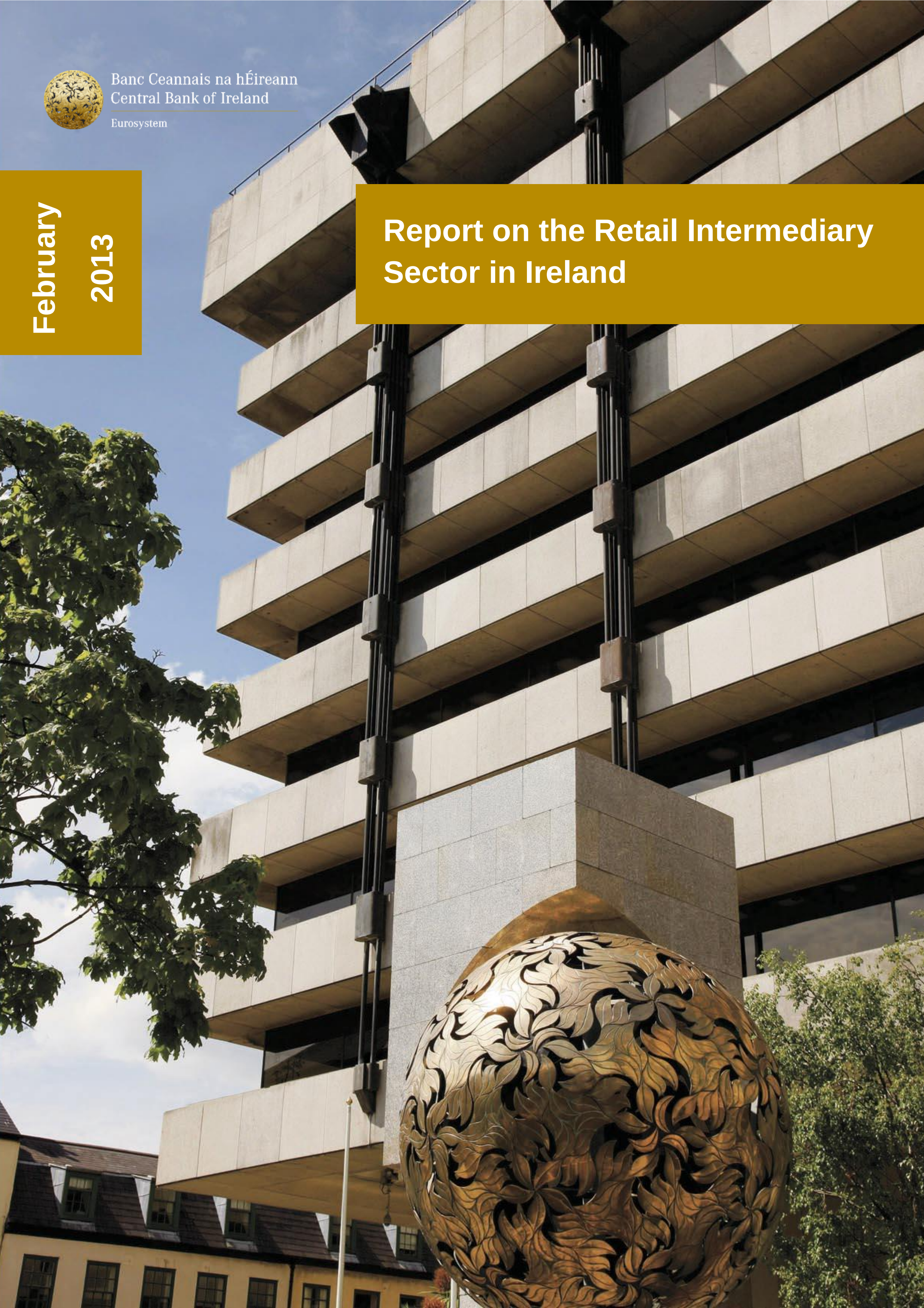
Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

February 2013

Report on the Retail Intermediary Sector in Ireland



Contents

Foreword

Bernard Sheridan
Director, Consumer Protection

Retail Intermediaries play an important role in the provision of financial products and services to consumers throughout Ireland.

As Regulator of the sector, the Central Bank is publishing this first Report to give an overview of the Retail Intermediary Sector in Ireland, to explain our supervisory approach and to highlight some key issues and risks that we see as relevant to the sector and its consumers.

I hope that you find this Report useful and welcome any feedback you would like to give us at brokers@centralbank.ie.

Some highlights[1]

- The Central Bank is responsible for supervising 3,238[2] Retail Intermediaries, which vary in size and activity.
- Retail Intermediaries employ over 30,000 employees[3], with firms reporting over 5 million policies/financial products held by their clients.
- Gross income/turnover (from regulated and unregulated activities) ranges from less than €10,000 to more than €1 million, with more than half of the firms reporting income levels below €60,000.
- Income from regulated activities ranges from €0 to over €7.5 million, with over four per cent earning in excess of €1 million.
- Seventeen per cent of firms have reported a loss in the previous financial year, with over three per cent reporting a loss in excess of €100,000.
- Almost 24 per cent of Retail Intermediaries have reported that they engage in one or more other business activities that do not require authorisation from the Central Bank. Over 16 per cent of firms reported that they engage in one or more specific unregulated activities identified in the returns submitted to the Central bank, with the highest volume relating to garages (5.7 per cent), auctioneer/ estate agent (4.6 per cent) and accountant/ auditor (4 per cent).

[1] The information in this section is derived from data submitted by Retail Intermediaries and has not been independently verified by the Central Bank. See section 4.2 for further clarification.
[2] This figure excludes firms such as credit institutions, credit unions etc. which also hold a Retail Intermediary authorisation. In total, there are 3,552 Retail Intermediaries on our statutory registers.
[3] This figure includes employees engaged in both the regulated and unregulated activities.

1. Introduction

As at 31 December 2012, there were **3,238**[4] Retail Intermediaries included on the Central Bank of Ireland's (the "Central Bank") statutory registers. The firms in this sector vary in activity (insurance, re-insurance, investment and mortgage intermediation) and in size, from subsidiaries of large multinationals/ insurance companies/ credit institutions to one-person operations. Retail Intermediaries also range from full-time professional investment intermediaries to part-time insurance intermediaries.

Retail Intermediaries provide various financial services to their customers[5]. They provide advice on and arrange:

- insurance products;
- investment products;
- mortgage products;
- risk management; and
- claims management.

See more on the Structure of the Retail Intermediary sector in Section 4 below.

1.1 Consumer Protection Strategy

When we developed our strategy for the Consumer Protection Directorate in 2011, we engaged with a wide range of key stakeholders, both externally[6] and internally within the Central Bank to gain their perspectives and insights. It was encouraging to receive much positive and constructive feedback from stakeholders to the engagement process.

'*Getting it right for consumers*' is the fundamental objective of our strategy. The feedback we received during the consultation process proved very useful to us in shaping our strategic priorities and consumer protection approach, based on what we now refer to as the 5 "C"s Framework – the **CONSUMER** is at the centre of our thinking alongside **confidence, challenge, culture** and **compliance**. Put simply, our goal is to protect consumers by challenging firms and ourselves; improving firms' compliance; promoting a better culture in the financial sector; and helping consumers to have more confidence in financial services.

[4] This figure excludes firms such as credit institutions, credit unions etc. which also hold a Retail Intermediary authorisation. In total, there are 3,552 Retail Intermediaries on our statutory registers.
[5] See Appendix 1 for descriptions of the various classes of Retail Intermediary.
[6] During this consultation process, we engaged with external stakeholders from consumer, Government, financial (including Representative Bodies) and other sectors.

2. Our Risk-Based Supervisory Approach

In 2011, the Central Bank introduced a formal risk assessment framework, known as the Probability Risk and Impact SysteM ("PRISM"). As the name implies, this system is designed to facilitate a more structured and systematic approach to assessing all regulated firms, based on the impact they have on the economy - or on consumers if things go wrong - and the probability that problems will arise.

