



Intermediary Times

Special
Edition

August 2018

Welcome to the Intermediary Times

This special edition of the Intermediary Times contains important information on the Insurance Distribution Directive (Directive 2016/97/EU) (the “IDD”).

The IDD:

- Regulates the way insurance products are designed and sold both by insurance intermediaries and directly by insurance undertakings;
- Specifies the information that should be given to consumers before they sign an insurance contract;
- Imposes certain conduct of business and transparency rules on distributors;
- Clarifies procedures and rules for cross-border business; and
- Contains rules for the supervision and sanctioning of insurance intermediaries and insurance undertakings, for breaches of the provisions of the IDD.

For queries on the topics outlined in this newsletter, or any other queries, please see the main contact points on page five. We hope that you find this newsletter useful and as always, we welcome your [feedback](#).



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Contents

Introduction	1
Insurance Distribution Directive	2
Contact Details	5

Insurance Distribution Regulations

The IDD was transposed by the European Union (Insurance Distribution) Regulations 2018 (the “IDR”) and was signed into law on 27 June 2018. It will come into effect on 1 October 2018. The IDR replaces the European Communities (Insurance Mediation) Regulations 2005 (the “IMR”) with the objective of creating a level playing field across all parties selling insurance products. It amends the scope of the IMR to cover insurance companies and other businesses that sell insurance, as opposed to only insurance intermediaries. It also introduces new and/or enhanced rules for the protection of consumers. A number of these requirements already apply under existing regulatory requirements.

Some of the key requirements for insurance intermediaries contained in the IDR relate to:

- Registration Scope Changes
- Professional Indemnity Insurance
- Remuneration
- Cross-selling
- Product Oversight and Governance
- Additional Requirements for Insurance-Based Investment Products
- Tied Agents

These requirements are discussed in detail below:

Registration Scope Changes

The IDR has introduced a number of changes from the IMR in terms of the activities that require registration:

- **Change in the Definition of “Insurance Distribution”:** The definition of “insurance distribution” under the IDR differs from the definition of “insurance mediation” under the IMR. Insurance intermediaries should consider whether their current insurance mediation activities remain within the scope of the IDR. For example, this change may affect “referral only” activities. Insurance intermediaries should seek legal advice if they are unsure as to whether their activities require registration under the IDR, or if they are unsure as to how they should comply with the relevant registration requirements. If an insurance intermediary determines that its activities no longer remain within the scope of the IDR, it should seek to revoke its registration – the revocation form can be found on the Central Bank’s [website](#).

Did you know?

The IDR will come into effect on 1 October 2018.



Existing Registrations under the IMR

Insurance intermediaries who hold an IMR registration on 1 October 2018 will continue to be registered under the IDR, other than where the registration has been withdrawn by the Central Bank.



Consumer Protection Principles

The IDR introduces general consumer protection principles for all insurance intermediaries to act honestly, fairly and professionally and in accordance with the best interests of the customer.

- Change to the Investment Intermediaries Act, 1995 (“IIA”):** The IDR makes a number of amendments to the IIA. One of the key changes is the removal of “insurance policies” from the definition of “investment instruments” within the meaning of Section 2 of the IIA. If an insurance intermediary holds its IIA registration to provide insurance policies only, in addition to its IDR registration, it should voluntarily revoke its IIA registration – the revocation form can be found on the Central Bank’s [website](#).
- Ancillary Insurance Intermediaries:** Ancillary insurance intermediaries have a principal professional activity other than insurance distribution and provide particular insurance products that are complementary to a good or service. While the activities of ancillary insurance intermediaries are exempt from the IDR in a number of instances, the IDR now allows ancillary insurance intermediaries who do not meet the criteria for an exemption to register as an ancillary insurance intermediary.
- Website Comparison Operators:** Insurance distribution also includes activities relating to the provision of information on insurance contracts through a website where customers are able to directly or indirectly conclude an insurance contract using a website or other media. This may mean that some comparison website operator activities fall within the scope of the IDR.

Professional Indemnity Insurance (“PII”)

Under the IDR, insurance intermediaries are required to hold ring-fenced PII covering the whole territory of the Member States or some other comparable guarantee against liability arising from professional negligence.

