Banking & Payments Federation Ireland

CP116 - Intermediary Inducements

22 March 2018

Banking & Payments Federation Ireland

www.bpfi.ie

Contents

Introduction 3

Responses to Questions 5

Additional Comments 22

Concluding remarks 23

Appendix

1. Introduction

Banking & Payments Federation Ireland (BPFI) represents over seventy domestic and international institutions. We welcome the opportunity to respond to the Central Bank of Ireland (CBI) consultation on Intermediary Inducements, Enhanced Consumer Protection Measures (CP).

We provided a response to the Discussion Paper on Payment of Commission to Intermediaries published by the CBI in 2016. In the response, we outlined the industry view on the role of an intermediary channel in the retail financial services market, including the important part it can play in ensuring that consumers make informed decisions regarding their finances. The CBI has a key role in overseeing the provision of advice and the transparency of any costs associated with such a service through the regulation of the intermediary sector.

We would highlight in particular the important role that the intermediary channel can deliver in the area of competition in the financial market. In particular, the channel provides an opportunity for potential new entrants /existing providers to access the market. The recent entry of Dilosk to the mortgage market is an example of such activity. We would be concerned that a lack of proportionality to the application of new measures would introduce barriers to entry to potential new entrants to the Irish market. In our view, appropriate financial regulation is welcome ensuring the balance between consumer protection, financial stability and sustainable competition.

Significant changes have been implemented by Members since the introduction of the Consumer Protection Code (Code) in 2006 and the continuous enhancements to the regulatory oversight framework including:

- Minimum Competency Code (MCC),
- Guidelines on the Variable Remuneration Arrangements for Sales Staff (GVR)
- Fitness and Probity (F&P)

We have also seen a host of European regulatory changes implemented by Financial Services firms covering Mortgages, Insurance and Investments.

We have serious concerns about the proposal to impose a 'MiFID' standard, which was developed for a suite of complex investment products, on relatively simple retail products. We understand that this matter has been recognised by the European Commission and the

European Supervisory Authorities through the differing approaches to financial products by way of the MiFID, Mortgage Credit Directive (MCD) and Insurance Distribution Directive (IDD).

The application of a different regulatory standard in the Irish market compared with other jurisdictions would lead to additional challenges for potential new entrants as well as placing further barriers to the objectives of a single market for financial services in Europe. In the subsequent pages of this document we have detailed the unintended consequences of such a proposal.

The proposals for changes to the basis of calculating commission paid for mortgages is of particular concern to the industry. From our examination of the operation of mortgage intermediary channels in a wide range of financial markets including Australia, New Zealand, UK etc., we observe that the basis of any commission paid is the size of the loan. An extensive examination of the process has been recently undertaken in Australia and this study highlights the challenges of moving to an alternative process. The negative impacts on both competition and consumer outcomes are highlighted in the findings.[1]

Finally, we would also stress the importance that the provisions of the Code cater for the differences between single/tied and multi-agency intermediaries, in regards to conflict of interest and transparency. It is vital that the Code clearly specifies which requirements are applicable to whom. We would welcome the opportunity to discuss this issue during the consultation process.

---

[1] Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration

2. Response to Consultation

Question 1

We propose amending the Code to specify that, in order for inducements to be acceptable, they must:

- *be designed to enhance the quality of the relevant service to the consumer;*
- *not have the potential to impair the intermediary's obligation to act honestly, fairly and professionally in accordance with the best interests of the consumer; and*
- *not have the potential to impair the intermediary's obligation to satisfy the suitability requirements set out in Chapter 5 of the Code.*

Do you see any reasons why the Code should not be amended as set out above?

We appreciate and understand the regulatory importance of ensuring responsible business conduct, fair treatment of consumers and the avoidance of conflicts of interest. We are also cognisant of the desire to ensure, where possible, an alignment and level playing field between Irish and European Regulatory requirements in relation to payment of commission.

We have concerns however, with the proposal to amend the Code to align with the MiFID 2 standard. MiFID Requirements regulate a suite of complex investment products and we have strong reservations about applying this approach to the suite of relatively straightforward products such as general insurance and mortgages. In our view, the application of a 'MiFID' standard to other products lacks proportionality and is not aligned with the approach in other European jurisdictions.