2.1 Risk Appetite for the Retail Intermediary Sector

Risk based supervision clearly requires a risk appetite. Our starting point is that we accept that some failures in financial services firms will occur from time to time. We have therefore deployed our resources to seek to prevent problems occurring where they will cause most significant detriment. It is clear that we cannot maintain the same level of scrutiny or seek the same level of low risk of failure for all firms supervised by the Central Bank. If a low impact firm fails, we will work to ensure that, as far as possible, the wind down is orderly and that the rights of customers are appropriately protected according to the law, supported by the extensive retail consumer protection framework in Ireland.

Following consultation with industry, all regulated firms were ranked using quantitative metrics to determine their relevant 'impact'. Consequently, regulated firms are now classified as high impact, medium high impact, medium low impact or low impact. Our risk appetite for each impact category varies accordingly.

Retail Intermediaries are ranked as low impact firms. As at end 2012, we regulated 3,238[7] such firms. The Central Bank's impact rating of Retail Intermediaries reflects that these firms are not authorised to hold client money and the failure of any one firm would not cause economic or systemic problems, nor would it require taxpayer support. However, it is also recognised that these firms have the propensity to cause consumer detriment, for example, through mis-selling, overcharging or poor systems and controls.

2.2 Retail Intermediary Strategy (the "RI Strategy")

Retail Intermediaries are supervised by the Central Bank's Consumer Protection: Insurance, Investment and Intermediaries Division ("IIID"). We now have a dedicated area within IIID with full responsibility for authorising and supervising Retail Intermediaries in recognition of the substantial

[7] Many firms hold multiple authorisations. Collectively Retail Intermediaries held 6,230 authorisations at end 2012.

synergies in aligning authorisation staff with supervision staff. This approach means that authorisation, prudential supervision, conduct-of-business supervision, revocations and general policy matters are under one roof. IIID is also supported in its wider supervisory role by other divisions within the Central Bank such as Regulatory Transactions, Legal, Risk and Enforcement.

The overall objective of the RI Strategy is to *get it right for consumers* by seeking to ensure that Retail Intermediaries act fairly. In order to achieve this objective, we have initiated a number of strategic measures, which include strengthening the prudential and consumer protection supervisory frameworks; conducting risk-based and targeted on-site and off-site monitoring; increasing regulatory compliance by providing compliance assistance to firms in this sector; and improving transparency and communications with our stakeholders. Our efforts to improve compliance are backed up by a credible threat of enforcement and Retail Intermediaries remain a key enforcement priority for the Central Bank in 2013. (Click here for more information on our Enforcement Priorities for 2013.)

2.3 How are Retail Intermediaries supervised?

Retail Intermediaries are supervised by a combination of on-site and off-site (desk-based) monitoring. While our supervisory teams do not conduct regular face-to-face meetings with every Retail Intermediary, we do continuously monitor the sector through desk-based analysis of financial returns, thematic reviews, reactive supervision and spot-check inspections. Section 5 below gives an overview of our Supervisory Work in 2012 and our plans for 2013.

In line with commitments given in the Central Bank's Strategic Plan, a key focus over the next two years will be on improved operational efficiency and cost effectiveness, involving a range of measures including process automation. In 2012, a review of the authorisation/gatekeeper process for Retail Intermediaries commenced and we will publish our plans for enhancements in this area by mid-year. We will also explore the costs and benefits of automating the authorisation process for Retail Intermediaries.

In light of the size of the Retail Intermediary Sector, the use of technology to introduce efficiencies in the prudential supervision of this sector is also an important strategic measure. This greater use of technology allows our supervisory teams to focus on thematic work, carefully targeted at higher risk areas, and to take regulatory action when problems are identified. For instance, dedicated triage teams are now automatically alerted when a Retail Intermediary fails key financial health checks, which facilitates appropriate targeted regulatory action to resolve the issues.

During 2012, new measures were introduced to increase our compliance assistance to Retail Intermediaries, and to improve our overall transparency and communications with the sector. For example, the Director of Consumer Protection, together with IIID and policy team officers, held a series of regional road shows with Retail Intermediaries across the country. We also published regular compliance newsletters throughout the year. We received very positive feedback on both of these initiatives and will continue with this form of engagement in 2013.

We also proactively engage with other bodies during the course of our supervisory work, such as the Financial Services Ombudsman, the National Consumer Agency, the Money Advice and Budgeting Service, the Revenue Commissioners and An Garda Síochána.

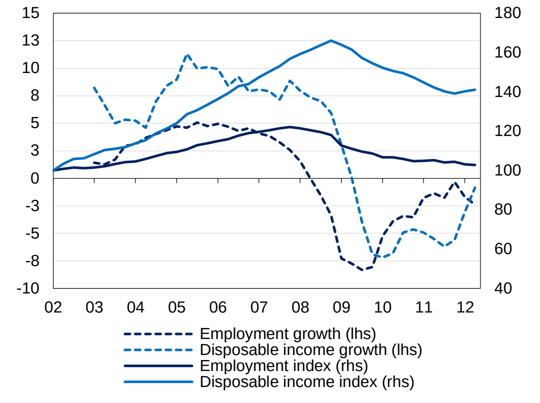
3. Economic Environment

Activity in the Retail Intermediary sector comes against a backdrop of a difficult economic environment. The banking sector crisis and associated collapse in property prices has fed through to the macro-economy. The domestic economic environment has reduced earnings and increased unemployment, which in turn affected household's spending patterns and balance sheets.

While the unemployment rate appears to have stabilised at close to 15 per cent this has reflected a reduction in the labour force and emigration – overall total employment continued to decline last year. At the same time, Irish households face declining disposable income and remain heavily indebted compared to euro area average.

Labour market and household income

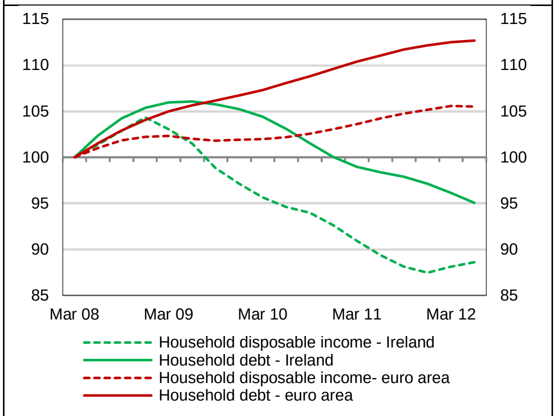
Per cent Index level



Notes: Employment refers to total 'at work' according to the CSO Quarterly National Household Survey. Disposable income refers to aggregate total household sector gross disposable income. Employment and disposable income are expressed as ratios with 2002 Q1 equal to 100. Growth rates are on a year-on-year basis.

Household deleveraging since 2008

Index Q1 2008 = 100 Index Q1 2008 = 100

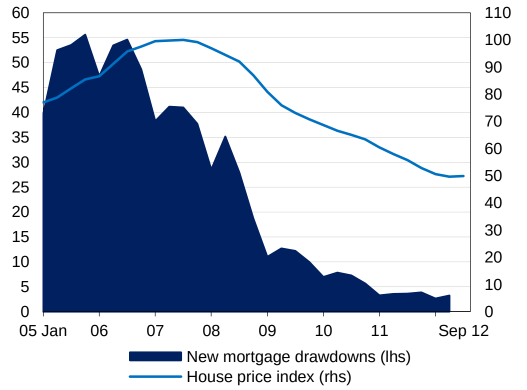


Notes: Chart shows Irish and euro area household debt and disposable income expressed as indices with Q1 2008 equal to 100. Data are shown on a four-quarter moving average basis.

The lower levels of household disposable income, challenging employment prospects and declining house prices have coincided with low levels of mortgage lending. The number of new mortgage drawdowns in Q2 2012 at only six per cent of peak levels, are unlikely to be returned to pre-crisis levels in the short-term.

