FINANCIAL REGULATOR
Rialtóir Airgeadais

Review of the Life Assurance (Provision of Information) Regulations 2001

September 2008

Consultation Paper | CP34

INTRODUCTION

A key element of the Financial Regulator's mandate of consumer protection is to help consumers make informed choices in relation to their financial affairs. This is reflected in the General Principles of the Consumer Protection Code where regulated entities are required to "make full disclosure of all relevant material information….in a way that seeks to inform the consumer".

Life assurance products help meet consumers' savings, investment and protection needs. Such products include life protection products, investment and savings products and pension products. Consumers tend to buy these products infrequently, which means that it is difficult for consumers to learn about them and gain experience and understanding of these products. Due to the long term nature of these products and the high financial outlay involved in many cases, the consequences of making the wrong decision can also be very serious for the consumer. Therefore it is important that consumers of such products receive meaningful and useful information both at point of sale and also on a regular basis throughout the life of the product.

In this consultation paper the Financial Regulator is seeking views on a proposed simplified disclosure regime for life assurance products, based on the existing Life Assurance (Provision of Information) Regulations, 2001. We propose to introduce a new format of disclosure to replace the existing disclosure documentation. The new proposed disclosure regime aims to be simpler and to present key information more clearly to consumers.

Consultation Process

The closing date for submissions is **Friday 10 October 2008**. Comments are invited on all aspects of the paper and you can suggest items for inclusion that are not already included. Please make your submissions in writing and if possible, by e-mail or on disk. You can post them, fax them or e-mail them to us.

We place a high value on the openness of the consultation process. We intend to make all submissions available on our website. For this reason we would ask you not to include any commercially or personally sensitive material in your submission. If you do include such material, please highlight it clearly so that we may take reasonable steps to avoid publishing that material. This may involve publishing submissions with the sensitive material deleted and indicating the deletions. In some cases it may not be possible to publish the submission at all. Despite the approach outlined above, we make no guarantee not to publish any information that you deem confidential. So be aware that, unless you clearly identify any commercially or personally sensitive information, you are making a submission on the basis that you consent to it being published in full. We will not publish any material that we deem potentially libelous.

Please clearly mark your submission 'Review of Life Assurance (Provision of Information) Regulations 2001' and send it to:

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CHAPTER 1

Life Assurance (Provision of Information) Regulations, 2001

The Life Assurance (Provision of Information) Regulations were enacted in 2001. The introduction of the Regulations was a significant development in consumer protection and was a precursor to other financial transparency initiatives, which were subsequently introduced.

These Regulations set out the information a policyholder must be provided with both prior to signing a proposal form and at policy cooling off stage. That information includes details such as the projected benefits, charges and commissions that will be deducted from the premiums paid, as well as other general information on both the product itself and the product provider. It also contains requirements setting out what annual information should be provided to a policyholder.

Research Findings

The 2005 Consultation Paper 9 (CP9) on the Review of Remuneration Structures and Transparency asked whether the information provided to consumers under the current life assurance disclosure requirements was considered useful to the consumer and easy to understand. In the responses received, the majority of respondents agreed that the volume of information provided should be reduced or consolidated. Suggestions included;

- A series of customised Key Features documents or one page standardised format,
- The use of "plain English",

- Emphasising the reduction in yield figure and
- The elimination of illustration tables for protection products.

Other suggestions included the provision of an annual statement and that products written under trust, such as occupational pension schemes, be included in the disclosure regime.

In late 2007 we commissioned independent consumer research to develop further understanding of consumer reaction to information provided to them under the Life Assurance (Provision of Information) Regulations 2001. The research comprised of in-depth interviews with thirteen consumers who had purchased protection and savings products in the last two years. The results of this consumer research suggest that the current presentation and format of the disclosure information can be improved upon – this reflects the feedback from CP9 together with anecdotal experiences, which have been expressed to the Financial Regulator. While this research is limited in its scope it is interesting to note the main findings:

- The disclosure documentation is not read on a widespread basis.
- Consumers tend to rely on either information provided to them by an advisor when selling them a product or their assumptions about these products.
- Knowledge gaps exist among consumers of investment products leading to incorrect expectations on investment performance.
- Disclosure documentation is viewed by consumers as additional small print, alongside other material provided by the product provider.