In addition, we are unclear as to how the requirements to meet the first part of the proposal *'be designed to enhance the quality of the relevant service to the consumer'* will be implemented and managed in practice. For example, if a service offered by an intermediary is not "enhanced" and is a 'business as usual' interaction, how will the intermediary be compensated for their time / effort? As a further example, in the mortgage market how would an independent broker with access to a wide range of product producers demonstrate the provision of an "enhanced" service? This would be even more difficult for a tied-agent/retail credit firm.

We would be keen to establish how "enhanced" can be measured and demonstrated along with whether a benchmark will be set by the CBI. There may also be a need to examine the various cohorts of products as there are significant differences in complexity between the various categories.

We are mindful that due to Competition Law requirements, financial services firms, including intermediaries, will not be in a position to discuss and agree any matters relating to commission payments.

Where the intention is to prevent intermediaries from receiving commission payments unless they provide an "enhanced" service, this may result in an unintended negative consequence whereby the number of intermediaries operating in the market reduces. A further consequence could be that the remaining intermediaries reduce and/or eliminate products from their offering, which would then reduce the amount of choice available to consumers. Both of these potential unintended consequences could create an 'advice gap'.

At present, based on the choice of consumers, the intermediary can provide access to a range of products and services which are sold in a transparent way, and which meet existing Code requirements. It would also be important to preserve the Intermediary's professional approach to ensuring the suitability requirements are met as set out in the Code.

In a tied agency arrangement, the IDD requirement of 'not being detrimental to the quality of the service' should suffice as there is no conflict of interest where the intermediary is choosing to put business with one provider over another. In a tied agency arrangement, typically the product manufacturer will provide numerous functions (marketing, training, use of software, quality monitoring, additional support staff etc.) where it will not be practicable to evidence how each of these "enhances" the service. Should this requirement become too onerous the tied agent business model could become unworkable.

In our view, the IDD standard is the most appropriate for 'non MiFID' products as the payment of commission by the product producer is not detrimental to the consumer and does not impair compliance with the firm's duty to "act honestly fairly and professionally in the best interests of the client".

Question 2

Do you see any reason why, for example, insurance intermediaries should not be subject to the requirement that inducements must enhance the quality of the service rather than the requirement that an inducement is not detrimental to the quality of the service as is required under the IDD? If so, please set out those reasons.

For the reasons and concerns outlined above under Question 1, it is our view that the IDD standard rather than the MiFID 2 standard should be adopted.

We are concerned also about the disproportionate burden that may arise in demonstrating service enhancement for "back books" e.g. where trail commission arrangements are in place. Should the requirement to demonstrate service enhancement extend to 'back books', there is a risk that intermediaries will be disproportionately affected through loss of revenue streams, which were appropriately priced at the time to remunerate intermediaries for their services.

Question 3

Do you agree with the conditions in schedule 5 of the MiFID Regulations 2017, as set out above, that describe how an inducement enhances the quality of the service? Please explain your answer

We believe that the higher standards in MiFID 2 were designed to apply to the more complex products that fall within its scope. At a European level, insurance products are deemed not to fall within this category and are exempt from MiFID. On that basis we do not believe that it is appropriate that non-MiFID products are held to a MiFID 2 standard, and that the IDD standards are more appropriate for non-MiFID products.

Question 4

What other examples do you consider would enhance the quality of the service? Please set out those examples in detail.

No comments at this time.

Question 5

Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.

In order to provide a more detailed response it would be necessary to understand the basis on which any commission payments will be made. For example, will they be paid only in the cases of an "enhanced" service or will they get paid for the 'business as usual' service plus extra for an "enhanced" service. Clarification on this point would be helpful in order to assess the full impact of any proposal.

However, below are some examples (non-exhaustive) of what should be considered when implementing any commission structure that takes into account an "enhanced" service:

- Standards will need to be drawn up to define what "enhanced" looks like from a day to day point of view by product (i.e. fixed or. variable mortgage);
- Intermediaries (small and large) will need to collate evidence as to how they meet the "enhanced" requirements in each case;
- Product producers will need to have sight of this evidence on a case by case basis in order to pay the commission; and
- Product producers & intermediaries will need to build further rules in their IT infrastructures to take into account new commission payments rules.