Chart: Mortgage lending and house prices

thousands index Q3 2007 = 100

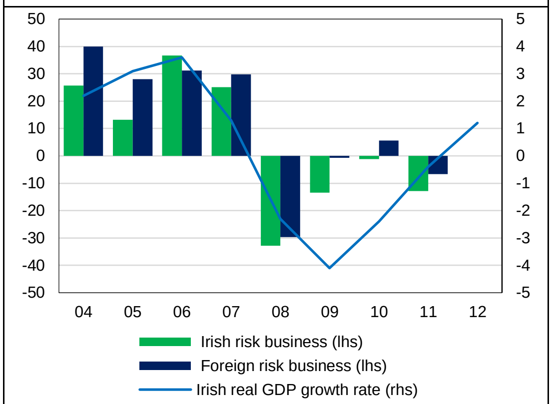


Notes: New mortgages drawdowns are the number of new mortgage drawdowns per quarter - data is from the Irish Bankers Federation (IBF). Growth rates shown are on a year-on-year basis.

Insurance sector activity, which is focused primarily on the domestic economy, has also been negatively affected with both life and non-life reporting declines in the level of premiums. While premiums in the life sector declined during 2012, Irish risk business has been particularly affected where new business revenues have dropped by up to 10 per cent. Decline in premiums in the non-life sector were approximately 13 per cent based on the first half of 2012.

Chart: Premium Growth for life sector

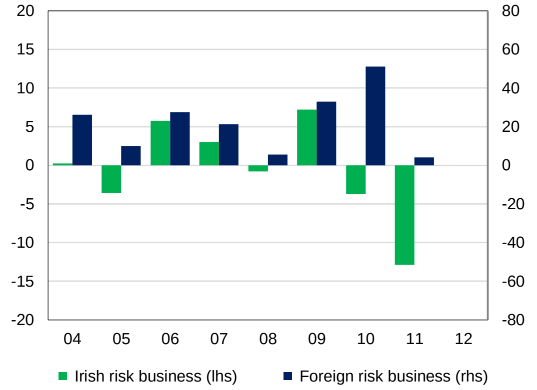
Per cent per cent



Notes: Percentage change is per annum. 2012 figures are annualised based on data at June 2012.

Chart: Premium Growth for non-life sector

Per cent | per cent



Notes: Percentage change is per annum. 2012 figures are annualised based on data at June 2012.

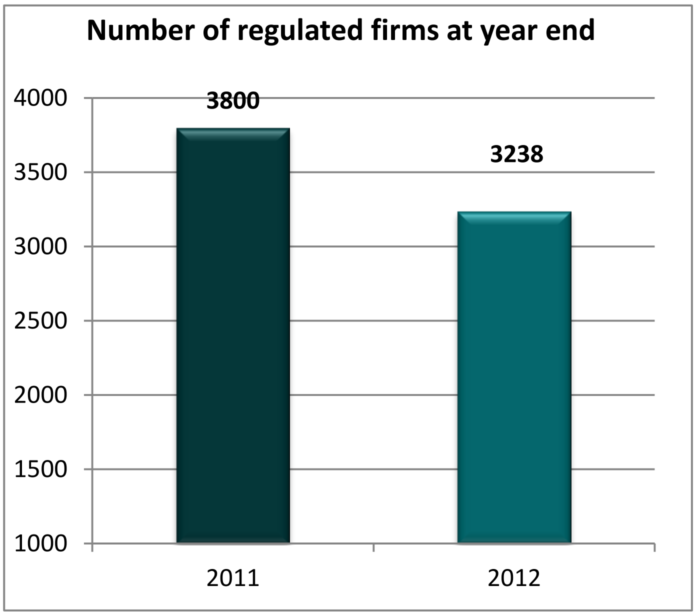
Turning to the investment sector, the challenging domestic environment and the reduction in household's net wealth has been further exacerbated by the collapse in financial markets that occurred in 2008. In some cases these markets are only now returning to pre-crisis levels. All these factors combined, point to a challenging environment in which to operate.

The performance of the Retail Intermediary sector will likely mirror the health of the broader economy. Overall, the domestic environment remains difficult for the Retail Intermediary sector as households deal with debt amassed during the build of the financial crisis while facing lower levels of income to service those debts. The outlook for the economy remains uncertain in the short-term and Retail Intermediaries will continue to face a challenging operating environment until the domestic economy recovers from the crisis.

4. Overview of the Retail Intermediary Sector in Ireland

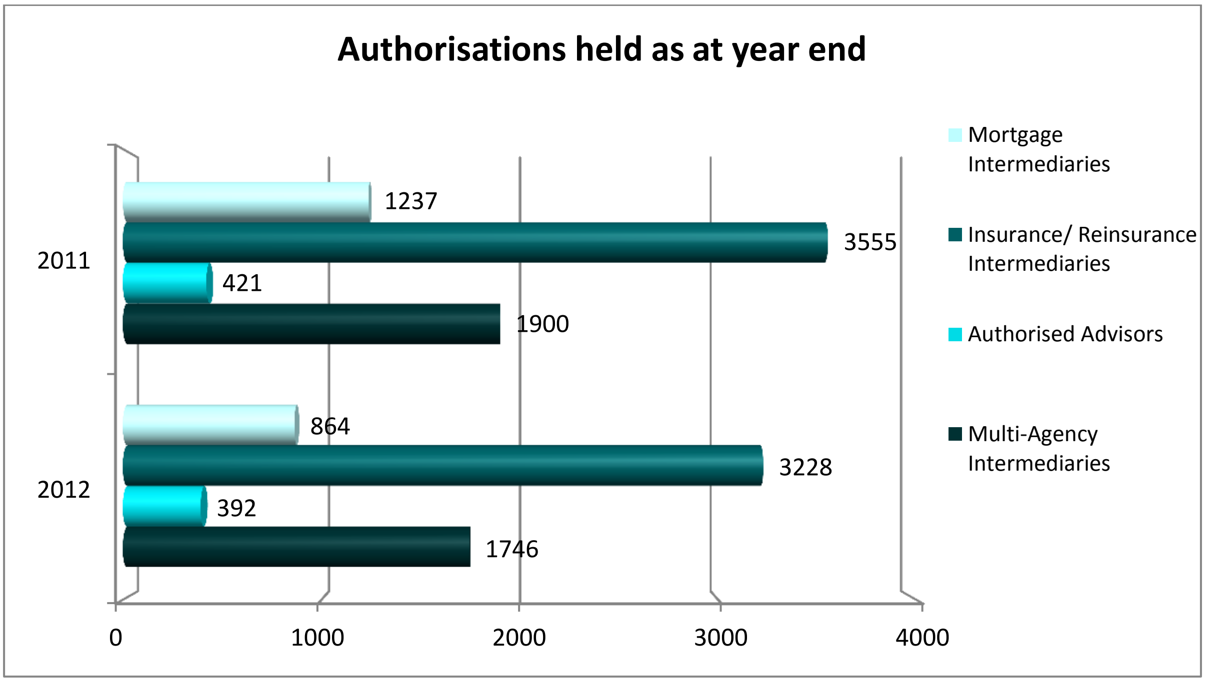
4.1 Structure of the sector

4.1.1 Number of Retail Intermediaries



Notes: These figures exclude firms such as credit institutions, credit unions etc. which also hold a Retail Intermediary authorisation.

4.1.2 Number of authorisations held



The number of regulated Retail Intermediaries decreased from 3,800 at end-2011 to 3,238 at end-2012. The largest decrease was in the mortgage intermediary sector (almost 30 per cent year-on-year), which is mostly accounted for by non-renewal of mortgage intermediary authorisations. Mortgage intermediary authorisations are typically granted for either a five or ten year period[8]. As the sector starts to recover, we may see some of those mortgage intermediaries applying to re-enter the market. These applicants will be assessed under our authorisation and Fitness and Probity regimes. In addition, there was a year-on-year reduction of just over nine per cent in the number of authorisations held in the insurance mediation sector. Part of this reduction is accounted for by motor dealers, previously authorised to sell protection insurance (associated with car sales) having withdrawn from this sector of the insurance market.

The reduction in the overall number of regulated firms in this sector also arises from considerable work in 2012 to remove inactive, un-contactable and un-cooperative Retail Intermediaries from our registers. These include, but are not limited to, dissolved firms, firms in liquidation/receivership, individuals who are no longer trading and un-contactable intermediaries.

