Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Insurance Regulations 2022

Q&A

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Introduction

In July 2021, the Central Bank of Ireland (Central Bank) published its Final Report and Public Consultation on Differential Pricing. The principal conclusion from the Report was that the practice of price walking could result in unfair outcomes for some consumers in the private car and home insurance markets. Having concluded a public consultation process on additional consumer protection measures in this area, the Central Bank is now proceeding with introducing a ban on price walking with effect from **1 July 2022**. This means that, from that date, insurance undertakings and insurance intermediaries cannot charge consumers, who are on their second or subsequent renewal, a premium higher than they would charge an equivalent year one renewal consumer.

It is ultimately the responsibility of insurance undertakings and insurance intermediaries to ensure they are compliant with all Central Bank regulations and requirements under the terms of their authorisation. However, to assist insurance undertakings and insurance intermediaries' understanding of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022 (the **Regulations**), we are providing the following guidance. Where there is any doubt on the application of the Regulations, we recommend that firms seek independent legal advice.

Please note that this document is for information purposes only. It does not amend or alter the Regulations and does not form part of the Regulations.

This document does not constitute legal advice and should not be used as a substitute for such advice. The Central Bank does not represent to any person that this document provides legal advice.

Nothing in this document should be taken to imply any assurance that the Central Bank will defer the use of its enforcement powers where a suspected breach of the Regulations comes to its attention.

This document should be read alongside the Regulations.

General Queries

1.1 When will the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022 (the **Regulations**) come into effect?

The Regulations come into effect on 1 July 2022.

1.2 Will the Regulations be applied retrospectively?

No, the Regulations will only be applied prospectively from 1 July 2022, meaning all new policies and renewals from 1 July 2022 must follow the new Regulations.

We acknowledge that some renewal notices for policies renewing after 1 July 2022 may be issued prior to the commencement date of the Regulations. Consequently, there may be practical and operational difficulties with ensuring that the renewal notice and related policy documents are compliant with the Regulations. As a result, some policies concluded following the commencement date, but where the renewal notice was issued prior to the commencement date, may not fully meet the requirements of the Regulations. However, regulated firms are expected to comply with the spirit of the Regulations in any pricing decisions made prior to 1 July 2022, which will impact policies renewing after 1 July 2022.

1.3 Who do the Regulations apply to?

The Regulations apply to "consumers" as defined in the in the Consumer Protection Code 2012 (CPC).

"consumer" means any of the following: a) a person or group of persons, but not an incorporated body with an annual turnover in excess of €3 million in the previous financial year (for the avoidance of doubt a group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate); or

b) incorporated bodies having an annual turnover of €3 million or less in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said €3 million);

and includes where appropriate, a potential "consumer" (within the meaning above).

1.4 Will there be a transitional period for insurance undertakings and insurance intermediaries?

No. The Regulations come into effect for all insurance undertakings and insurance intermediaries with effect from 1 July 2022.

Pricing

2.1 What products are included in scope of the Regulations? For example, would they apply to landlords' insurance products, or insurance for motorcycles, vans, or agricultural vehicles?

The Regulations apply to motor or home insurance policies for consumers, including private car and principal private residence insurance.

The Central Bank does not intend to provide an exhaustive list of other policies in or out of scope of the Regulations. However, as a general guide, in addition to the above, the following products may be in the scope of the Regulations where they are sold to consumers (as defined in the Regulations):

- personal vehicles such as motorbikes and campervans,
- holiday homes, buy-to-let properties or mobile homes, or
- light commercial vehicles such as a van that may be used by, for example, a plumber, electrician or florist in the course of their business.

It is primarily the responsibility of insurance undertakings and insurance intermediaries to determine what is in and out of scope; however, for guidance, certain motor fleet products that are generally not sold to consumers are outside the scope of these regulations. Where a policy is offered by a firm only through a commercial negotiation – as distinct from the context of a high volume, model-based output - and where price walking is therefore not embedded in its approach, it will be reasonable for the firm to consider that no further action is required.

2.2 Can you clarify Regulation 7 and who would fall under the jointly responsible term?

Regulation 7 is intended for a situation where more than one insurance undertaking or insurance intermediary is involved in developing a product and the subsequent pricing of the product. It is for individual firms to assess their own business model to determine whether they are involved in the pricing of the product. For clarity, the insurance undertaking and insurance intermediary will only be responsible for their respective part in setting the price. Where insurance intermediaries do not discount fees or flex commissions, they may not have a role in price setting.

2.3 Should insurance intermediaries' fees and commissions be included in the calculation of the subsequent renewal price?

The calculation of subsequent renewal price includes insurance intermediaries' fees and commissions.

2.4 Can insurance prices increase year-on-year based on a change in risk, for example, the age of the property or vehicle?

