



FINANCIAL REGULATOR
Rialtóir Airgeadais

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Settlement Agreements between the Financial Regulator and
(1) Mr James David Murphy trading as JD Murphy Investment Life
& Pension Benefits and (2) Mr James David Murphy and Mrs Ann
Murphy trading as JD Murphy Investment Life & Pension
Benefits (in their capacity as a partnership)

The Financial Regulator has entered into a Settlement Agreement with effect from 8 October 2009 with Mr James David Murphy trading as JD Murphy Investment Life & Pension Benefits, formerly a regulated financial service provider and Mr James David Murphy and Mrs Ann Murphy trading as JD Murphy Investment Life & Pension Benefits in their capacity as a partnership ('the firm'), of Ormonde House, 10 Ormonde Road, Kilkenny, a regulated financial service provider, in relation to suspected breaches of regulatory requirements.

The Financial Regulator has reasonable cause to suspect that breaches of regulatory requirements occurred in relation to the failure of Mr Murphy and the firm to comply with certain provisions of the Handbook for Restricted Activity Investment Product Intermediaries (the Handbook) or the Consumer Protection Code (the Code) between 25 May 2006 and 3 June 2008. These related in particular to the manner in which Mr Murphy and the firm documented certain clients' purchase of bonds (including one ISTC Bond and certain with profits bonds).

The Financial Regulator reprimanded Mr Murphy (in his capacity both as a sole trader and as a person concerned in the management of the partnership) and has required the firm to pay a fine of €12,000.

The suspected breaches were discovered by the Financial Regulator during the course of an inspection into the sale of ISTC bonds and relate, inter alia, to a failure on the part of Mr Murphy and the firm to gather and record adequate information from certain customers in

relation to the product requested which would enable the firm to demonstrate to the Financial Regulator its compliance with the 'Knowing the Consumer' section of the Code and Handbook. The breaches also relate to a failure by the firm to document that it had made full disclosure to certain customers of relevant material information in relation to the risks associated with products sold and/or the adequacy or existence of guarantees on the principal sums invested, a failure to provide certain customers with a copy of the firm's terms of business **prior** to providing a service to that customer, a failure to issue statements of suitability to certain customers **prior** to providing a service to those customers and certain failures in respect of complaints handling procedures. The breaches highlight a failure on the part of Mr Murphy and the firm to have adequate systems and controls in place to ensure compliance with the requirements of the Handbook and the Code.

In considering the appropriate sanction, the Financial Regulator took into account the fact that during the course of its investigation it found no instances of products being sold to consumers which were unsuitable nor was the investigation related to any alleged misappropriation or loss of customers' funds.

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

The Financial Regulator noted during its investigations into the above matter that while the firm had provided the customers with statements of suitability, these statements were in fact provided days after the service was provided.

The firm has confirmed that it has adopted new procedures and controls to become compliant and prevent future non-compliance.

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

Industry should note that the Financial Regulator deems that compliance with the requirement to provide customers with statements of suitability **prior** to the provision of a product or service is essential as it enables customers to make a well informed decision regarding a product or service recommended to them and helps ensure that the product or service recommended by a firm is the most appropriate and suitable for that customer. In respect of the requirements in relation to 'Knowing the Consumer', the Financial Regulator stresses the need for firms to gather and record sufficient information from the consumer with the recording of this information being essential in allowing firms to demonstrate compliance with these requirements.