The Central Bank specifically targets un-cooperative[9] Retail Intermediaries through thematic reviews and/or through the use of firm-specific investigations, taking appropriate regulatory action where warranted. With regard to un-contactable firms, we endeavour to deal with these cases in an equitable, robust but pragmatic way. Retail Intermediaries which cannot be contacted by the Central Bank, at the addresses/contact numbers provided, are in breach of a number of legislative/regulatory requirements including the obligation to keep the Central Bank apprised of changes in their contact details. It is our policy that these firms be removed from our registers as quickly as possible to ensure that our public registers accurately reflect the active population of firms, thus enhancing consumer protection through the provision of up-to-date information. Consumers rely on professional and compliant intermediaries to offer them financial services and should be able to rely on our registers to point them in the direction of appropriately authorised firms.

Retail Intermediaries are required to give their clients and the Central Bank adequate prior notice of their intention to cease operating. Consumers must be allowed sufficient time to make alternative

[8] Typically five years on first authorisation as a regulated entity and ten years where already authorised under the IIA for the provision of investment business services.
[9] 'Un-cooperative' Retail Intermediaries include those which repeatedly fail to engage with the Central Bank and/or those which repeatedly fail to submit their annual returns and/or other required information.

arrangements that properly suit their needs. Retail Intermediaries are reminded of their obligation to notify the Central Bank and their customers if they intend to cease operating, merge with another entity or transfer all or part of their regulated activities to another regulated entity. See requirement 3.11 of the Consumer Protection Code (the "Code") for more details.

4.2 Key Statistics

In July 2011, the Central Bank introduced an on-line reporting system (ONR) for Retail Intermediaries. Annual Returns are submitted to the Central Bank on a monthly basis, six months after each firm's financial year-end. The aggregate figures shown in this Report represent firms with a financial year-end ranging between 1 July 2011 and 30 June 2012, which submitted a return during 2012.

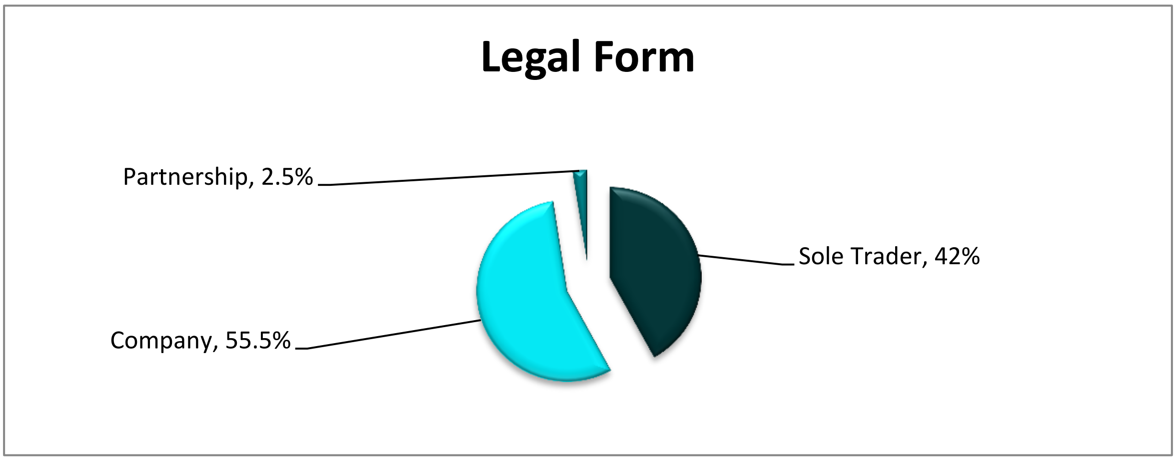
The information in sections 4.2 and 4.3 of this Report is derived from data submitted by Retail Intermediaries during 2012 (other than where specifically indicated) and has not been independently verified by the Central Bank.

As at 31 December 2012, 74 per cent of Retail Intermediaries had submitted an Annual Return. The Central Bank is continuing to pursue non-compliant firms with the aim of improving compliance levels. We have outlined our approach to dealing with un-cooperative and un-contactable firms in section 4.1.2 above.

Key Statistics for Retail Intermediary sector	
Number of employees (includes employees engaged in regulated and unregulated activities)	30,463
Number of employees accredited (under the Minimum Competency Code 2011)	11,187
Number of clients who are classified as consumers	5,190,427[10]
Number of complaints received by firms during the reporting period	15,873
Number of complaints referred to the Financial Services Ombudsman by consumers	653
Gross Income /Turnover (includes income derived from regulated and unregulated activities)	€ 4,699,609,050
Commission Income	€ 722,734,098
Operating Profit After Tax (includes profit from regulated and unregulated activities)	€ 42,569,230

[10] Firms have reported over 5 million policies/financial products held by their clients.

4.2.1 Legal Form



As stated above, the Retail Intermediary sector is diverse in terms of the size and legal structure of firms. It varies from subsidiaries of large multi-nationals/ insurance companies/ credit institutions to one-person operations, with turnover (from regulated and unregulated activities) ranging from under €10,000 to over €1 million. Over 97 per cent of all retail intermediaries are either companies or sole traders. The private limited company is the company structure most frequently used.

4.2.2 Number of Employees (for regulated and unregulated activities)

Number of Employees	1-10	11-50	51-100	Over 101
% of firms	88.6%	9%	1%	1.4%

Number of Accredited Employees (under the MCC)	1-10	11-50	51-100	Over 101
% of firms	95.7%	3.2%	0.3%	0.8%

The vast majority (almost 89 per cent) of Retail Intermediaries have 10 or less employees. Almost 96 per cent of Retail Intermediaries have less than 10 accredited employees (under the Central Bank's Minimum Competency Code 2011 (the "MCC")).

The Central Bank first introduced Minimum Competency Requirements (the "Requirements") on 1 January 2007, which established minimum professional standards for financial services providers, with particular emphasis on areas dealing with consumers. The Requirements were introduced to ensure that consumers obtain a minimum acceptable level of competence from individuals acting for or on behalf of regulated firms in the provision of advice and associated activities in connection with retail financial products.

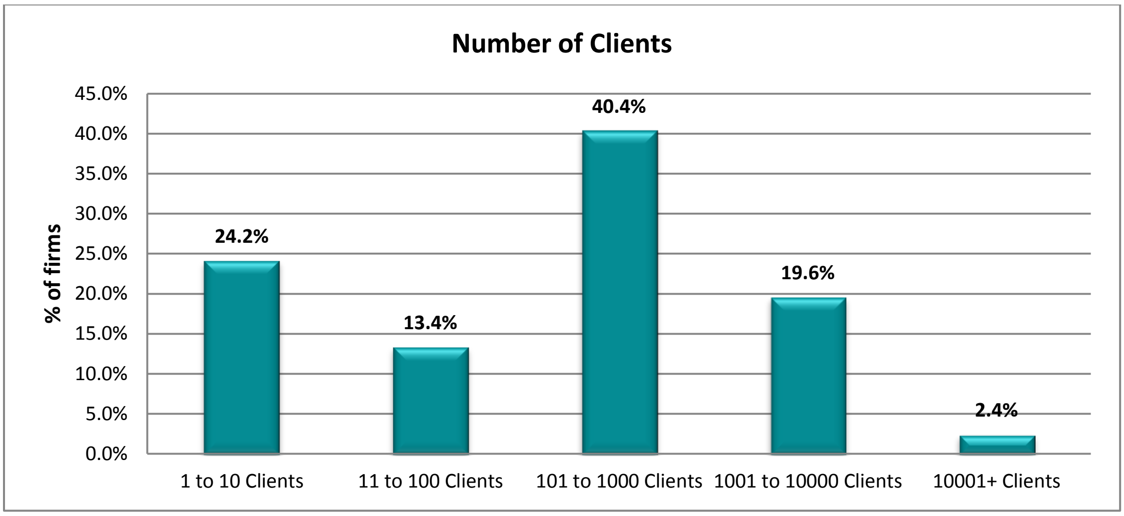
Following consultation, the Requirements were reviewed and replaced by the MCC, which came into effect on 1 December 2011. The MCC is an important component of our supervisory framework and applies to regulated firms, including Retail Intermediaries, and persons carrying out controlled functions within those firms who:

- provide advice to consumers on retail financial products;
- arrange or offer to arrange retail financial products for consumers, including any amendments to insurance cover and the restructuring or rescheduling of loans; or
- undertake certain specified functions.