The Regulations do not prevent the subsequent renewal price increasing in response to a change in the risk. The Regulations are not intended to affect how risk is priced; if there is a change in risk, this can be reflected in the calculation of the equivalent first renewal price (EQFRP). However, any changes in price must not be used as a mechanism to circumvent the Regulations.

2.5 Can insurance undertakings and insurance intermediaries factor changes to inflation and cost of labour / parts when pricing renewal business?

An insurance undertaking or insurance intermediary shall not set a subsequent renewal price that is higher than the EQFRP. This does not mean the subsequent renewal price for a consumer could not change over time. The EQFRP might increase for a number of reasons, including a change in risk, an expected change in claim costs relating to that risk, or a change in an insurer's rates for the same risk. This change in the EQFRP may be reflected in the subsequent renewal price.

2.6 Where insurance undertakings or insurance intermediaries increase their prices, are firms permitted to cushion their existing consumers from these increases by gradually increasing their prices over a number of years?

When deciding on strategies to cushion existing consumers, firms must ensure they are compliant with the relevant Regulations including: an insurance undertaking or insurance intermediary shall not set a subsequent renewal price that is higher than the EQFRP; an insurance undertaking or insurance intermediary shall ensure that it does not systematically discriminate against personal consumers based on their tenure; and an insurance undertaking or insurance intermediary shall ensure that the EQFRP does not systematically exceed the first renewal price for consumers.

2.7 Can you clarify what items need to be considered in the context of calculating the EQFRP for the purposes of considering compliance with the pricing Regulations?

The Central Bank does not intend to provide an exhaustive list of items for inclusion in the calculation of the EQFRP, however some examples are provided below:

- Commission
- Insurance intermediaries' fees
- Direct debit fees
- Cashback
- Retail vouchers
- Free period of cover
- Loyalty scheme points
- Other cash equivalent incentives

2.8 Can insurance undertakings and insurance intermediaries continue to apply discounts to policies?

Discretionary discounts are permitted so long as an insurance undertaking or insurance intermediary does not set a subsequent renewal price that is higher than the EQFRP, or discriminates against consumers based on tenure, or systematically exceeds the first renewal price for consumers.

2.9 Would a 'prize draw' (such as the chance to win a premium refund) be considered a cash-equivalent incentive? Does the same answer apply if all consumers are guaranteed at least some refund?

A cash-equivalent incentive is any incentive that can be readily expressed as having a monetary value. Where an insurance undertaking or insurance intermediary structures an incentive in a way that results in consumers receiving a discount on their premium, it would have to consider whether this amounted to an incentive that can be readily expressed as having a cash value. The firm would also need to consider whether this is consistent with the requirement not to systemically discriminate against consumers based on their tenure when determining an EQFRP.

2.10 Is there a particular approach insurance undertakings or insurance intermediaries should follow to determine whether a book is "closed"?

The definition of a “closed book” for the purposes of these Regulations is: “An individual home insurance product or motor insurance product in respect of which its policies are not available for renewal by way of first renewal”.

2.11 In terms of the permitted adjustments in relation to pricing a close matched product in Regulation 5, can an insurance undertaking or insurance intermediary take into account the difference in costs to provide the policy to consumer?

Yes. Regulation 5(5)(b) allows for adjustments that fairly and proportionally reflect the differences between the cost to serve or the cover or benefits provided by the insurance policy in the closed book and the identified close matched product.

2.12 Can an insurance undertaking or insurance intermediary charge different prices based on sales / distribution channel or payment method used?

Yes. An insurance undertaking or insurance intermediary is permitted to differentiate price based on channel.

However, an insurance undertaking or insurance intermediary shall not set a subsequent renewal price that is higher than the EQFRP, or that discriminates against consumers based on tenure, or systematically exceeds the first renewal price for consumers.

In determining the EQFRP, an insurance undertaking or insurance intermediary must assume that the existing consumer has used the same channel as they most recently used for the purposes of renewing their insurance policy.

Where an insurance undertaking or insurance intermediary no longer accepts business through the channel that the customer most recently used to renew the insurance policy, the insurance undertaking or insurance intermediary should assume that the consumer used the channel most commonly used by consumers of the regulated entity.

In determining the EQFRP, an insurance undertaking or insurance intermediary shall assume that the consumer has selected the same payment method as they currently use to pay for the insurance policy.

Annual Review and Record Keeping

3.1 What are the requirements in respect of the annual review?

In accordance with Regulation 11 of the Regulations, insurance undertakings and insurance intermediaries have an obligation to conduct an annual review of all of their motor and home insurance pricing policies and processes for all customers. For clarity, it does not require firms to review each policy individually, rather the requirement is to ensure general motor and home insurance pricing policies and processes for all customers are compliant with the Regulations.