EIOPA completes regular reviews of the levels of PII cover required in order to take account of changes in the European index of consumer prices. Such a review commenced in 2018 and insurance intermediaries registered under the IDR should be aware that PII levels will be revised upon the conclusion of the EIOPA review.

Remuneration

Insurance intermediaries must not incentivise or remunerate the performance of their employees in a manner that would conflict with their duty to act in the best interests of customers. Insurance intermediaries are also required to disclose to the customer the

Did you know?

Insurance policies are no longer included in the definition of “investment instruments” under the IIA.



Professional Indemnity Insurance

PII levels are currently under review by EIOPA and will be revised upon the conclusion of the review.



Definition of “Insurance Distribution”

Insurance intermediaries should seek legal advice if they are unsure as to whether their activities require registration under to the IDR. If an insurance intermediary determines that its activities no longer remain within the scope of the IDR, it should seek to revoke its registration.

nature of any remuneration received in relation to an insurance contract in good time before the conclusion of the contract.

Cross-selling

Where an insurance intermediary offers an insurance product together with a non-insurance product or service, the insurance intermediary must inform the customer whether it is possible to buy each product separately and, if so, must provide the customer with a description of the insurance and non-insurance products and the costs and charges of each product.

Product Oversight and Governance

Insurance undertakings and intermediaries that manufacture any insurance product for sale to customers are required to implement product oversight and governance processes prior to distributing or marketing an insurance product to customers. All manufacturers must identify a target market for each product to ensure that the relevant risks to that target market are identified, assessed and regularly reviewed. An insurance intermediary which distributes products on behalf of a manufacturer must have adequate arrangements in place to obtain and understand the product approval process of the manufacturer.

Additional Requirements for Insurance-Based Investment Products

The IDR enhances information and transparency requirements for insurance-based investment products including the duty to act in the best interest of customers. There are also stricter remuneration disclosure and conflict of interest requirements and provisions relating to the form and extent of information and advice provided.

Tied Agents

Under the IDR, an insurance intermediary can appoint another intermediary to act as a tied insurance intermediary on its behalf. The intermediary must take responsibility for the activities of the tied insurance intermediary and ensure that it can meet the conditions for registration set out in the IDR. Intermediaries must apply to the Central Bank to appoint a tied insurance intermediary. The application form will be available once the IDR comes into effect.

Conclusion

The IDR will significantly raise the minimum standards of the IMR. It is critical that all insurance intermediaries consider the implications of the IDR in advance of the 1 October 2018 operational date and ensure continued compliance thereafter.

Did you know?

Under the IDR, a target market must be identified for each product to ensure that the relevant risks to that target market are identified, assessed and regularly reviewed.

Knowledge and Competence

The IDR includes expanded requirements around knowledge and competence of insurance intermediaries and their employees, including a requirement to complete at least 15 hours of professional training or development per year. This requirement has been included in the revised Minimum Competency Standards.

Ongoing Compliance Obligations

The Consumer Protection Code and all other Statutory Requirements, including the Minimum Competency Standards and Fitness & Probity Regime, continue to apply.

Central Bank Query	Central Bank Division	Central Bank Contact
Consumer Protection: Retail Intermediaries – Authorisation queries Retail Intermediaries – Supervision queries Retail Intermediaries – Revocation queries Retail Intermediaries – Post Authorisation queries	Consumer Protection	RIAuthorisations@centralbank.ie brokers@centralbank.ie revocations@centralbank.ie postauthorisations@centralbank.ie
Consumer Protection: Policy Policy queries Minimum Competency Code	Consumer Protection	code@centralbank.ie competency@centralbank.ie
Queries for other Central Bank Divisions:		Website
Anti-Money Laundering/Countering Terrorist Financing	Anti-Money Laundering	AMLpolicy@centralbank.ie
Fitness and Probity: Individual Questionnaire queries	Regulatory Transactions	fitnessandprobity@centralbank.ie
Funding Levy	Financial Control	funding@centralbank.ie
Online Reporting queries	Regulatory Transactions	onlinereturns@centralbank.ie