The proposed amendments would impact all intermediaries and product producers, regardless of size. For smaller firms, managing the new requirements as outlined above could lead to a significant increase in operating costs, which would make their business untenable. Larger firms would also see increased costs due to the nature of the changes proposed.

We would be keen to discuss these matters with CBI representatives in more detail during the consultation process in order to support a greater understanding of the issues raised and evidence available to support the need for such proposals. This would also lead to the development of a proportionate solution to any issues identified.

Question 6

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

As outlined above, there is a concern that an inability to meet the "enhance" the service quality could result in the following:

- compel certain intermediaries to leave the market,
- reduce the number of products intermediaries are willing to advise on or
- create a scenario where some cohorts of consumers are no longer attractive as the commission level would not match the work required.

In our view, this would create an 'advice gap' and would not be a positive outcome from a consumer perspective. Intermediaries currently offer choice, market wide advice, and expanded access to products and services.

It may also emerge that consumers select to use more 'direct channel' options thereby removing the ability to avail of independent advice before undertaking a financial transaction or product purchase.

Question 7

Do you have any views on the proposal that inducements contingent on achieving targets that do not consider the consumer's best interests, including profit targets, volume targets, and targets linked to business retention, are deemed to be conflicts of interest and must be avoided? Please explain your answer.

In principle we agree that commission payments from third parties contingent on receiving targets that do not consider the customer's best interests including those linked to profit targets and targets linked to business retention, are deemed conflicts and must be avoided. We understand that these types of commission payments are not currently a feature of the mortgage market and apply in a limited number of product areas at present. The Code includes requirements that intermediaries must adhere to in order to manage any such remuneration.

However, additional commission payments linked to on-going service to the consumer by the intermediary should be retained and be available as an option for product providers. This

would include the normal 'claw back' arrangements built into Manufacturer / Distributor commission models which are designed to protect the customer by

a) ensuring that they receive on-going service, e.g. for protection products where an up-front fee is followed by 7-10 years trail commission, and
b) protecting against unnecessary "churn" in a short period of time, which can be detrimental to the stability of the financial market.

Question 8

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer

The exclusion of specific 'claw back' arrangements would be in direct contradiction of the CBI's '**Guidelines on Variable Remuneration Arrangements for Sales Staff'** which described them as an example of good practice. This could result in a reduction in the existing consumer protection measures available, as highlighted in our response to Question 7 and would be detrimental to the consumer.

Question 9

Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail.

No comments at this time

Question 10

Inducements linked to the size of a mortgage loan will be deemed to give rise to a conflict of interest and, therefore, must be avoided. Do you have any views on the above proposal? Please explain your answer

The mortgage intermediary market is currently operating on the basis of a percentage rate of commission which is paid by those lenders who have chosen to operate through this channel. We also understand, based on a review of mortgage markets in other jurisdictions, that this is a standard approach to the payment of intermediaries for the work undertaken in

preparing an application on behalf of consumers. In our view, this market practice is working well and does not lead to a conflict of interest for the following reasons:

a) The intermediary has no influence on a Lender's credit policy nor the credit decision process that determines the loan amount approved for the consumer
b) The consumer's financial status and established affordability are also contributory in determining the loan amount
c) The property being purchased limits the corresponding loan amount within the Lender's credit policy and the CBI Macro Prudential regulations
d) Applications are examined under one central underwriting process, regardless of the channel selected by the consumer
e) Part of the intermediary's role is to advise the consumer on the most suitable mortgage product available to them which incorporates the most affordable mortgage therefore linked to the most favourable rate in the market – this has no influence on the amount of the commission
f) The house purchase journey is such that consumers, when house hunting, are required to know what the maximum loan amount they qualify for in order to make fully informed offers on their chosen properties
g) Where a commission payment is based on the size of the mortgage loan it creates an uniform approach and makes it more transparent for the consumer
h) The risk based pricing models currently being used by most mortgage Lenders also act as a disincentive to consumers to over borrow as higher loan to value ratios attract higher rates of interest and ultimately higher repayments
i) Over time, the levels of commission paid to mortgage intermediaries have converged so the market has arrived at a fair point. It is likely that any intervention in the market may force differential bases for the calculation of commissions and create a problem that does not currently exist thereby attracting Intermediaries to the highest payer. This is likely to be a short/medium term disruption as ultimately market prices will move to establish a new 'norm'.