3.2 When are insurance undertakings and insurance intermediaries required to have completed the first and subsequent annual reviews?

Insurance undertakings and insurance intermediaries are required to have completed an annual review of their motor and home insurance pricing policies and processes for all customers within two months of each year end. The first review should be completed by end-February 2023.

3.3 Do insurance undertakings and insurance intermediaries have to submit data to the Central Bank in relation to the annual review or when implementing a material change?

No. There is no requirement for firms to submit information to the Central Bank regarding their annual review or documentation supporting their decision to implement a material change. However, insurance undertakings and insurance intermediaries must keep written records of annual reviews undertaken, including any actions taken to rectify any deficiencies found.

Prior to implementing a material decision in relation to the insurance undertaking's or insurance intermediary's compliance with Regulations 3 to 10, an insurance undertaking or insurance intermediary must keep a written record of its consideration of the extent to which that decision is consistent with Regulations 3 to 10.

While there currently is no requirement to submit this information to the Central Bank, insurance undertakings and insurance intermediaries must be in a position to submit the necessary documentation to the Central Bank, if it is requested. It is the responsibility of regulated entities to ensure compliance with all regulations and requirements.

3.4 How long should the records relating to the annual review and material changes be kept?

Records should be kept in accordance with applicable laws.

3.5 Can the Central Bank provide information on the level of detail that the annual review process should include?

The Central Bank will not be providing details on how an annual review should be conducted. It is for each firm to determine how this review should be conducted based on their own business model and the extent of the control they have in price setting. It is expected that the annual review should be proportionate to the nature, scale and complexity of each individual firm's pricing practices. The Central Bank does not expect firms to take a narrow view in this regard.

3.6 As part of the annual review, can a firm simply affirm it does not engage in price walking, in order to avoid the situation where an insurance undertaking or insurance intermediary that does not engage in price walking has to engage in time / cost resources to explicitly prove this?

All insurance undertakings and insurance intermediaries have a responsibility to ensure that they are compliant with relevant Regulations. If an insurance undertaking or an insurance intermediary has assessed its pricing policies and processes for all customers and can confirm on an annual basis that they do not engage in price walking then this could be assessed to be completion of the annual review requirement in this regard. However, the Central Bank expects firms to undertake a comprehensive review and not apply a 'tick box' approach to this exercise.

Firms should, however, note Regulation 11 (1) (c) (ii) where the annual review requires insurance undertakings and insurance intermediaries to carry out an annual review of their motor and home insurance pricing policies and processes for all customers to assess whether adequate controls are in place to ensure that any pricing models used do not impair the insurance undertaking's or insurance intermediary's obligation to comply with general principle 2.1 of the CPC.

Automatic Renewal Arrangements

4.1 What types of insurance are in scope of the automatic renewal measures?

The new Regulations in relation to automatic renewal arrangements apply to all non-life insurance policies meaning insurances of one or more of the classes falling within Part 1 of Schedule 1 to the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015) or Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994).

4.2 Do the automatic renewal Regulations apply to consumers?

The Regulations apply to automatic renewal arrangements in place for "consumers" as defined in the Consumer Protection Code.

4.3 Do the automatic renewal Regulations apply to arrangements entered into after 1 July 2022?

The Regulations apply to insurance policies entered into after the commencement of the Regulations, including renewals. The Regulations come into effect on 1 July 2022, which means that a ban on price walking in the motor and home insurance markets will apply from that date.

While we expect firms to be compliant with the Regulations by 1 July 2022, we acknowledge the challenges this may present for some firms with system, process and documentation changes, as well as difficulties arising from the holiday period. We therefore expect firms to have fully implemented the automatic renewals requirements by 1 October 2022.

4.4 Do the information requirements for automatic renewal cancellations only apply for consumers who have provided consent to an automatic renewal arrangement?

No. The information requirement in Regulations 13 and 14 apply to all consumers who hold a policy that automatically renews regardless of whether consent was provided.

4.5 The proposed options for consumers to opt-out of automatic renewal arrangements are through the mediums available for firms to conduct business. Can Webchat and email, for example, be used in this regard?

Yes. Insurance undertakings and insurance intermediaries are expected to offer the options available to consumers that they would generally use to conduct their business. If email and / or Webchat are commonly used in the course of conducting business then they can be used for opting out of automatic renewal arrangements. The aim is to make this process straightforward for consumers.

If an insurance undertaking or insurance intermediary generally uses phone, email and post for conducting business then these should also be the options available to consumers to opt-out of their arrangements. It would not be appropriate to accept opt-out only by one medium when the business is generally conducted across a range of mediums.

4.6 How should the information relating to automatic renewal arrangements be provided?

Information should be drafted in plain and intelligible language to ensure that consumers can make an informed decision about their insurance. It should also not be hidden in other content or difficult to find.