In addition, those persons are required to undertake a programme of Continuing Professional Development (CPD). The MCC is issued, in part, under Section 50 of the Central Bank Reform Act 2010 and is closely linked to the new Fitness and Probity regime which also came into effect on 1 December 2011.

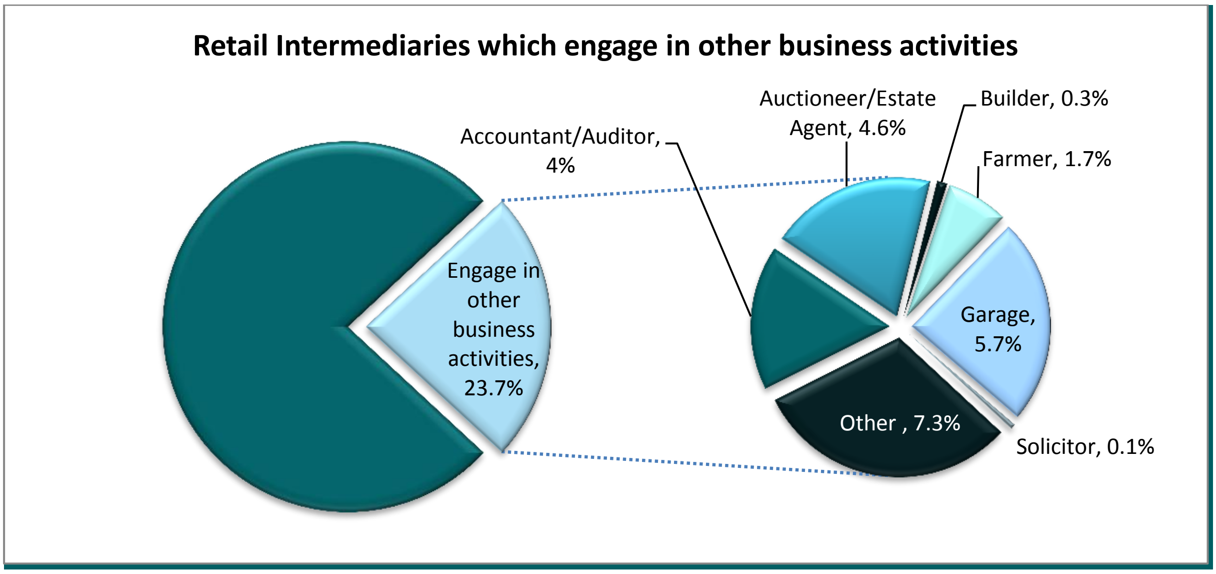
4.2.3 Number of Clients[11]

Approximately 40 per cent of Retail Intermediaries have between 101 and 1,000 clients, while 24 per cent of firms have 10 or less clients. The next largest group (almost 20 per cent) have between 1,001 and 10,000 clients.



[11] Clients who are ‘consumers’ as defined in the Code.

4.2.4 Other Business Activities



Almost 24 per cent of Retail Intermediaries have reported that they engage in one or more other business activities that do not require authorisation from the Central Bank. The Annual Return requests information on the following specific unregulated activities: accountant/auditor, auctioneer/estate agent, farmer, solicitor, builder and garage. Over 16 per cent of firms reported that they engage in one or more of these unregulated activities with the highest volume relating to garages (5.7 per cent), auctioneer/ estate agent (4.6 per cent) and accountant/ auditor (4 per cent).

A further 7.3 per cent of firms reported that they engage in 'Other' unregulated activities (not specified in the Annual Return). Firms reported such activities as taxation services, property services, pension trustee services, debt mediation, chartered and quantity surveying, business consulting, bookkeeping and actuarial services.

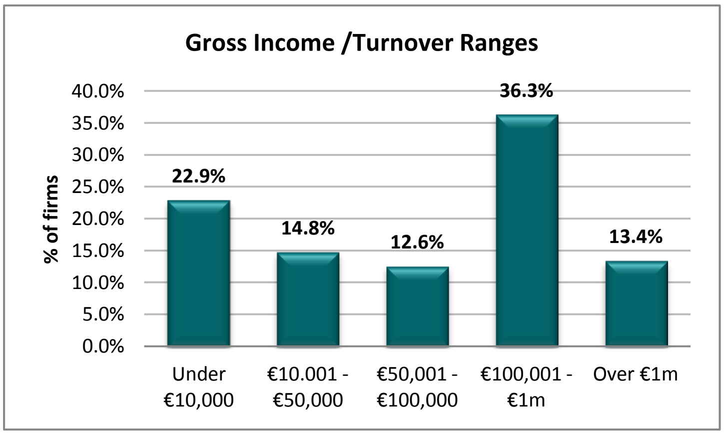
The information provided by Retail Intermediaries in their Annual Returns shows that:

- Garages typically hold insurance intermediary authorisations for the sale of general insurance policies (e.g. protection insurance linked to the financial packages they offer);
- Auctioneers/estate agents tend to engage in mortgage mediation business;
- Accountants/auditors and farmers hold insurance and investment authorisations (for investment, pensions, life and general insurance products);
- Solicitors engage in general and life assurance services; and
- Builders mainly engage in loss assessing and general insurance[12].

[12] The statutory registers of authorised Retail Intermediaries can be accessed here.

4.3 Financial Data

4.3.1 Gross Income /Turnover (from regulated and unregulated activities)

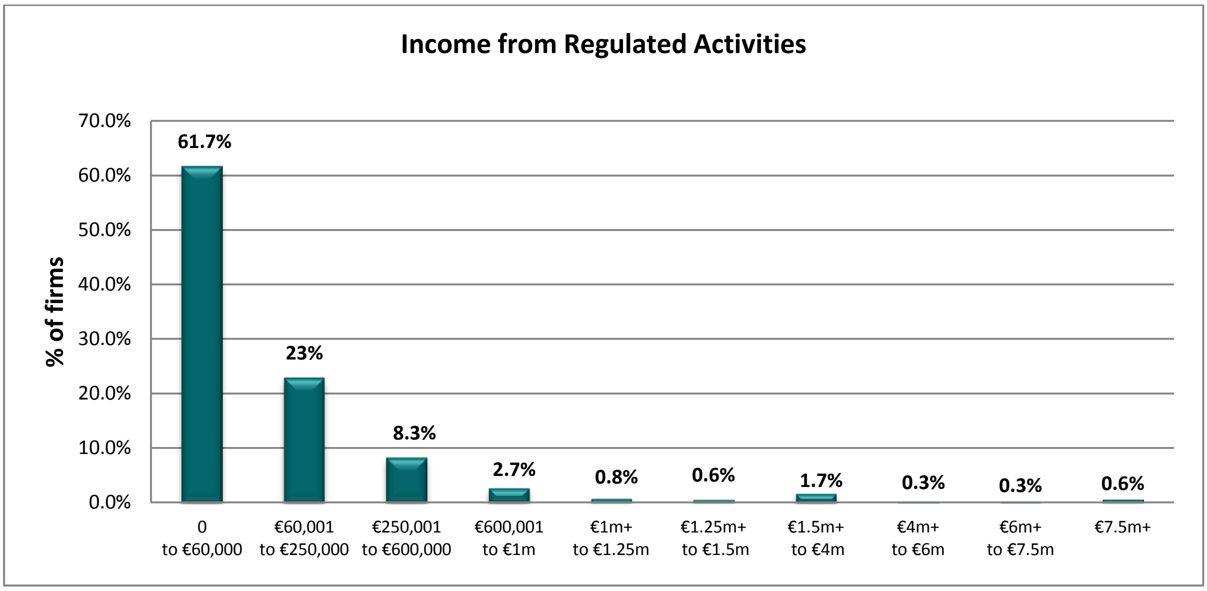


Over 36 per cent of firms reported a Gross Income /Turnover of between €100,001 and €1 million, with the second largest group (almost 23 per cent) reporting a Gross Income /Turnover of under €10,000.