The existing oversight framework, along with the changes to credit policy to ensure sustainable and responsible lending models are in place, emphasises the point that the current model is not detrimental to consumers and, in fact, is operating fairly and satisfactorily.

We also understand that as lenders offer similar commission payment rates, rather than competing with differing rates, the potential detriment to consumers of uncertainty with

regard to commission levels is currently avoided. Requiring mortgage lenders to formulate and implement fundamentally different models is likely to increase consumer uncertainty and lessen transparency.

When we look to the UK Market, where intermediaries account for c 75% of activity, we observe that commission payments to intermediaries were retained and are linked to the mortgage loan amount. As we have previously outlined in our response to the CBI Discussion paper a key concern in the UK was the fear that an "advice gap" could emerge, hence the reason for the retention. This example points to the fact that the UK market is not moving away from the payment of commission to mortgage intermediaries and in fact is taking steps to maintain this model. The evidence suggests that this model encourages product innovation and best advice for the consumer.

A suggestion which may alleviate concerns with the current model of commission payments based on size of a mortgage loan would be to have the customer sign a document to confirm that they were not induced to borrow more than specified in their mortgage application. This proposal would reduce the risk of any perceived conflict of interest that the customer may have borrowed more than they needed.

Question 11

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

We have identified a number of concerns in relation to the proposal and they include:

- Alternative options that remove the commission payment linked to the size of the mortgage loan may result in an upfront fee being applied to the consumer creating a further financial commitment in the purchase of their new home.
- It may also impact consumers switching their mortgage for a more favourable rate when the additional cost is factored into the switching process.
- This in turn may result in negative consumer behaviour by creating an environment that encourages consumers to avoid the services of intermediaries and thereby limiting their access to best advice
- Potentially, under a new model where commission is not based on a percentage of loan size, intermediaries may only seek low value, less complex business, as there

would be no incentive to engage with higher value business, which could be seen to be more complicated e.g. LTV exceptions, Self-employed etc.

- A reduction in the number of intermediaries active in the market place.
- An active intermediary market with emphasis on choice and advice for consumers is critical to ensuring that an "advice gap" is not created by only having tied or owned networks providing their individual products. It is vital that the structures which allow growth of competition in the market place are promoted to ensure that consumers continue to have the widest possible choice for advice and products.

In our view, it is difficult to examine the potential unintended consequences of this particular proposal in the absence of details on any alternative models that could be introduced in the mortgage market. However, we have looked to work underway in other jurisdictions and the 'unintended consequences' of alternative remuneration models were recently identified by participants in the mortgage market in Australia[2], where intermediaries account for more than 50% of mortgage lending. These findings were published in the response to a comprehensive review of mortgage broker remuneration last December and details are included in the appendix.

The benefits of the current operating model include:

- Simple, clear and transparent commission structure which is easily communicated to consumers. A change to the current structure may become over-complicated and difficult to explain to consumers.
- Flexible pricing for financial institutions which means the commission cost is consistent with the level of business completed. Commercially this allows institutions to sell mortgages of all sizes through the intermediary channel. If fixed commission structures were to be introduced this may limit the range of mortgages amounts and products that intermediaries could advise customers on.
- Flexible pricing for intermediaries which reflects the property market and cost of operating in their location. If fixed commission structures were introduced this could lead to disparity in the relative value of commission payments intermediaries receive and lead to reduced numbers of intermediaries to advise customers in some areas or increase additional charges directly to consumers. For example, a flat fee of €2,000

[2] Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration

per mortgage might cover the cost of operating in a rural area but not in large urban areas.

Question 12

Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail.

As indicated in our response to Question 10, we believe that there may be short / medium term impacts and indeed some confusion in the market during the introduction of varying approaches and alternative remuneration models. However, over time there is likely to be a move by all participants to a new 'norm' in order to achieve consistency and transparency. Some of the practical issues identified in the Australian market may also be relevant in the Irish market when examining alternative models.

