



FINANCIAL REGULATOR
Rialtóir Airgeadais

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Settlement Agreement
between the Financial Regulator and Mr Michael Fogarty t/a Tom
Fogarty Insurance Brokers (sole trader)

The Financial Regulator has entered into a Settlement Agreement with effect from 29 September 2009 with Mr Michael Fogarty t/a Tom Fogarty Insurance Brokers ('the firm') of 16 Bank Place, Tipperary Town, Co. Tipperary, a regulated financial service provider, in relation to breaches of regulatory requirements.

The Financial Regulator has reasonable cause to suspect that breaches of regulatory requirements occurred in relation to the failure of the firm to comply with certain provisions of the Consumer Protection Code (the Code) and the Handbook for Restricted Activity Investment Product Intermediaries (the Handbook). These related in particular to the sale of general insurance products to customers, including the sale of motor insurance and household insurance.

The Financial Regulator has reprimanded the firm and has required it to pay a fine of €20,000.

These breaches were discovered during the course of the Financial Regulator's Themed Inspections into 'Charges and Premium Rebates in the Insurance Intermediary Sector' and relate, inter alia, to a failure by the firm to act in the best interests of its clients. The firm failed to comply with this requirement for the period from 1 August 2004 until 31 December 2007 by overcharging certain consumers on (a) broker fees which were in excess of the maximum fees advised on the firm's terms of business document and (b) by failing to refund the difference between the cost of insurance initially quoted to certain consumers and the actual cost of insurance that was subsequently arranged for those consumers. The breaches also relate to a failure by the firm to provide certain

consumers with details of charges being applied prior to providing services to the consumers in a way that sought to inform those consumers, a failure to issue statements of suitability to certain consumers prior to providing a service to those consumers and a failure to forward premium rebates to certain consumers within the required timeframes as set out in the Code and the Handbook.

The breaches highlight a failure on the part of the firm, at that time, to have adequate systems and controls in place to ensure compliance with the requirements of the Code and the Handbook.

The Financial Regulator confirms that the firm undertook immediate steps from the date of the Financial Regulator's inspection to rectify the issues that were identified on foot of the inspection, including the appointment of an external consultant to conduct a full review of the firm's systems in order to identify affected clients, the appointment of an independent third party auditor to confirm the amounts overcharged and the implementation of new procedures and controls by the firm to become compliant and prevent reoccurrence. The firm has confirmed that it has made full and prompt refunds with appropriate interest to all affected clients once the above issues were identified.

The Financial Regulator confirms that no client has made a complaint directly to it in relation to the suspected breaches.

The Financial Regulator confirms that the firm co-operated fully with the examination and that the matter is now closed.

Industry should note that the Financial Regulator considers that compliance with the requirements in respect of charges as outlined above is essential to provide consumers with transparency regarding the cost of the underlying product and the intermediary service being provided. This facilitates the consumer in searching for the best deal available in the market place. In addition, suitability statements should set out why the product or service being recommended is the most suitable for that consumer and should be based on the consumer's specific circumstances and requirements. This allows a consumer to make a well informed decision in relation to the product or service offered.