Chapter 2

General Issues Concerning Disclosure of Information

1. Role of the financial adviser

Consumers of financial products tend to rely more heavily on what they are told rather than on written documentation. Therefore it is important that financial advisers encourage their customers to read all documentation provided to them and to help verbally explain/interpret the contents clearly to their customers. By explaining the disclosure documentation to their consumers, advisers will help ensure that the product being sold to a consumer is suitable and that the consumer is not being misled as to the real or perceived advantages or disadvantages of a product.

2.1.1 How can financial advisers be encouraged to explain the disclosure material to their customers?

2.1.2 The financial adviser signs a declaration stating that the particular consumer has been provided with a copy of the material required under the 2001 Regulations. How useful is this declaration?

2.1.3 The consumer signs a declaration stating that they have received the information specified in the Regulations? How useful is this declaration? Could a checklist of what was discussed in relation to the disclosure documentation be incorporated into this declaration?

2. Disclosure of key features

The consumer should be fully aware of the financial needs the product proposes to address, the function of the product and the key features of the product, including any potential risks related to the product. The following questions are among those that a consumer could reasonably expect answers to:

- What is the purpose / aim of this policy?
- Who is this policy suitable for?
- What are the risks associated with this policy?
- What investment returns can I expect from this policy?
- Are investment returns guaranteed?
- What are my premiums invested in?
- What charges / fees are payable on this policy and what are these charges/fees for? How much of my money is actually invested?
- What are the tax implications of this policy?
- What happens if I cash in this policy early or stop paying premiums?
- How can I make a claim or encash this policy?
- Is the premium reviewable or is it fixed?
- Can the policy be cancelled or amended by the insurer?

In the present disclosure Regulations, there are sections which address some of these questions. The purpose of these sections is to provide the consumer with certain key information on the product they are purchasing. Under the current regime these sections are set out as follows:

Information about the policy

(1) Make sure the policy meets your needs

(2) What happens if you want to cash in the policy early or stop paying premiums?[1]

(5) Are returns guaranteed and can the premium be reviewed?

(6) Can the policy be cancelled or amended by the insurer?

(7) Information on Taxation Issues

The Financial Regulator invites views on the following:

2.2.1 Does the present layout of this section adequately communicate key/relevant information on the product to consumers? Is the question/answers format an effective way of communicating this information?

2.2.2 Using the existing format, are additional questions and answers required? If so, please provide an outline of such questions.

2.2.3 Is the information about the product already adequately communicated in product brochures or does it need to be restated separately in the disclosure documentation?

3. Use of plain language and clear presentation

The disclosure documentation should be designed to cater for all consumers, regardless of their knowledge and experience. This means that written documentation must be designed to cater for those with a very limited existing knowledge of financial products.

The Financial Regulator proposes that the disclosure documentation be written according to the following principles:

- Avoidance of legal or financial jargon where possible.
- Use of simple examples, tables and graphics to illustrate concepts.

[1] Sections (3) and (4) of the Regulations contain information on the projected benefits and charges and details on intermediary remuneration.

- Use of bold headings and white space to make the document easier to read and navigate.

Where jargon or financial terms are deemed unavoidable, these terms should be fully explained, perhaps in an attached glossary to the documentation.

2.3.1 We would welcome your comments on the proposal outlined above.

4. Layout of Disclosure to reflect complexity of information

The Financial Regulator proposes that in terms of document layout, the predominantly textual information should be included at the start of the documentation with the more complex, numerical based information such as the tables of illustrative benefits and charges and information on commission, later in the documentation. This should mean that the consumer has a clear understanding of the product before being presented with the numerical information.

2.4.1 We would welcome your comments on the proposal outlined above.

5. Other possible duplication of information

In the existing disclosure Regulations, there are sections on the following:

B. Information on Service Fee

C. Information about the Insurer or Insurance Intermediary or Sales Employee

Information on the firm should already have been provided to the consumer in the Terms of Business document as should information on any service fee charged by an intermediary. We invite your views on the following.

2.5.1 The Financial Regulator questions whether this information is required to be included in the disclosure documentation, if it is already adequately communicated to consumers elsewhere.

