



Name
Address 1
Address 2
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10 August 2004

Dear Name

On 11 March 2004, the Irish Financial Services Regulatory Authority (“the Authority”) previously wrote to all Irish policyholders of the Equitable Life Assurance Society (“Equitable”), who had complained to the Department of Enterprise, Trade and Employment or the Authority in connection with their Equitable policies, setting out the findings of the Authority’s investigation into the operation of Equitable in this State.

In that letter we stated that we would communicate comprehensively with affected parties as any new information came to light.

The Authority would now like to take this opportunity to update Irish policyholders of Equitable with the following information:

The Financial Services Compensation Scheme (FSCS) in the UK

The Authority has recently written to the Financial Services Compensation Scheme (FSCS) in the UK on behalf of Irish policyholders of Equitable.

On the question of whether Irish policyholders would be able to claim compensation from the FSCS, should Equitable become insolvent, the FSCS provided the Authority with the following response:

“Equitable Life Assurance Society is an insurer authorised by FSA and in the event of its insolvency its policyholders may be entitled to protection under the Scheme. A contract of insurance issued before 1 December 2001 (the commencement date of the 2000 Act), is protected if it was a “United Kingdom policy” for the purposes of the Policyholders Protection Act, 1975. The 1975 Act was a predecessor of the Scheme. The definition of a “United Kingdom policy” was considered by the House of Lords in the Ackman and Scher proceedings, and applies “if, had any of the obligations under the contract evidenced by the policy been performed at the relevant time, such performance would have formed part of an insurance business which the insurer was authorised to carry on in the United Kingdom, whether or not such obligations(s) would have been performed in the United Kingdom”.

This test requires FSCS to examine the way in which an insurer carried on its business, including the



circumstances in which its policies were issued and its obligations under those policies were performed. Whether a policy formed part of an insurer's UK business is primarily an evidential matter which will require an investigation and review of the conduct of the insurer's business.

It is not FSCS's policy to comment on the position of companies which are not insolvent and their policyholders. In the event of the insolvency of a UK insurer, FSCS would, at that time, investigate the position of policyholders and make a decision accordingly. Although FSCS is not now in a position to confirm whether particular groups of policyholders would be protected, I hope this brief summary of the relevant test will assist."

Further Investigation of the Prudential Regulation of Equitable Life

On 19 July 2004, the UK Parliamentary Ombudsman, Ms Ann Abraham, announced her decision to conduct a further investigation into the prudential regulation of Equitable. The full text of the Ombudsman's report to the UK Parliament setting out the reasons for her decision is available from the Parliamentary Ombudsman's website www.ombudsman.org.uk.

The following extracts from the Report are likely to be of particular interest to Irish policyholders of Equitable:

"... I have decided, subject to what I say in paragraph 20 below, to conduct a statutory investigation of the prudential regulation of Equitable Life in the period prior to 2 December 2001." (paragraph 19)

"That investigation will focus on the actions (including failures to act) of the government departments responsible under the relevant legislation for the prudential regulation of Equitable Life. My investigation will, subject to approval of a request I have made of the Government (Annex C), also include the actions of GAD (Government Actuary Department – inserted by FSA for clarification), for reasons that I explain below. However should approval of my request not be forthcoming, I will, in the absence of the ability to consider the actions of GAD, review my decision to investigate". (paragraph 20)

"...I must make it very clear again that I have no role in considering complaints about mis-selling of policies or about the conduct of the Society. Neither do I have the power to investigate the actions of the FSA, except where it acted on behalf of the Treasury from 1 January 1999 to 2 December 2001, as it is not listed in Schedule 2 to the 1967 Act (paragraph 13). Nor are the actions and judgement of the House of Lords, which I have been asked by some people to "review", within my remit". (paragraph 23)

"I have jurisdiction to investigate the administrative actions of those government departments – the Department of Trade and Industry and the Treasury and their Ministers – responsible in law for the prudential regulation of life assurance companies before 2 December 2001." (paragraph 26)

"It has been put to me – not least by EMAG – that I should also consider whether my jurisdiction should be extended to include those bodies responsible prior to December 2001 for the regulation of the conduct of life insurance companies' business." (paragraph 24)

"However, I am advised that the relevant regulatory bodies – the Designated Agency to which the



Secretary of State transferred his responsibilities, the Securities and Investments Board (SIB – now renamed the FSA), and the self-regulatory organisations (particularly the Personal Investment Authority)- are not bodies which can be brought within my jurisdiction by Order in Council.” (paragraph 36)

“While the Government has said that it will consider a request from me for the addition of GAD to my jurisdiction, it has made no such statement in relation to the conduct of business regulators. Moreover, I do not think that it would be in the public interest – or in the interest of policyholders – to delay my investigation with the aim of bringing the conduct of business regulators within my jurisdiction.” (paragraph 38)

“In conducting that investigation, my aim is to be as transparent and flexible as possible, given the legislative framework within which I work. Although I am required by Section 7(2) of the 1967 Act to conduct my investigations in private, I intend that, where possible, all relevant parties will be invited to produce evidence to assist me in the process of establishing the facts. I will consider the degree to which I can publish background information and other evidence in due course and will involve those submitting such evidence in that consideration.” (paragraph 79)

“I will consult MPs and policyholder action groups on the selections of individual policyholders as lead complainants, representing the principal different classes of Equitable Life policyholder, and will inform all interested parties of the process for conducting the investigation, once it has been determined.” (paragraph 82)

“I cannot at this stage be specific about how long my investigation will take. While much can be done to prepare for an investigation immediately, the central question of whether GAD will be brought into my jurisdiction will undoubtedly take some time to resolve.” (paragraph 83)

Please note that all future developments and information in relation to Equitable, of which the Authority becomes aware, will be posted on the consumer information section of our website www.ifsra.ie. However, should you prefer to receive this information by letter, please let us know.

Yours sincerely



FINANCIAL REGULATOR
Rialtóir Airgeadais

PO BOX NO 913B
COLLEGE GREEN,
DUBLIN 2, IRELAND

T +353 1 410 4000
F +353 1 410 4900
www.financialregulator.ie

George Treacy
Head of Consumer Protection Codes Department