Insurance Ireland response to Consultation Paper CP116 on Intermediary Inducements

March 22nd, 2018

1.0 Background

Insurance Ireland is the Voice of Insurance in Ireland and represents the Irish general insurance, health insurance, life assurance, reinsurance and captive management sectors. Insurance Ireland represents 130 companies providing insurance domestically in Ireland and internationally from Ireland. Total industry employment is approximately 28,000 both directly and indirectly with one in four jobs in financial services being in insurance. Our members pay out more than €13 billion in claims and benefits to Irish customers annually and contribute over €1.6 billion in tax to the Irish exchequer.

Insurance Ireland welcomes the opportunity to contribute to this consultation on behalf of our members, who provide products for individuals and families that facilitate financial planning and provide peace of mind. Our contribution is informed by our members' experience of delivering best customer outcomes as well as their technical analysis of the proposals.

We would be happy to engage further with the CBI in relation to the points made in this submission.

2.0 Key points

We would like to make the following key points about the relevance, proportionality and cost effectiveness of the proposals, in particular, the application of MiFID requirements to all insurance types.

2.1 Relevance

We would query the adoption of a "one size fits all" regulatory approach that applies MiFID standards to complex types of life assurance investment business on the one hand, as well as simple life protection and general insurances on the other.

The proposal to apply MiFID II standards to insurance products lacks proportionality and is not aligned with the established practices of other European jurisdictions. MiFID requirements regulate complex investment products and the difference between these and other insurance products has been recognised by the European Commission and the European Supervisory Authorities through the differing approaches to financial products by way of MiFID and Insurance Distribution Directive (IDD).

In addition, we do not believe that the term "inducement" is appropriate for all classes of business. The term itself suggests that the purpose of any such payment is designed to persuade or influence or "induce" the actions of the recipient. This is not the case in payments between insurers and intermediaries where the payment is due for the provision of advice and an important distribution service which is of benefit to both the insurer and the customer.

2.2 Proportionality

Insurance Ireland agrees that there should not be an outright ban on commissions. Such a ban would detrimentally impact Irish consumers as it would reduce the availability of advice - resulting in an "advice gap" similar to some other markets - and have a negative impact on insurance and pension coverage.

In the research carried out by the Central Bank of Ireland, the number of customers in the sample who purchased life products through a broker in the last five years is very small (65) and some of the responses seem contradictory. We would suggest that the research does not provide a compelling mandate for change.

Furthermore, changes are proposed to be made to the Consumer Protection Code. We question whether this means that the impact is limited to retail customers and small businesses of under €3m turnover? In the UK, the definition of Consumer excludes anyone acting in a business capacity. The Irish approach means that over 90% of the commercial insurance market is likely to be covered by the new requirements and again we would query whether this is proportionate or appropriate.

Smaller intermediaries may struggle to remain in business if the bar for the payment of commissions is set at an unduly high level. Other brokers may reduce the number of providers that they deal with thus reducing consumer choice. The proposals may also have the effect of discouraging new entrants to the market.

2.3 Cost effectiveness

Changes to the remuneration regime need to be considered in the context of the Consumer Protection Code and continuous enhancements to the regulatory oversight framework including the Minimum Competency Code, Guidelines on the Variable Remuneration Arrangements for Sales Staff', Fitness and Probity and PRIIPs.

Our members are concerned that the cumulative impact of multiple new and overlapping layers of regulation can result in complexity and, ultimately, increased costs for consumers without a proportionate improvement in protection.

Finally, Insurance Ireland believes there should be a focus on financial awareness and understanding to help customers in their interactions with financial services providers and this will be considered as part of an insurance industry initiative in 2018.

Question 1
Do you see any reasons why the Codes should not be amended as set out above?

In our response to the CBI Discussion Paper on the Payment of Commission to Intermediaries in October 2016 we stated that we believed that a ban on commission would be negative for Irish consumers as it would reduce the availability of advice, reduce levels of insurance and pension coverage and would be likely to increase overall costs to most consumers. We suggested that the focus should be on establishing if the risks related to commission arise in practice and reducing any risks associated with commission through enhanced transparency.