2.5.2 Should this section be limited to information about the insurer only?

Chapter 3

Main Proposed Changes

1. Customise disclosure according to product type

Under the present disclosure requirements, all products are treated similarly with the same layout applying to all products from relatively simple products, such as mortgage protection, to more complex products such as investment bonds.

The Illustrative Tables of Projected Benefits and Charges (Table A) outlines the projected performance of the product from an investment point of view. However the present requirements do not distinguish between products, which may offer a surrender value and other products such as term assurance or mortgage protection which do not at any stage have a surrender value. This only serves to lengthen the disclosure document unnecessarily with little or no benefit to the consumer.

The Financial Regulator proposes that the Illustrative Table of Projected Benefits and Charges and information on the Reduction in Yield be shown only where the policy offers the prospect of a surrender value. This would mean that the documentation for mortgage protection, term assurance and similar products, which do not have a surrender value, would not have to include this Table or have to include a Reduction in Yield figure. This should significantly shorten and simplify the required documentation for such products.

3.1.1 We would welcome your comments on the proposal outlined above.

2. Proposed changes to commission disclosure

The Financial Regulator proposes to remove the current option to present a second table of remuneration, as we believe that the benefit of showing more than one table of commission is questionable.

Currently, there is no distinction between the format for commission disclosure for products with an investment element and risk only protection products which do not have potential surrender to maturity values.

3.2.1 Is there justification in showing more than one table of remuneration or is the inclusion of one table sufficient?

3.2.2 Should commission for protection only products, which do not have an investment element, be disclosed differently than commission for investment products? What justification is there for a separate form of disclosure? What format should such disclosure take?

3. Reduction in Yield

The Reduction in Yield (RIY) is a measure of the impact of the charges and expenses relating to a product on investment performance. It is shown as percentage figure - the larger the RIY, the higher the charges in a particular product. While the RIY figure is currently provided to policyholders as part of the existing disclosure requirement, it can be obscured in the notes beneath the tables containing the illustrated growth. In addition it is unlikely that consumers understand what the term “reduction in yield” actually means.

The Financial Regulator considers this to be an important and useful piece of information for consumers as it is one that the consumer can use to compare the impact of charges between different products.

We propose to increase its prominence in the disclosure document by requiring that it is placed before the Illustrative Table of Projected Benefits and Charges. We recommend that a “plain English” explanation of what the RIY should be included, together with a sentence explaining to the consumer that the RIY figure can be used to compare products.

We suggest the following explanation:

> **The Reduction In Yield (RIY) percentage is an indication of the impact of charges on the investment growth of your policy. The higher the RIY, the higher the impact of charges will be on your policy, and so the lower the growth potential of your fund.**

The growth rate used in calculating the RIY should be the same as that used in the Illustrative Table of Projected Benefits and Charges.

At present each Illustrative Table of Projected Benefits and Charges is accompanied by a single Reduction in Yield figure. As the impact of charges can vary across the projected life of a policy, we are considering showing RIY figures for the end of each 5 year period – this was suggested in some responses to CP9. This could be shown in a Table format.

3.3.1 The Financial Regulator welcomes suggested formats for explaining the Reduction in Yield.

3.3.2 Is the actual phrase “Reduction in Yield” confusing and is there a better phrase to express the concept? We welcome your views.

3.3.3 Would it be beneficial for consumers to be provided with RIYs for each 5 year period?

4. Rates of investment growth for the Illustrative Tables of Projected Benefits and Charges

The current disclosure regime requires that an illustration be shown at a percentage not to exceed 6% and a second illustration can be provided using a rate 2% more than the original figure. The Society of Actuaries Standard of Practice LA-8, sets out how the assumed growth rates for the Illustrative Tables of Projected Benefits & Charges should be calculated.

The Financial Regulator has concerns that the use of such a limited number of illustration rates could create an expectation for consumers that such a growth rate is what they can expect from the product they will potentially invest in. By using a wider range of illustration rates in the table, this reinforces the fact that investment growth is not guaranteed and that a wider range of outcomes is possible.