Gross Income /Turnover includes turnover from unregulated activities (see next section).

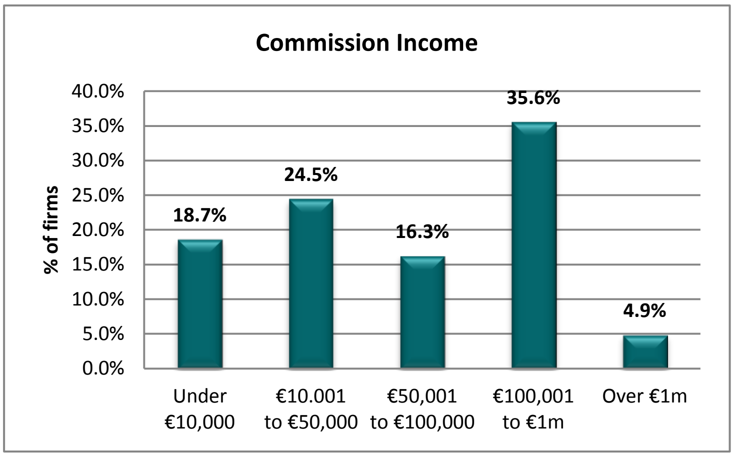
4.3.2 Income (from regulated activities)

This chart represents income from regulated activities earned by Retail Intermediaries during the year ended 31 December 2011. It was derived from Self Declaration Forms submitted by regulated entities to the Central Bank's Financial Control and Procurement Division as part of the levy calculation process early in 2012 rather than in the Annual Return.



Approximately 62 per cent of firms reported income levels of up to €60,000 and 23 per cent of firms earned between €60,000 and €250,000.

4.3.3 Commission Income (from regulated activities)



Approximately 60 per cent of firms earned commission income of up to €100,000 and approximately 36 per cent of firms earned between €100,001 and €1 million.

Current requirements concerning the disclosure of remuneration are set out in various legislative and regulatory instruments, including the Code. The Code contains requirements designed to prevent conflicts of interest arising as a result of remuneration arrangements. Where a product producer pays commission to an intermediary based on levels of business introduced, the product producer must be able to demonstrate that remuneration arrangements with an appointed intermediary do not impair the intermediary's duty to act in the consumer's best interest and do not give rise to a conflict of interest between the intermediary and the consumer. Regulated entities, including Retail Intermediaries, must also ensure that remuneration arrangements with their employees do not have the potential to impair the regulated entity's obligation to act in the consumer's best interest.

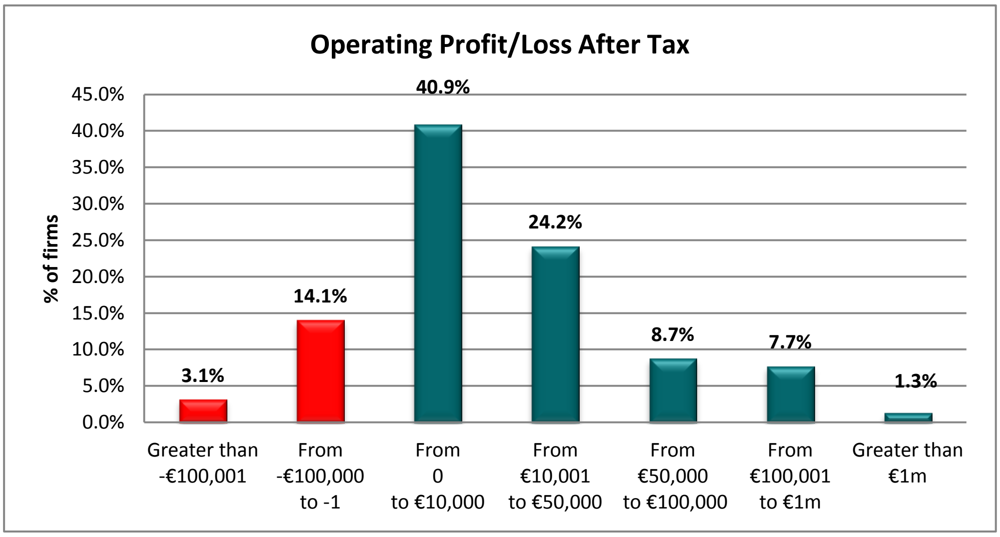
The Code also requires the disclosure of remuneration arrangements by mortgage intermediaries authorised under the Consumer Credit Act, 1995 (the "CCA") and investment firms authorised under the Investment Intermediaries Act 1995 (as amended) (the "IIA"). Where the amount cannot be ascertained, the method of calculating that amount must be disclosed. Where on-going remuneration is to be received, the intermediary must disclose the nature of the service to be provided in respect of that remuneration.

In the case of non-life insurance, intermediaries must disclose in general terms that they are paid by means of a remuneration arrangement with a product producer and must either disclose the amount of that remuneration or inform the consumer that details of the remuneration are available on request. The intermediary must also disclose any additional remuneration arrangements that are not directly attributable to the service provided to that individual consumer but are based on levels of business introduced by the intermediary to that product producer or that may be perceived as having the potential to create a conflict of interest.

The incoming Insurance Mediation Directive (IMD2) proposes a change which concerns the disclosure of fees and commissions, whereby all insurance distributors would be required to inform their consumers about the different elements of their remuneration. This is aimed at contributing to greater transparency, allowing consumers to better assess the total costs of these products and therefore make more informed decisions.

The proposed Mortgage Credit Directive would also provide rules for staff remuneration; for example, creditors and mortgage intermediaries should not remunerate their staff in a manner which would impede their obligation to act honestly, fairly and professionally taking account of the consumer's specific circumstances. These limitations aim to limit mis-selling practices. Discussions on this Directive are currently on-going at European Parliament and European Council level.

4.3.4 Operating Profit/ Loss After Tax (from regulated and unregulated activities)



Seventeen per cent of firms have reported a loss in the previous financial year, with over three per cent reporting a loss in excess of €100,000. We will continue to monitor the overall financial positions of these firms, particularly where continuous losses are made, which may have a future impact on the firms' solvency/capital position.

Retail Intermediaries are subject to certain prudential requirements, including capital requirements. For example, investment intermediaries are required to be solvent (i.e. have positive shareholders' funds or a positive capital account) at all times[13]. Minimum solvency is a basic prudential standard for all financial institutions and the ability to meet liabilities as they fall due decreases the burden on other regulated firms contributing to the Investor Compensation Company Limited.

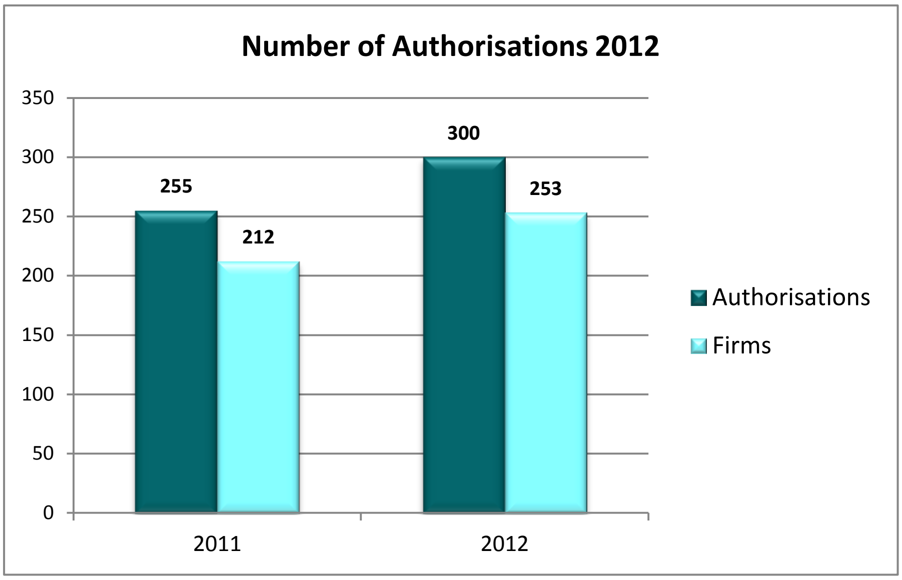
The Central Bank commenced a themed review relating to Retail Intermediaries' financial positions in February 2013. Where we suspect that a Retail Intermediary is in breach of a regulatory requirement as a consequence of its financial position (such as a solvency requirement), the firm will be directed to prepare and implement a credible capital plan to resolve its financial position in a timely manner. Failure to do so may lead to revocation of the firm's authorisation. See section 5.4.2 below for more details.