We also highlighted the possibility of an ‘advice gap’ arising to the detriment of the many consumers who would not be prepared to pay a fee for financial advice and thus not benefit from the range of protection covers provided by the insurance industry. The purpose of the commission model should be to help intermediaries create business models that maintain the availability of high quality advice for clients across the market, avoiding the polarisation seen in other jurisdictions. For example, since the implementation of the Retail Distribution Review in the UK, we note that the proportion of retail investment products sold without advice has increased from approximately 40% in 2011/2012 to approximately 66% in 2014/2015. The intermediary should have the choice of being remunerated for his/her advice via either fees or commission depending on the circumstances of the client and the business model adopted by the intermediary. Commission payments are required in order to allow many intermediaries to remain in business and offer a valuable service to the widest range of consumers possible.

We would query a “one size fits all” approach to be applied across the board from life assurance investment business on the one hand to life protection and general insurance on the other. What might be appropriate for life investment products may be inappropriate for other insurances.

Specifically, we have concerns about the proposal to amend the Code and introduce MiFID II- equivalent standards for insurance products. MiFID requirements regulate investment products. The difference between insurance-based investment products and other insurance products has been recognised by the European Commission and the European Supervisory Authorities through the additional obligations relating to the former set out in the Insurance Distribution Directive (IDD). The application of a ‘MiFID’ standard to other insurance products lacks proportionality. Furthermore, this proposed approach is not aligned with the established practices of other European jurisdictions. For example, in the UK protection products have been explicitly excluded from the RDR regime. Commission payments that support the provision of a service to the customer, as opposed to enhancing the quality of the service under MiFID II, should be sufficient.

In addition, the consultation fails to take account of significant reforms that are proposed in relation to pensions which need to be considered as part of these proposals. While occupational pension schemes fall outside the scope of CPC, certain pension products do fall within CPC and are an important element of the pensions landscape such as PRSA products.

We acknowledge and agree that insurance companies should avoid or mitigate any conflict of interests in relation to commissions or other payments to third parties that might result in poor outcomes for consumers. However, we believe that it is inappropriate for the CBI to adopt a regime designed at EU level to manage these conflicts in relation to certain types of investment products and apply those rights across the full range of financial services. In particular, we believe that the proposed regime is excessive for non-life insurance products. We believe that the requirements of the IDD specific to non-life insurance should be applied. We are not aware of any research and the CBI has not provided any to show that these requirements are necessary for non-life insurance.

In relation to the suggestion that for “inducements” to be acceptable they must “be designed to enhance the quality of the relevant service to the consumer”, we would request the CBI to give clarity on how in practice this approach would work. An intermediary may interact with a customer and carry out a standard service as opposed to an “enhanced” service. Consideration should be given as to how the intermediary should be reimbursed for the standard service.

Given the ambiguity of what constitutes an “enhanced” service, this proposal has the potential to reduce the number of intermediaries operating in the market. Intermediaries could decide to cease the provision of advice and services altogether or potentially limit the types of products that they offer. Consequently, customers’ access to advice and products would be negatively impacted.

The payment of commission by insurance companies to intermediaries is designed to compensate them for the provision of an advice service that is of real benefit to consumers. Setting a standard that inhibits the ability to pay this commission beyond existing requirements under CPC could result in a significantly increased level of fees for consumers. Through commissions insurance companies are supporting a distribution channel that increases access for consumers. Limiting the payment of commission could see a significant number of intermediaries exiting the market thus damaging access. The intermediary offers a vital service through understanding in detail both insurance company’s products and the needs of consumers. The relationship between the intermediary and insurance company is primarily designed to ensure that the insurance intermediary has a very clear understanding of the insurance company’s products

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.