In addition, any new commission structure will need to be communicated to a large number of intermediaries with a high likelihood that there will be a level of confusion / misunderstanding in the early stages of implementation. This period of uncertainty and misunderstanding could result in poor consumer outcomes.

Further to the response provided in Question 6, more detail is required in relation to the definition of "enhanced" quality of the service as this interpretation could impact single tied and 'multi agency' intermediaries in different ways.

As is the case for any change in processes, there would need to be adequate lead in times to address the implications for procedures, compliance, regulation, legal and IT systems in Financial Services Firms in order to implement a new model of remuneration.

Question 13

Do you have any views on the proposed deletion of provision 3.36 of the Code, relating to soft commission agreements? Please explain your answer.

In our view, financial support provided by lenders to intermediaries for compliance education and training that leads to better outcomes for consumers is important and is not likely to

raise conflicts. This can also be undertaken while ensuring that such support is not based on any criteria regarding volumes of business and is open to all regulated intermediaries.

We would welcome the opportunity to discuss the impact of this deletion and to understand the definition of 'minor monetary benefits' and also what is considered 'reasonable' within the context of the Code.

We oppose the assertion that soft commissions are automatically deemed to give rise to a conflict of interest. For example, if a product producer undertakes marketing on behalf of tied agents we do not see where the conflict arises. Similarly, if an intermediary uses a product producer's software in a tied agent model, we do not see how a conflict arises.

Question 14

An intermediary may not recommend a product to a consumer as being the most suitable product from a range where there are different levels of inducement offered for the range of products involved. Do you have any views on the above proposal? Please explain your answer.

We note that where an intermediary recommends a product to a consumer they can only accept the lowest commission payment within the range. We also understand that some intermediaries currently have practices in place to ensure that there is no detriment to the consumer in relation to the recommended product. In our view, the proposal could significantly and negatively impact the market as limiting the maximum remuneration an intermediary may receive in this way could allow the reduction of commission payments offered by one provider in the range to introduce a 'de facto' market cap on commission. This may leave the market open to intended or unintended manipulation by individual product providers.

Question 15

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal, including any impact on consumer choice? Please explain your answer

In our view, this proposal may allow individual providers to manipulate the levels of remuneration available to intermediaries, a ‘de facto’ market cap where that institution reduces their own commission payment levels. This could have significant impacts on advice and transparency for consumers, competition in the market and the sustainability of intermediary business models.

Question 16

Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail

From a practical perspective it may be operationally difficult for product providers and/or intermediaries to ensure that the commission paid does not exceed that of the lowest available. This difficulty is compounded if the lowest available commission can be decided independently by individual product providers.

Question 17

Do you have any views on the proposal that a written conflicts of interest policy should also specify procedures to be followed, and measures to be adopted, by the regulated entity, in order to avoid conflicts of interest relating to inducements? Please explain your answer.

Our Members currently have a written Conflicts of Interest policy in place as set out in the requirements of Consumer Protection Code 2012. Where applicable, this policy also covers the requirements related to any engagement with intermediaries and the avoidance of conflicts of interest. In our view, a “one size fits all approach” could be difficult to apply and it may result in a specific policy for each category e.g. Investments, Mortgages, Insurance etc. We would welcome the opportunity to clarify the scope of this proposal with CBI representatives during the consultation phase.

Question 18

Do you have any views on the proposal that records must be retained to demonstrate how conflicts of interest arising from inducements have been avoided for each transaction?

We have concerns about the requirement to ensure that records must be retained to demonstrate how conflicts of interest have been avoided for each transaction. This could be particularly cumbersome and result in a focus on paperwork rather than customer service matters. We would welcome an understanding of what constitutes "each transaction" and whether it relates to each sales engagement. We would again welcome the opportunity to clarify the scope of this proposal with CBI representatives during the consultation phase.

Question 19

Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.

There could be significant record keeping requirements and additional administrative effort to achieve this, as responses may need to be tailored. Again we would see this more applicable in the independent broker model.