[13] As provided by section 3.1 of the Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries.

5. Supervisory Work in 2012/2013

5.1 Number of Authorisations/Revocations

During the course of 2012, 253 Retail Intermediaries were authorised. This accounts for 300 individual authorisations (i.e. a number of firms seek authorisation under more than one Retail Intermediary authorisation type – see Appendix 1).



Figures do not include tied insurance intermediaries.

In the same period, 797 Retail Intermediaries[14] (including tied insurance intermediaries) let their authorisations expire; had their authorisations voluntarily revoked; or were otherwise involuntarily removed from our statutory registers.

5.2 Strengthening the Supervisory Framework

5.2.1 Review of the Authorisation Process

We are currently reviewing the authorisation, post-authorisation and revocation processes for Retail Intermediaries with a view to introducing greater efficiencies in these areas. At a high level, we intend to make the following enhancements:

- Introduce a single, combined application form for the Retail Intermediary Sector, which will encompass insurance, investment and mortgage intermediation;
- Introduce a notification/application form for acquiring transactions;
- Update the application form for revocations; and
- Publish relevant guidance and Frequently Asked Questions in relation to these areas.

[14] This accounts for 972 individual authorisations.

We hope that this will assist applicant firms and that it will ultimately lead to more efficient processing times.

We would also encourage applicant firms to ensure that applications (including Individual Questionnaires) are fully completed and that all of the required supporting documentation is submitted with the application form. Incomplete applications have caused significant delays in the overall process, therefore, commencing in February 2013 we will return incomplete application forms to applicants and processing will not commence until such time as all of the required information is received.

We will publish details of the review of the authorisation process and our proposed enhancements in Q2 2013[15].

5.2.2 Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries (the "Prudential Handbook")

The existing Prudential Handbook for investment firms authorised under the IIA came in to effect in 2006. The Prudential Handbook contains general supervisory requirements (including capital requirements) and requirements relating to books and records. The Central Bank has commenced a review of the Prudential Handbook and it is intended to commence a public consultation during Q2 2013.

5.3 Reactive Supervision

Issues in relation to Retail Intermediaries come to the Central Bank's attention from the market intelligence unit, internal sources, the media and other external sources, which may be any of the following:

- Members of the public;
- Competitors;
- Other Regulators;
- Employees or ex-employees of regulated firms;
- Consumers; and
- An Garda Síochána.

[15] Via a special edition of the industry newsletter.

Persons who have concerns about any regulated entity can contact our public contacts helpline, details of which are on the Public Information page on our website. In order to assist us with any follow-up work, we would encourage the provision of as much detail/documentation as possible to substantiate any concerns. While further contact may need to be made to clarify any information provided, the Central Bank will be unable to provide an update on any investigation conducted by us due to statutory restrictions on the disclosure of information.

It should be noted that a formalised complaints' handling process must be in place in every regulated financial service provider, in line with the requirements of the Code. This process must be easily accessible to all the consumers of the firm. Consumers should, in the first instance, bring their complaint to the attention of the firm. The firm should deal with this complaint in line with its required complaints procedure. If the consumer is ultimately dissatisfied with the firm's decision, he/she can refer the matter in writing to the Financial Services Ombudsman.

In 2012, the main issues which were brought to the Central Bank's attention concerning Retail Intermediaries were as follows:

- Potential breaches of the Code in respect of unsolicited personal visits to consumers;
- The competency of advisors;
- Advertising issues;
- Financial advice in relation to complex investment products; and
- Unregulated activity by regulated firms, for example investments in property.

With regard to the competency of advisors, firms are reminded of their obligations under the MCC at all times, but particularly where they propose to diversify their business activities (e.g. where a life assurance intermediary proposes to acquire a book of business which also includes personal general insurance business). In such circumstances, firms must ensure that their sales staff/advisers meet the requirements of the MCC and must also ensure that their processes and procedures facilitate compliance with the requirements of the Code.

5.4 Thematic Reviews

Thematic reviews continue to be an important supervisory tool for this sector of the industry. In line with our objective of increasing transparency, we now publish our thematic work plans. A themed review focuses on a specific topic rather than on a range of topics and is usually carried out on a number of regulated firms or on firms that represent a significant proportion of market share - in line with our risk-based approach. Themes and firms for inspection are selected based on our market intelligence from a range of sources, including issues noted during on-going supervision, complaints received and referrals from the Financial Services Ombudsman. In 2012 we informed the Retail Intermediary sector that we would specifically target known non-compliance[16]. We will continue to do so in 2013 through the use of thematic reviews.

5.4.1 Thematic Reviews conducted in 2012

In 2012, the Central Bank conducted three themed reviews in the Retail Intermediary Sector. Two of the reviews assessed whether or not insurance intermediaries held the required level of Professional Indemnity Insurance ('PII'). PII is a key prudential and consumer protection tool in that it provides an additional resource from which a firm can pay justified claims made by consumers relating to professional negligence, for example, the provision of negligent or incorrect advice. The requirement on insurance intermediaries to hold PII or to be covered by a comparable guarantee is imposed under Regulation 17 of the European Communities (Insurance Mediation) Regulations 2005 (the "IMR"). Failure to comply with this Regulation on an on-going basis may lead to regulatory action (e.g., an Administrative Sanction or involuntary cancellation) being taken against the regulated entity.

128 Retail Intermediaries were reviewed for PII cover in total, using a combination of both on-site and off-site inspections. Some firms were chosen at random for inclusion in the themed review. Other firms were selected for a variety of reasons including, but not limited to, having a poor history of compliance with regulatory requirements and/or failure to complete and submit an Annual Return.

59 (46 per cent) of these firms were found to be compliant with Regulation 17 of the IMR. Prompted by our inspections, 35 (27 per cent) firms voluntarily cancelled their IMR registrations and no longer operate as insurance intermediaries. All remaining identified breaches of Regulation 17 of the IMR were followed up directly with individual firms and this has resulted in a number of enforcement actions in 2012, with further actions possible in 2013.

The third themed review of Retail Intermediaries in 2012 targeted a number of known non-compliant firms (34 firms). Prompted by this review, 11 firms voluntarily cancelled their

[16] 'Known' non-compliance would include a failure to engage with the Central Bank or a failure to submit the required Annual Return, for example.

authorisations under the IIA and/or their IMR registrations and no longer operate as Retail Intermediaries. All breaches identified during this review are being followed up directly with the individual firms concerned.

5.4.2 Thematic Reviews planned for 2013

The Central Bank has planned the following thematic reviews for 2013:

- Compliance with PII requirements.
- The Central Bank has commenced a themed review relating to Retail Intermediaries' financial positions. The Central Bank considers a capital/ solvency breach to be a significant prudential and consumer risk. This is a basic prudential standard for all financial institutions and its importance in the context of investment intermediaries is further highlighted by the fact that a breach of this standard is grounds for revocation under the IIA. Furthermore, being able to meet liabilities as they fall due decreases the burden on other regulated entities contributing to the Investor Compensation Company Limited.
- Retail Intermediaries must have a sufficient knowledge of the products they sell and the provisions of the Code relating to the sale of those products to ensure that a product is suitable for each consumer's individual needs. We will conduct a themed review in 2013, which will focus on the origin of new pension business to ensure that the Code is being adhered to, particularly with regard to the sales process and suitability requirements.