The description of the proposal within section 3.1 of the consultation paper uses the phrase "does not have the potential to impair". However, this differs from the proposed wording in Appendix 1 which states "does not impair". Therefore, it is unclear which standard the CBI is proposing to introduce. The former phrase is particularly problematic as people react and have the potential to react differently to "inducements" depending on their circumstances at the time, their business outlook and their personal ethical standards. Whilst remuneration may not actually impair the intermediary’s obligations, it would have the potential to do so under certain circumstances, no matter how unlikely.

The payment of a commission or a non-monetary benefit to one intermediary may not have the potential to impair their actions while payment of the same commission or non-monetary benefit to another intermediary may have a different impact. The proposed change to the code requires product producers to “ensure” its arrangements do not impair however it is very difficult to see how product producers can take responsibility for how an individual intermediary will act.

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.

See our answer to Question 1 above.

The payment of commission should not have a “detrimental impact on the quality of the relevant service to the consumer” once it is combined with a stringent disclosure regime and consumer protection requirements are appropriately implemented and enforced.

Commission payments are required in order to allow many intermediaries to remain in business and offer a valuable advice service to the widest range of customers possible. This advice is “designed to enhance the quality of the relevant service to the consumer”. Given the intention of the CBI to avoid an advice gap developing, it would appear more appropriate that the rules for insurance remuneration, particularly given the wide range of insurance products available and the relatively small overlap with MiFID, would remain aligned to the Insurance Distribution Directive.

From a regulatory perspective, it should be sufficient that the customer is not losing out by the payment of remuneration, rather than that they are gaining through the payment. In practice, the vast majority of life, pension and investments business is written through intermediaries regulated via IDD and the main focus of the CBI should be on an appropriate IDD implementation, rather than achieving perfect consistency for the limited number of products that are functionally equivalent to MiFID investment products, We note that there are areas where MiFIDII is weaker than IDD (statements of suitability, needs analysis) and the Life Assurance (Provision of Information) regulations do not apply to MiFID products. However, the CBI does not appear to be addressing these differences.

On a practical level, it is difficult to see how an insurance intermediary could demonstrate or test that it has enhanced the quality of service through its remuneration arrangements. How is an insurance intermediary expected to demonstrate that it does not impair compliance with the regulated entity’s duty to act honestly, fairly and professionally in the best interests of the consumer? We believe that this would prove very challenging to administer with very little value added to the consumer. It would be more beneficial for consumers to be provided with information regarding the remuneration the intermediary is in receipt of and let them decide.

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 standards in MiFIDII were designed to apply to investment products that fall within its scope. MiFID firms cater for more specialised investments contracts than IDD firms and the level of premium attached to MiFID2 products tends to be significantly higher than insurance products. It is our strong view that MiFID firms and IDD firms operate on different playing fields because they cater for different target markets. At a European level, insurance products are deemed not to fall within this category and are subject to a different regulatory regime. On that basis we do not believe that the MiFID II requirements were designed with insurance products in mind. As such, IDD standards are more appropriate for insurance products

In relation to the requirement that the provision of an on-going remuneration must be linked to the provision of an ongoing service, we note that some on-going payments may, in reality, be the spreading of an upfront payment and, therefore, there is not always a clear dividing line between ongoing payments and initial payments. Therefore the provision of an ongoing service should not be linked to timing of payment of commissions as this may vary based on the product and the services the intermediary is providing.

It should be noted that under Section 9 of the Health Insurance Act 1994 (as amended) a health insurance undertaking must (except in very limited circumstances) offer a policyholder the right to renew on their current product.

Question 4
What other examples do you consider would enhance the quality of the service? Please set out examples in detail.

Please see the response to Question 1

Where the adviser is paid an ongoing renewal commission or fee, we believe this creates an incentive to provide a quality service to the client.

Advisors should communicate clearly to the customer what service they will receive for ongoing renewal commission. This will allow the customer to assess the value of the ongoing fee and also creates the incentive for the adviser to improve the quality of service to the client.

Question 5
Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.

See our comments above.

Question 6
Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

See our comments above.

There is a concern that an inability to meet the “enhance the quality of the service” test 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 does not match the work required.

This would create an advice gap and a reduced level of choice which would not be a positive outcome from a consumer perspective, as intermediaries currently offer choice, market wide advice, and expanded access to products and services.

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 profits targets, volume targets, and targets linked to business retention, are deemed to be conflicts of interest and must be avoided? Please explain your answer.

We agree with these provisions in relation to the distribution of life and pensions business. The Central Bank Guidelines on Variable Remuneration Arrangements for Sales Staff specifically calls out a link between incentives and business retention as being a positive feature of sales remuneration. Therefore, we would question whether it should be banned in this context.

We would request some clarity from the CBI on how firms can practically demonstrate that the remuneration has considered a consumer's best interests. What are the Central Bank's expectations in this regard?

With regard to non-monetary benefits, the definition included in the MiFID regulations has been noted, however we feel there are potentially training and development seminars/conferences that go beyond the scope of specific financial product training that can result in an enhanced service to the client and which should be acceptable under any new rules.

The statement that where "Commission that is paid upfront and subsequently clawed back is effectively a target", we would understand is intended to be read in context of the previous sentence which clarifies that the clawback is linked to a level of business i.e. that it is not intended to disallow clawback of initial commission where the clawback is simply based on whether a life assurance policy continues, rather than a requirement to maintain a level of business with an insurer more generally.

On the non-life (including health) side:

Managing general agency (MGA) arrangements between underwriters and underwriters are generally structured as profit share arrangement to allow intermediaries access to a market that would otherwise be prohibited due to the capital constraints involved in the establishment of an insurance undertaking. A blanket prohibition on profit-based commission structures could close the market to MGAs and limit the free trade of products and services across the EU for new entrants.

We do not agree that all these targets are necessarily in conflict with customers' best interests. It is in the interests of all policyholders that the industry is profitable. Obviously, this leads to better prices for our customers. Intermediaries play a role in this through the proper management of the intermediation role they play. Good management of their customers should be rewarded. Key to this is understanding the risk appetite of the insurers with whom they deal and matching customers to that risk appetite. This leads to more profitable insurers, more capital ensuring a more stable industry and cheaper insurance. We believe that setting targets based on a range of criteria mitigates the risk that intermediaries are encouraged to make inappropriate decisions. It is very important that they are also mindful of their own suitability assessment requirements.

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 to the CBI's 'Guidelines on Variable Remuneration for Sales Staff' which described them as an example of good practice. This is also referred to in the IBIPs delegated regulation. guidelines.

On the non-life side, we believe that an appropriate mix of targets including profit related targets can encourage a profitable well- managed industry that is beneficial to all stakeholders including customers. These proposals risk damaging this.

As discussed earlier intermediaries provide a distribution channel that provides an important service for certain customers and the risk is that this channel may be damaged by these proposals.

Question 9
Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail.

See above answers

Question 10- Mortgage
Do you have any views on the above proposal?

We have no comments to make on this.

Question 11- Mortgage
Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

We have no comments to make on this.

Question 12- Mortgage
Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail.

We have no comments to make on this.

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 product producers 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 agree that a consistent regime should be in place for all forms of commission. However as discussed earlier this regime should be consistent with that proposed in the IDD.

Question 14
Do you have any views on the above proposal? Please explain your answer.

It is difficult to see how this provision could be implemented in practice as there will be differences in the commission rates paid by different companies. Is the CBI proposing to fix the rate of commission? In this respect it is perhaps worth noting the decision of the (then) Competition Authority in 1998 that the Irish Insurance Federation’s Agreement on Maximum Rates of Remuneration for Life Business was anticompetitive. We are unclear whether any moves by a Government agency which might have the effect of standardising the level of remuneration would be problematic but the CBI might wish to consider this aspect further.

In general, our members are unclear as to how this suggestion would work in practice. We would be happy to engage further with the CBI on this topic.

Proposed suitability changes to section 5.17 of CPC are accompanied by a summary which states ‘in complying with the proposed additional suitability provision a regulated entity can only accept and retain the lowest inducement amount that is available within a range of products which is available as suitable to a consumer.”

- Does this proposal mean that intermediaries must recommend the lowest commission option from amongst a range of suitable products? If so, what if the features of one product are deemed to be more suitable for the customer, yet carry a higher commission?
- This statement also doesn’t appear to be aligned with what the CBI have proposed earlier in the document, in particular, in the footnote on page 14 the CBI have proposed a model which would not be permissible in terms of the proposed CPC text. This is likely to cause significant confusion in the market if implemented in its current form.
- Does the proposed amendment to the CPC actually achieve this? The proposed wording of 5.17.c seems to say that the mere existence of different levels of commission means that the intermediary cannot make a recommendation. This surely is not intended by the CBI as it is difficult to see how this will benefit consumers. This appears to be inconsistent with the aim which is that the intermediary manages potential conflicts of interest. We would recommend that 5.17.c be deleted.

The CBI should also be aware of unintended consequences. This provision could result in brokers signing up to arrangements where they only offer the products of one or two insurers at the same commission rate. This could lead to the market being dominated by the bigger insurers and could limit brokers providing a wider product choice.

In relation to investment and pension products, providers typically offer a wide range of commission options and intermediaries can often select from a range of products with the same commission structure. However, this may not always be possible. There may also be slight differences between some aspects of the commission payable from different providers (timing of payment, clawback period, etc) which will make it impractical to operate in practice.

Our interpretation would be that the range must be interpreted as the range of products to suit a particular need (i.e. protection OR pension OR post retirement savings). We would welcome CBI confirmation of this interpretation.

In relation to health insurance clarity is required on what is deemed “a range of products” – there are currently 313 health insurance products within the market with varying levels of cover at differing premiums. Commission in the market is paid as a % of premium – hence if range were to be defined broadly this would effectively prevent health insurance brokers from making any recommendations for a large number of products which would not be in the consumer interest as they require advice vis-à-vis their health insurance needs. This would also be applicable for example for protection policies, where the level of competition in the market is such that for life cover (for example) you would have a case where the cheapest premium for a specific level of benefit also pays the highest level of commission. Where products offer identical benefits and premiums are easily comparable, it would not appear sensible that an adviser is prohibited from recommending a single product as being most suitable.

Where there is the same commission rate, and commission is based on the premium of a product, then a higher premium product will give higher premium. Therefore, there would be a higher commission value for selling the higher premium product, but no difference in absolute commission rate for selling any product. Is this included under the proposal for not allowing a recommendation of a particular product?

Question 15
Do you have any views on what, if any, unintended consequences may arise in implementing those proposal, including any impact on consumer choice? Please explain your answer.

It could reduce the range of products which an intermediary can recommend from (potentially to a single product), as they will only be able to compare products with the same level of commission. It is difficult to see how this will be of benefit to customers.

See answer above.

Question 16
Do you foresee any practical difficulties arising in the implementation of this proposal? Please set out those difficulties in detail.

See answer above.

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 conflict of interest relating to inducements? Please explain your answer.

We agree that the conflicts of interest policy should specify the procedures to be followed etc to avoid such conflicts of interest. However this should be on the basis of a conflicts of interest regime that is appropriate to the risk in question. The regime that is being proposed in the consultation paper is excessive for non-life insurance in particular.

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?

The requirement to retain a record for every transaction to demonstrate that a conflict of interest has been avoided would appear excessive and would increase administration costs unnecessarily where a more general principle would suffice. The proposal is particularly excessive where large numbers of transactions may be completed by a broker every day.

Question 19
Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.

See our comments above about the practical difficulties arising in relation to the requirement to only recommend from products with the same level of commission.

Section 4.60 currently states that “The disclosure required at Provision 4.59 must be in the terms of business or through some other suitable mechanism, and with renewal notices”. Is a separate “inducement arrangement summary document” required or is the disclosure in the terms of business sufficient?