The Financial Regulator proposes that the encashment value at the end of a set number of years be shown for a wider range of possible investment outcomes. The Financial Regulator proposes that as well as the primary rate, outcomes for rates 2% p.a and 4% p.a. below the primary rate be used. In addition, for products where the initial capital is not guaranteed throughout the term of the product, a projection at a negative rate of growth of –2% p.a should also be shown. This would reinforce the message that negative investment returns are possible.

It needs to be stressed to consumers, both verbally and in the documentation, that there is a range of outcome possibilities, that the growth rates shown are not guaranteed and that actual investment growth will depend on the performance of the underlying investments and that the value of investments may fall as well as rise.

These additional encashment values could be shown as a separate table to the existing Table A. The following table shows an example of this where the primary rate used is 6% and where the product does not offer a capital guarantee.

Investment Return per annum	**-2%**	**2%**	**4%**	**6%**
Encashment value after 5 years	€	€	€	€
Encashment value after 20 years	€	€	€	€

We are recommending that the present option of including a second full illustrative table at a growth rate higher than the primary one be removed as it only lengthens the document with no discernable benefit for the consumer.

3.4.1 The Financial Regulator invites your comments on the proposals outlined above.

5. Layout of the Illustrative Tables of Projected Benefits and Charges

Under the present disclosure requirements, the Table of Projected Benefits and Charges contains rows for each of the first 5 years following policy inception, and for years 10,15 and 20 following inception, and at maturity, as appropriate. Potentially the table can have up to 9 rows of data.

3.5.1 Is there scope for reducing the numbers of years for which information is provided in the table? If so, how many years and which particular years should be shown to provide meaningful information to the consumer?

Chapter 4

Other Key Issues

1. Inclusion of Pension Products (Occupational Pension Schemes) under the Disclosure Requirements

Pension schemes written under trust (Occupational Pension Schemes) do not fall under the 2001 Regulations. Under the terms of the Pensions Act 1990, trustees of pension schemes are required to give information to scheme members about their pension entitlements. In 2006 disclosure regulations for such products were introduced. These Regulations outline what information is required to be provided by trustees of pension schemes to their members. Similarly Personal Retirement Savings Accounts (PRSAs) have a well-developed disclosure regime already in place.

One of the main areas of difference between the disclosure regimes for different pension products is in the area of commission. Commission disclosure is not required for Occupational Pensions Schemes.

The Financial Regulator invites views on the following:

4.1.1 Would the extension of the Life Disclosure Regulations to Occupational Pension Schemes benefit consumers or is the present disclosure regime for such pension schemes sufficient?

4.1.2 Many responses to CP9 indicated that commission/remuneration disclosure should be extended to occupational pension scheme policies.

Should such disclosure mirror the present life disclosure requirements? If not, what changes to the existing commission/remuneration disclosure should be made for occupational pension schemes?

2. Provision of an annual statement for all policyholders

Under the current requirements (Section 9.(1) (a)), the insurer has to provide to the policyholder details of the annual surrender/maturity value and details of the current premium payable where the policy has a surrender or maturity value.

For policies that do not have a surrender value, the present Regulations do not require an annual statement. So for consumers who have policies such as mortgage protection or life assurance or other similar risk policies there is no regular communication from the firm to the policyholder. By having access to an annual communication from the insurer in the form of a statement, consumers would, at a minimum, be reminded that they have such policies in place and would be encouraged to monitor their policies and to be more proactive with their finances.

The Financial Regulator considers that, in order to make informed decisions, the consumer needs to be provided with more than just the current surrender value. This viewpoint is reflected in Chapter 6 of the Consumer Protection Code - Investment Products, where a format of an annual statement is set out. However as this Chapter does not apply to insurance products, we are of the view that the Regulations should be expanded to include an annual statement similar to that contained in the Code.

4.2.1 The Financial Regulator invites views on whether the following information should be provided to policyholders on a yearly basis on the policy anniversary;

- Opening policy surrender value
- Amount paid in by policyholder in the year
- Details of charges related to risk benefits deducted in the year (if any)
- Other charges deducted in the year
- Investment Growth in the year
- Closing policy surrender value
- Details of risk benefits covered (if any)

Where a policy does not have a surrender value, the information provided can be amended accordingly to reflect the particular type of product. A product with no potential surrender value would only require to show details of any risk benefits and the amount paid in to the policy during the year.

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