



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

**Information Release**

**18 December 2014**

## **Central Bank identifies weaknesses in how investment firms provide information on costs and charges to consumers**

The Central Bank today (18 December 2014) published the outcome of a thematic review into the provision of information on costs and charges in investment firms. These firms are subject to the requirements of the Markets in Financial Instruments Directive (MiFID) and, where relevant, the Consumer Protection Code (Code).

It is important that firms act in the best interests of consumers by ensuring that the disclosure of information on costs and charges is fair and transparent and provided in a way that seeks to inform the consumer. In this regard, both MiFID and the Code have requirements in place regarding such disclosure.

The objective of the thematic review was to assess the level of compliance by firms with both the letter and the spirit of MiFID and the Code, and to determine whether firms were acting in the best interests of consumers in relation to the disclosure of information on costs and charges.

The Central Bank's thematic review identified weaknesses in how investment firms provide information on costs and charges to consumers. Concerns in relation to unfair contract terms were also identified in the course of the thematic review.

The main issues identified include:

### ***A. Provision of Information on Costs and Charges:***

- Weaknesses in the presentation and content of information provided to clients on costs and charges prior to the provision of services;
- Failure to provide information prior to the provision of services, instead providing it after the provision of services in some cases; and

- Failure to provide information in the format required such as a durable medium or a website, where allowable.

### ***B. Unfair Contract Terms***

The Central Bank identified a number of unfair contract terms where firms had unreasonably sought to limit their liability to clients. Firms have removed these terms following correspondence from the Central Bank.

For further information on Unfair Contract Terms see our website [here](#).

The Central Bank has written to all firms in this sector setting out all of the issues identified from the thematic review and the steps to be taken by firms to address these issues. All firms are required to immediately review their systems and controls in light of the issues identified. Following the review, firms must take all remedial action to ensure they are acting in the best interest of consumers. Additionally, the Central Bank will engage in separate correspondence directly with those firms reviewed, where issues have arisen, and consider use of any regulatory power within its remit to address the issues identified.

Director of Consumer Protection, Bernard Sheridan said: “Overall, the findings of the inspection raised concerns from a consumer protection perspective. The Central Bank expects the Board of Directors and senior management in regulated firms to ensure that they embed a culture of treating consumers fairly within their firm. The Central Bank expects all regulated firms to have appropriate governance arrangements in place to ensure that any costs and charges applied to consumers are disclosed in a fair, clear and transparent way throughout the business relationship with the consumer. Firms need to take on board this feedback in order to deliver a better outcome for their customers.”

For details of all of the issues identified and the steps to be taken by firms to address these issues, a copy of the letter to industry is available on our website [here](#).

**Further information:** Press Office (01) 224 6299, [press@centralbank.ie](mailto:press@centralbank.ie)

**ENDS**

## **Notes for editors:**

### **About the review**

The aim of the inspection was to assess and evaluate the arrangements that MiFID authorised firms had in place regarding provision of information to clients on direct costs and charges.

Information on costs and charges provided to consumers plays a crucial role in enabling them to make informed decisions. Generally, MiFID requires that investment firms provide information to clients on costs and charges in a durable medium or via a website that meets certain conditions prior to the provision of services. Information on costs and charges should be fair, clear and not misleading. It should also be provided in a comprehensible form so that clients or potential clients are reasonably able to understand the nature and risk of the investment service and/or products that are being offered and, consequently, to take investment decisions on an informed basis. Any material changes to the information on costs and charges should be notified in good time to clients. Clients should also receive post trade reports periodically on the costs and charges applied. Where the Code applies to MiFID authorised firms, similar disclosure requirements apply in relation to making consumers aware of the costs and charges to be applied in relation to the provision of a service/product.

The inspection consisted of a desk based review of:

- Firms' costs and charges structure for all types of clients/services/products and how each firm disclosed this information to clients/consumers
- the level of monitoring in place within firms in relation to costs and charges applied to client accounts

16 investment firms were subject to the desk based review.

Following this initial review, the Central Bank followed up by inspecting four firms to examine a sample of client files in relation to disclosure of costs and charges both prior to provision of services/products and post-provision of services/products.

As part of this inspection, the Central Bank also reviewed firms' client contracts in accordance with the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995 to identify any potentially unfair contract terms in relation to costs and charges and other general contract terms.

### **About MiFID**

The Markets in Financial Instruments Directive (MiFID) is a comprehensive regulatory regime covering investment services and financial markets in Europe and introduces common standards for investor protection throughout the European Union. It applies to both investment firms and credit institutions when providing investment services, and to regulated markets. MiFID came into effect on 1 November 2007.

The main requirements of MiFID in relation to costs and charges are set out in the EC (Market in Financial Instruments) Regulations, 2007:

Regulation 76;

Regulation 77;

Regulation 81;

Regulation 92;

Regulation 96; and

Regulation 101.

MiFID is currently being revised to improve the functioning of financial markets in light of the financial crisis and to strengthen investor protection.

### **About the Consumer Protection Code**

The Consumer Protection Code 2012 is imposed under Section 117 of the Central Bank Act, 1989. This revised Code was published on 19 October 2011 and came into effect on 1 January 2012. The revised Code builds on the protections of the previous version, and includes more detailed requirements in many areas.

The main requirements of the Code in relation to costs and charges are set out in:

Chapter 2 – General Principles;

Chapter 4 - Provision of Information; and

Chapter 6 – Post-sale Information Requirements