Question 20

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer

No comments at this time

Question 21

Do you have any views on the proposal that an intermediary may only describe itself or its regulated activities as independent, where it does not accept and retain a third party inducement for the provision of advice, other than a minor non-monetary benefit which is capable of enhancing the service to a consumer? Please explain your answer.

In our view, the classification of intermediaries should be aligned with existing European regulation in order to ensure a harmonised approach to the Retail Financial Services market. The outcome of this particular proposal could result in no intermediaries being classed as 'independent' unless they actually charge commission to the customer directly. This would appear to be similar to the route taken in the UK market which has raised concerns regarding the emergence of an advice gap. In our view, this is likely to have a negative

impact on the consumer. As an alternative option, where oversight and transparency is adequate the customer would be aware of the amount of commission that the regulated intermediary is receiving and therefore be fully informed when making any decision to purchase a financial product.

Question 22

Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.

The role of the CBI would perhaps need to be expanded to include monitoring of all communications issued by intermediaries.

Question 23

Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

No comments at this time.

Question 24

Do you have any views on the proposal to introduce an obligation for intermediaries to publish comprehensive details of inducement arrangements with product producers with which they have an appointment? Please explain your answer

We welcome proposals which maximise the level of effective transparency available to consumers. For mortgage related commission, the Mortgage Credit Regulations already stipulate that the commission level must be contained in the ESIS document provided to consumers. For mortgage and insurance intermediaries, information in relation to commissions is already contained in their Terms of Business.

In our view, the addition of another mandatory document to the provision of information requirements, which are already substantial, is likely to dilute the messages contained within them and may lead to ‘information overload’ / confusion among consumers. We believe it is

important to show that the customer was advised of the level of commission received at the point of sale.

We also note the following concerns with aspects of this proposal for a number of reasons:

- Provisions contained, in particular, in legal agreements between product producers and intermediaries may be commercially sensitive and therefore will not be appropriate to disclose to the wider market. In our view, these arrangements do not impact the level of service provided to the consumer and therefore do not lead to a conflict in their non-public disclosure.
- We would welcome further detail on the specifics of what constitutes "an indication of the amount or percentage of the inducement paid". Is this per product/product line? Is this within a range?
- We would welcome further clarity on what is deemed to be a "public office". Does this mean in each branch?

Question 25

Do you think the Central Bank should prescribe the format and content of the inducement arrangements summary document? If so, please provide details of the content you think should be included

We understand that there are a number of existing documents which currently include commission disclosure information. These documents could be reviewed in order to develop potential solutions for this proposal.

Question 26

Do you have any views on the proposal that firms must retain records to demonstrate how the inducement arrangements summary document was brought to the attention of the consumer? Please explain your answer.

No comments at this time

Question 27

Do you have any views on the proposed definitions of ‘inducement’? Please explain your answer.

We have concerns with the utilisation of the term “inducement” which has negative connotations in a general sense, notwithstanding the fact that the term is contained within the MiFID 2 Regulations. The word inducement does not accurately reflect the nature of commissions paid for business introduced. Inducement in English is defined as ‘a thing that persuades or leads someone to do something’ therefore this would appear at direct odds with the spirit of the Code.

The current term commission is defined as ‘A sum, typically a set percentage of the value involved, paid to an agent in a commercial transaction’ would appear more appropriate and reflective of the arrangement where an intermediary receives a payment from the product provider.

We would have a preference that the term ‘Inducement’ is not used and consideration be given to other terms such as “remuneration, or the current ‘commission’

Question 28

Do you have any views on the proposed definition of ‘minor non-monetary benefit’? Please explain your answer.

Most of the expenditure in this area is likely to relate to education, training, ‘upskilling’ etc. The type of intermediary and nature of the regulatory relationship, in particular tied agent intermediaries, should be considered when assessing the application of this proposal.

Question 29

Do you agree with the above examples of minor non-monetary benefits? Please set out your reasons.

No comments at this time

Question 30

Are there any additional minor non-monetary benefits that you think should be included? Please explain your answer

No comments at this time

Question 31

Would you set a monetary limit, as a guide, on a minor non-monetary benefit? If so, what limit would you consider appropriate and why

No comments at this time

3. Additional Comments

We note the publication of research findings based on engagement with consumers in April 2017 by Behaviour & Attitudes[3]. The consumer research findings were referred to in the consultation paper and we understand that the output has informed some of the proposals included in the document.

