



Regulatory Connection

Irish Financial Services Regulatory Authority

Autumn 2004 | Issue 1

Welcome

Welcome to the first edition of Regulatory Connection. This newsletter is intended to give you, the financial services industry, updates and news about our work. We intend to bring you information about our organisation, news in relation to regulatory changes at EU and national level and topical issues of interest.

We have had a busy year since we were established in May 2003. Our first Progress Report was published during the Summer and outlines our role and achievements in our first year of operation to the end of May 2004. The report details how we have addressed our mandate in the areas of consumer information and protection, prudential supervision, the regulation of credit unions and in establishing and building a new regulatory structure.

In our first year, we authorised 665 new financial services firms and funds, received and analysed almost 51,000 returns from the regulated firms and conducted 437 review meetings and on-site inspections. We also met with more than 600 representatives of 244 credit unions at regional meetings throughout the country.

By now, nearly all regulated entities will have been invoiced for their funding levy. We have invoiced regulated entities for a total of €19.6 million in funding for 2004, out of a total budget of €39.3 million. We have also agreed to cap funding at approximately 50 percent for the years 2005 and 2006 which will provide certainty to industry in the medium term.

Recent events in the banking sector have reinforced the necessity of good regulation. Our priority going forward is to ensure that strong controls, a culture of compliance and comprehensive audit systems are in place throughout the industry. A positive and pro-active attitude to compliance

with legislation, codes of conduct and best practice should mean that issues are dealt with appropriately by firms in the first instance.

Since August, we have received increased powers of sanction to act where regulations have been contravened. Our statutory codes are currently being reviewed to ensure that all financial providers will be subject to a unified code of conduct, with specific rules in place where necessary. We had a wide range of responses to the codes consultation that have been published on our website. These new codes will be in place in early 2005 and will ensure a level playing field among industry whilst offering consumers the same level of protection regardless of the type of financial services product they choose.

Compliance is ever evolving as both national and European legislation impacts on the day to day running and business of firms. In the interests of consumers of financial services, we all have a part to play in ensuring that a culture of compliance and probity are paramount at all times as we go about our work.



LIAM O'REILLY

LIAM O'REILLY
Chief Executive

Profile

Financial Institutions and Funds Authorisation (FIFA)

A new department has been created at the Irish Financial Services Regulatory Authority with responsibility for all authorisations. Here Michael Deasy, Head of Financial Institutions and Funds Authorisation explains.



MICHAEL DEASY

The IFSC and Funds Department was recently reorganised and a new department, Financial Institutions and Fund Authorisation (FIFA) responsible for all authorisations was formed. FIFA will continue to authorise funds. In addition, all firms applying for new licences including banks, insurance companies, investment intermediaries, stockbrokers and mortgage intermediaries will now deal with this department during the authorisation process. Registers of firms authorised under the Investment Intermediaries Act and appointed product intermediaries, will also be maintained by FIFA.

Due to this reorganisation, the supervision of certain service providers to funds (managers, administrators and custodians) and the financial reporting of net asset values and financial statements of funds have moved to Securities and Exchanges Supervision (SES). SES is also responsible for the prudential supervision of investment firms and exchanges. Staff who previously worked in the funds area are now part of SES ensuring continuity for the authorised firms.

It is hoped that the concentration of expertise in separate authorisation and prudential supervision departments will enhance our service to the financial industry.

Contact

Financial Institutions and Funds Authorisation
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Email: fifa@ifsra.ie

To check the authorised status of a firm contact:
Email: registers@ifsra.ie

Securities and Exchanges Supervision
Ph: 01-410 4702, Fax: 01-6790362
Email: sesadmin@ifsra.ie

Consumer Protection & Information

The Financial Services Regulator has a statutory role to help consumers make informed financial decisions. As part of this role, we publish consumer guides, cost surveys and fact sheets which give consumers information on financial products and services in plain English. These publications are available through our consumer helpline, our website www.itsyourmoney.ie and our recently opened Consumer Information Centre at College Green. The Consumer helpline was set up in May 2003 and has received over 17,000 calls to date. On average 18,000 people visit the website each month and over 1,000 consumers have visited the Information Centre since it opened its doors in May.

Over 12,000 calls have been made to the helpline since the beginning of this year. The majority of these calls (42%) are requests for our information resources. The most frequently requested publications are our motor insurance cost surveys, followed by our mortgage guide, credit card surveys, personal loans and credit guide and personal current account cost surveys. In addition over 30,000 publications have been downloaded from our website.

So far this year, about 19% of calls to the helpline relate to banking and 10% of queries have been about insurance. Queries on banking have varied from issues relating to withdrawal of service, fixed rate mortgage redemption fees, difficulties understanding products, administration issues and difficulties opening bank accounts. Similarly, a wide range of insurance related issues cause concern for consumers including; claim settlement problems, service issues, problems understanding travel insurance, policy refunds and difficulties getting insurance.

The Financial Services Regulator will assist where a customer has a problem with an institution by providing information and assistance on how to make a complaint. A fact sheet on *How to Complain* has been produced for consumers. New legislation recently passed by the Oireachtas, provides for the creation of a statutory Financial Services Ombudsman who will shortly be appointed by the Minister for Finance. The Financial Services Regulator will work closely with the Financial Services Ombudsman on issue resolution and information provision to consumers.





What is?

Here we look at the Insurance Mediation Directive and what likely effect its implementation will have for the insurance industry.

The Financial Services Regulator is currently engaged with insurers and intermediaries in relation to the provisions of the Insurance Mediation Directive (IMD) which must be implemented by member states from 15 January 2005.

The IMD was adopted by member states of the EU in 2003. The aim of the Directive is to harmonise the regulatory framework in all member states. It will extend the single market in financial services to the activities of insurance and reinsurance intermediaries so that those intermediaries can establish and provide services freely in all member states. Differences currently exist between national regulatory frameworks, which hinder the taking-up and pursuit of insurance mediation activities between Member States. The main provisions of the directive are to ensure that regulatory frameworks are harmonised through professional and competency standards for insurance intermediaries; registration systems that facilitate cross-border activities; and standards to protect policyholders' interests.

The Financial Services Regulator will work closely with representative industry bodies as they adapt to the directive which includes the following provisions:

- Compulsory registration of all insurance and reinsurance intermediaries, (including tied insurance intermediaries) with the Irish Financial Services Regulatory Authority.
- Once registered with the Financial Services Regulator, intermediaries may provide services in other member states either on an establishment or cross-border basis without the requirement to be registered in each member state.
- As part of the notification procedure, a host member state may publish the conditions under which business must be carried out their territory. In the Irish case, all codes of conduct and relevant legislation must be complied with for intermediaries from EU states wishing to do business in Ireland. Firms must also notify the Regulator if they wish to provide cross-border services.
- All intermediaries must possess appropriate knowledge and ability to engage in the activities of an insurance intermediary as determined by the home member state of the intermediary. The Financial Services Regulator is currently examining responses to its consultation on mandatory competency requirements and proposes to set industry standards for all sales staff who provide advice and sell retail financial products to consumers within regulated entities.
- The Directive allows for the exchange of information between regulatory bodies about intermediaries where, for example, a firm has been subject to a sanction.
- Prior to concluding a contract the insurance intermediary shall specify the demands and needs of the customer and the underlying reasons for a particular recommendation.

For the full details of the Insurance Mediation Directive go to the following link
http://europa.eu.int/comm/internal_market/insurance/mediation_en.htm



News

This is a general news section only. For all current information relevant to your business, please visit www.ifsra.ie or contact the relevant area within the Financial Services Regulator on 01-4104000.

Client Money Requirements

New Client Money Requirements (including requirements in relation to client investment instruments) were issued to relevant firms in February 2004. These rules apply to firms who, in the course of carrying on their investment business receive, hold, control or pay out money or investment instruments for, or on behalf of, their clients. Firms were given a transition period of six months from February to implement these new rules and must now ensure that they are fully implemented since 1 September. A firm may only receive, hold, control or pay out client assets where it is authorised to do so by the Financial Services Regulator.

Firms that will not be deemed to fall within the remit of the Client Money Requirements include; Firms which receive non-negotiable cheques, or similar payable orders made payable to an authorised investment business firm, credit institution or other product producer for the purposes of the reception and transmission of orders to that party or when acting as a deposit agent, taking cash from a client for the client's account with a credit institution, (see Section 26 of the Investment Intermediaries Act, 1995).

The Client Money Requirements are published in the Investment Firms section of the website. Firms should address queries to their individual regulator within Securities and Exchanges Supervision Department. General queries should be addressed to SES at sesadmin@ifsra.ie

Funds

UCITS Working Group

A working group (comprising members of the Dublin Funds Industry Association and the Financial Services Regulator), was established earlier this year to review the fund authorisation / post-authorisation process. It has completed its review of the Undertakings for Collective Investment Transferable Securities (UCITS) application form and procedures in relation to post-authorisation amendments. As a result, revised application forms and procedures covering UCITS (new fund applications), changes of service providers, revocation of authorisation and appointment of distributors / paying agents were introduced on 25 June 2004. Certain sections of the application form may also be applied to non-UCITS.

Under the new procedures the Financial Services Regulator will stand back from the review of certain documentation and is relying on confirmation from the fund's legal advisor, and directors in certain cases, as to compliance of documentation.

In August, the Financial Services Regulator also took the decision to stand back from reviewing prime broker agreements and will now rely on confirmation from the legal advisors as to compliance. Work on the non-UCITS application is well underway and a revised draft should issue to the working group for comment later in September.

Credit Institutions

The Financial Services Regulator is in discussions with credit institutions and the Irish Bankers Federation with a view to developing a policy in the area of credit loss provisioning (impairment provisions) for credit exposures and management of liquidity.



EU/International Developments

International Financial Reporting Standards

The Irish Financial Services Regulatory Authority established and chairs a working group on International

Financial Reporting Standards (IFRS). These new reporting standards will apply to certain entities from January 2005. The primary objective of the Working Group is to consider the implications of the new standards for financial institutions, with particular reference to regulatory capital requirements. Representatives from the financial industry include banks, insurance companies, securities firms, funds and also representatives from accountancy bodies.

Recent Publications

The following publications were recently published and are available on www.ifsra.ie

Industry Publications

- Progress Report
- Industry Funding Regulations
- Practical Guide to Funding Regulations
- Interest Rate Study

Consumer Publications (also available on www.itsyourmoney.ie)

- Independent Consumer Guides to: Mortgages; Savings & Investments; Personal Loans & Credit; and Life Insurance.
- Cost Surveys on: Motor Insurance; Personal Current Account charges; Credit Cards; Home Insurance; and Personal Loans.
- Fact sheets including: Interest Rates; Fraud; Travelling in the eurozone; Moneylenders; and You and your credit rating.
- Leaflets: Money Tips for Students.
- Interest Rate Study: A study of the extent and speed of interest rate pass-through on a basket of retail banking products.

At a recent event at the Irish Financial Services Regulatory Authority to support the National Adult Literacy Agency's campaign about financial jargon:



L-R John Lowe - Providence Finance, Mary O'Dea - Consumer Director, Shane Hillen - Providence Finance



L-R Seamus Mc Dermott - AXA, Sharon Donnery, Deputy Head, Consumer Information.



L-R Inez Bailey - CEO, NALA & Liam O'Reilly - Chief Executive Mary O'Dea - Consumer Director,