5.5 Acquiring Transactions[17]

The Central Bank issued a letter to Retail Intermediaries in October 2011 to alert them to a trend we had identified in the number of instances where intermediaries had undertaken acquiring transactions without the prior written approval of the Central Bank. Such transactions are invalid in law under Section 43 of the IIA. Following an analysis of the Annual Returns, we are currently reviewing a significant number (currently in excess of 100) of potential unapproved acquiring transactions. Retail Intermediaries which undertook acquiring transactions without the prior written approval of the Central Bank are urged to consult with their legal advisers.

During 2012, we approved 38 acquiring transactions. Retail Intermediaries that are growing in size due to acquisition (or other reasons) must ensure that they adapt their systems and controls to

[17] Essentially, an acquiring transaction means any direct or indirect acquisition of shares in an authorised investment business firm where the shareholding in a firm would reach or exceed a qualifying shareholding of 10 per cent, or reach or exceed a 20, 33 or 50 per cent shareholding. See section 38 of the IIA for a full definition.

reflect the demands of a larger business. Particular consideration should be given to the intermediary's governance and compliance processes and to resources allocated to these areas to ensure that firms are acting in the best interests of their clients. Retail intermediaries should also continue to focus on the quality of their advice i.e. they must ensure that staff is competent to advise on all newly acquired business areas.

5.6 Passporting

In 2012, under Article 6 of the IMR, the Central Bank received notifications from foreign regulators in relation to 231 authorised intermediary firms intending to passport their insurance mediation activities into Ireland. One hundred and ninety two notifications were received in relation to firms cancelling a previously acquired right to passport into Ireland.

This compares with 31 applications received by the Central Bank from Irish Retail Intermediaries intending to passport into other EEA Member States, and 11 notifications to cancel passporting rights for Irish firms.

Currently, there are over 6,500 foreign-regulated firms permitted to offer their services in Ireland under the provisions of the IMR.

5.7 Advertising Monitoring

The Central Bank proactively monitors compliance with advertising and related consumer protection requirements, including those outlined in the Code, as well as the Markets in Financial Instruments Directive ("MiFID") and the CCA. These requirements seek to ensure that consumers are appropriately protected and in receipt of all of the required information they need on financial services or a product. This allows them to make an informed choice.

In 2012, the Consumer Directorate identified a number of advertising issues across all sectors of the industry. The main issues relating to Retail Intermediaries were the use of incorrect or inappropriate regulatory disclosure statements and mis-use of the term 'independent' (where the firm could not provide evidence that such a term was used on the basis of *fair analysis of the market*).

We also had concerns about the fairness, accuracy and the potential for certain advertisements to be construed as misleading in their overall content and presentation. Consumers rely on 'key information' and 'qualifying criteria' to make informed decisions and as such we have increased our focus in this area to ensure that such information is prominent and included in the main body of the advertisement (as required by the Code).

During 2012, we investigated 188 advertising issues, a significant proportion of which related to the Retail Intermediary sector. The majority of firms complied with our requests to withdraw the relevant advertisement. However, a small number of persistent, serious and/or non-co-operative cases resulted in us having to issue formal Letters to Withdraw the advertisements. In a small number of cases, escalated action was taken (Letters of Direction).

Our preference is to avoid costly withdrawals of and/or amendments to advertisements being required. We plan to consult with industry in advance of developing industry guidance later this year and we have recently commenced consumer research on financial services advertising to inform our work in this area.

5.8 Enforcement Actions[18]

Three Retail Intermediaries were subjected to Administrative Sanctions in 2012, two of which related to PII breaches and the other related to breaches of the Consumer Protection Code (2006) and Minimum Competency Requirements (2007). Details of the monetary penalties in the settlement agreements were issued on our website.

Eighty Letters of Direction obliging firms to provide the Central Bank with evidence of their PII cover were issued.

Eleven notifications were made to An Garda Síochána in cases where the Central Bank suspected that a criminal offence may have been committed. Under section 33AK of the Central Bank Act 1942, the Central Bank is obliged to report suspicions of criminal offences to An Garda Síochána.

5.9 Policy work

Another element of our supervisory work relates to our participation on various EU groups. We endeavour to influence policy debates of key interest that are emerging in Europe, leveraging on the

[18] This section excludes voluntary revocations which were prompted by our thematic or reactive reviews.

policy expertise that is available within the Central Bank. This enables us to work with industry to assist with the implementation of Directives and other EU changes.

Of particular relevance to Retail Intermediaries, the European Commission is updating and reviewing conduct-of-business rules for sales of insurance products in the EU. The Commission is proposing a regulation on key information documents for packaged retail investment products (PRIPS) and a revision of the IMD2.

The following is a high-level summary of some key changes proposed in IMD2:

- The scope would be extended to include all sellers of insurance products, including insurance companies that sell directly to consumers, sale of insurance products on an ancillary basis (e.g. travel agents and car rental companies), insurance comparison websites, provided the customer is able to conclude an insurance contract at the end of the process, claims management activities, loss adjusting and expert appraisal of claims.
- Minimum professional requirements for all persons who sell insurance products.
- More stringent rules on conflicts of interest, including the disclosure of fees and commissions whereby all insurance distributors would be required to inform their consumers about the different elements of their remuneration. This is aimed at contributing to greater transparency, allowing consumers to better assess the total costs of these products and therefore make better informed decisions.
- A ban on commission for independent advice.
- New rules on cross-selling practices which will:
  - ban the practice of tying, i.e., requiring consumers to buy insurance and ancillary services as a single package; and
  - bundling will only be allowed if the customer is told that the components of the package can be bought separately and has been given information on the costs and charges of each component.
- Additional requirements on the sale of insurance products with investment components, similar to those contained in MiFID II.

The PRIPS (investments with an underlying asset such as a unit-linked fund) proposal would require that consumers be informed of investment product features through a standard Key Information Document, or 'KID'. It is proposed that the KID would be a short document, written in non-technical language that avoids jargon, so as to be understandable to a typical retail investor, and would be drawn up in a common format so that investors are able to easily compare between different investment products.

The Mortgage Credit Directive would also provide rules for staff remuneration, for example creditors and credit intermediaries should not design their remuneration policies in a way that would incentivise their staff to conclude a given number of or type of credit agreements, or to offer particular services to consumers with no explicit consideration of the consumer's interests and needs. These limitations aim to limit mis-selling practices and to ensure that the manner in which staff is remunerated does not impede compliance with the obligation to consider the interests of the consumer. Discussions on this Directive are currently on-going at European Parliament and European Council level.

5.10 Unauthorised Firms

The Central Bank's Enforcement Directorate is charged with investigating any alleged unauthorised provision of financial services. Where unauthorised provision of financial services is uncovered, the Central Bank has recourse to its enforcement powers.

The table below details the number of investigations into the alleged unauthorised provision of financial services in the retail intermediary sector, carried out by the Enforcement Directorate in 2011 and 2012.

Number of cases investigated by the Unauthorised Providers Unit in relation to retail intermediaries (all cases relate to firms that hold no authorisiaton, licence or registraion from/with the Central Bank)	
2011	**2012**
171	114

It is estimated that the retail intermediary sector currently accounts for up to 45 per cent of the annual number of investigations of unauthorised provision of financial services carried out by the Enforcement Directorate.

Appendix 1

- **Insurance/Reinsurance Intermediaries** are registered under the IMR. Insurance mediation entails any activity involved in proposing or undertaking preparatory work for entering into insurance contracts, or of assisting in the administration and performance of insurance contracts that have been entered into (including dealing with claims under insurance contracts).

- **Investment Intermediaries** are authorised under the IIA to act as a deposit agent/broker; advise on specified insurance/investment products; receive and transmits orders to a product producer.

- **Mortgage Intermediaries** are authorised under the CCA to arrange for a mortgage lender to provide a consumer with a housing loan and/or to introduce a consumer to an intermediary who arranges, or offers to arrange, for a mortgage lender to provide the consumer with such a loan.

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