We observed that the experience of the 506 respondents to the survey was highly representative of the general insurance area. As detailed in Figure 1.2.2 of the report, the majority of those who had sought advice or purchased a product in the previous 5 years identified (Motor 68%) and House Insurance (30%) products. In relation to those who had obtained a mortgage through an intermediary, the number stood at 12% of the sample with Tracker bonds, Single Premium bonds, Regular premium policies and Collective Investment schemes recording representation of 1% in each cohort.

In our view, this places the findings from the research very strongly on the experiences and behaviours of consumer who have purchased simple / straightforward products rather than those with more complex and challenging needs. It may be of benefit to explore the area in more detail with consumers who have purchased complex products when considering any fundamental changes to the current model for the intermediary channel.

[3] https://www.centralbank.ie/docs/default-source/publications/consumer-protection-research/consumer-understanding-of-commission-payments---november-2017.pdf?sfvrsn=4

4. Conclusion

We believe that the intermediary sector plays an important role in ensuring that consumers have access to financial products in the Irish market. We also believe that intermediaries can provide information that consumers need to make well informed decisions on insurance, investment and mortgage products.

Whilst we are firmly of the view that conflicts of interest must be removed from any commission structure, we remain very concerned with the proposal to enforce MiFID requirements onto relatively straightforward products such as home, car and travel insurance and mortgages. In our view, the application of a 'MiFID' standard to other products lacks proportionality and is not aligned with the approach in other European jurisdictions.

It is also our view that a strong oversight regime is already in place and we support the role of the CBI in ensuring that intermediaries are appropriately authorised and regulated and that consumer detriment is avoided.

Where the Central Bank believes that changes are required then the industry will need clear guidelines on how to apply the new requirements with the appropriate lead in times.

We would also stress the importance of distinguishing between single-tied and multi-agency intermediaries in the response to the consultation while clearly outlining to whom each requirement applies.

Appendix

Combined Industry Forum report in response to the Australian Securities and Investments Commission's 2016 Review of Mortgage Broker Remuneration (ASIC Report) and the third party recommendations of the Australian Bankers' Association 2016/2017 Retail Banking Remuneration Review (Sedgwick Review)

Potential unintended consequences of alternative remuneration models

- **Consumer paid fee for service (in lieu of commissions):**

While consumer paid fee for service may reduce lender choice and product strategy conflicts, it will negatively impact competition and customer outcomes; result in additional direct costs to consumers to access the broker channel; diminish the broker value proposition to the customer; put brokers at a significant disadvantage to the lender branch channel (who do not charge direct fees); likely result in rationalisation of broker numbers, increasing barriers to entry for new lenders, whilst disadvantage smaller lenders and those without a branch footprint; is unlikely to correlate to economic value produced by the broker; and could result in brokers servicing a much narrower band of customers.

- **Standardisation of upfront commission percentage:**

While it may reduce lender choice conflict, by itself, it would not reduce product strategy conflict. Further, this method does not differentiate for complex products and may raise competition law issues if implemented by industry agreement.

- **Base commissions paid on Loan Value Ratio (LVR):**

May exclude high LVR lending, for example to first time home owners and could encourage the greater use of guarantees from related parties to reduce LVRs.

- **Flat lender fee**:

Could result in brokers servicing a narrow band of customers, for example, those with simple needs. It may not reduce product strategy conflict in the case of tiered fees. It has no correlation to economic value produced. Also, it could negatively impact pricing on smaller loans. Finally, it may result in split loans for customers if 'gamed'.

- **Removing lenders' and brokers' ability to discount interest rates and application fees:**

This may limit loan size as it could remove incentives to recommend larger loan sizes to hit the discount rate hurdle but also reduce direct customer benefits. Adopting this principle is a first step for the industry. The industry intends to use the improved governance framework to closely monitor customer outcomes and the impact of the reforms. Where remuneration structures are found to be driving poor behaviours and customer outcomes, the industry will consider further changes to remuneration structures.

Source: *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration*