was completed in accordance with the scope of the work, as per the firms' specifications. Firms should make it clear to claimants that where the firm appoints a repairer, the firm is ultimately responsible for the work undertaken.

The Financial Regulator has recommended that firms write to claimants when a payment is made to builders or other similar third parties, to inform claimants of the amount paid in respect of their claim, as this could impact on their future premiums.

Motor Insurance Renewals

Nine firms, representing the largest firms in terms of motor insurance, were inspected by the Financial Regulator in relation to motor insurance renewals.

The Financial Regulator was encouraged by findings that firms are processing motor insurance renewal documentation in line with regulatory requirements¹. However there were a very small number of cases where the 15 day rule for issuing renewals had been breached. There were also some instances where the actual renewal documentation issued did not contain some information required by the regulations.

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Notes to Editor

1. Administrative Sanctions Procedure

Any breach of a legislative provision or regulatory requirement, such as the Consumer Protection Code, may be considered pursuant to the Administrative Sanctions Procedure.

The Financial Regulator can take a number of actions from directions, cautions and reprimands up to and including monetary penalties. It is also important to note that:

In determining sanctions, under the terms of our administrative sanctions procedure, the conduct of the regulated financial service provider or person concerned in its management after a contravention is taken into account:

¹ Statutory Instrument 74 of 2007 – the Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007

- (a) How quickly, effectively and completely the financial service provider or person concerned in its management brought the contravention to the attention of the Financial Regulator or any other relevant regulatory authority;*
- (b) The degree of co-operation with the Financial Regulator or other agency provided during the examination of the contravention; and*
- (c) Any remedial steps taken since the contravention was identified, including: identifying whether consumers have suffered loss and compensating them; taking disciplinary action against staff involved (where appropriate); addressing any systemic failures; and taking action designed to ensure that similar problems do not arise in the future.*