It is unclear to us how practically this could be implemented for non-life insurance. The numbers of transactions involved could only result in at best a standard statement which would be of little practical value to the customer. This would also result in significant cost which would ultimately be passed onto customers.

Question 20
Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

See answer above

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.

There are a range of reasons why a customer may wish to pay the intermediary via the provider rather than the broker (convenience, efficiency etc), and it is difficult to see how it is in the customer's interest to force customers to pay fees directly. We do not see any need to extend the existing CPC requirements for independent intermediaries to offer customers a clear choice between fee payments or commission payments. We would argue that the research prepared by the CBI does not support a preference for customers to pay fees - in the research, customers were asked a leading question: would they prefer to pay a lower fee or a higher commission. There is no reason to believe that fees will be lower than commission - it is more likely that they will be higher.

Whatever terminology is used, it should be clear to the customer that an intermediary provides advice in respect of the products of multiple providers.

There should be no onus on product producers to ensure that remuneration is only paid to intermediaries which are not “independent”.

Question 22
Do you foresee any practical difficulties arising from the implementation of this proposal? Please set out those difficulties in detail.
See our responses above.

Question 23
Do you have any views on what, if any, unintended consequences may arise in implementing this proposal? Please explain your answer.

It is likely to result in a very small number of "independent" intermediaries. It is difficult to see how this would be in the interests of customers.

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 support full and comprehensive disclosure of all remuneration to intermediaries. However, there may be practical issues in disclosing some types (e.g. provision of office supplies, marketing support). These are usually ad hoc and would be difficult to disclose in advance of provision. A practical approach may be that everything provided over, say, the previous 12 months should be disclosed.

We agree that transparency is necessary but believe again that a one size fits all approach is not appropriate. For non-life insurance we believe that the transparency requirements as set out in Article 19 of the IDD are sufficient.

The requirement to disclose a summary of "inducement arrangements" is imposed on the intermediary whereas the duty to disclose minor non-monetary benefit appears to be imposed on the insurer. We would propose that both disclosures should be made by the intermediaries for completeness sale and to avoid confusion among consumers receiving differing messages from various entities. However, the means for intermediaries to do this would need to be proportionate and practical.

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 would have some concerns about the possibility of information overload for customers. Having said that, we think the format and content should be prescribed and we would be happy to engage with the CBI in relation to draft content. Otherwise, there will be inconsistencies in the information provided to customers. When disclosing a summary of the allowable benefits provided, we would recommend the intermediary must ensure clients are given an indication of the value of those benefits. Clients may then decide whether to go ahead with the investment or seek more detailed information.

For non-life, we do not believe this is appropriate as stated above we believe the content of Article 19 of the IDD is sufficient.

Question 26
Do you have any views on the proposal that firms must retain records to demonstrate how the inducement arrangement summary document was brought to the attention of the consumer? Please explain your answer.

It is appropriate that records are retained. However, it would appear difficult to evidence in all instances how this document was brought to the attention of the consumer – if the consumer has been provided with the terms of business setting out the basis for any payment or benefit this should be sufficient to fulfil this obligation. Call recording should also be acceptable as proof.

For non-life, we would agree that such records should be retained but in terms of how the firm has complied with Article 19.

Question 27
Do you have any views on the proposed definitions of 'inducement'? Please explain your answer.

Whilst the definition is not unreasonable, we are somewhat uncomfortable with the term itself. The term itself suggests that the purpose of any such payment is designed to persuade or influence or "induce" the actions of the recipient. In general, payments compensate intermediaries for financial advice provided to consumers. We believe that it would be more appropriate to use the terms "commission" or "remuneration".

Question 28
Do you have any views on the proposed definition of 'minor non-monetary benefit'? Please explain your answer.

Given the benefits are minor, it should be sufficient that the benefits do not adversely impact the quality of service, rather than enhance the service.

We do not believe that the inclusion of the wording "capable of enhancing the quality of the service to the consumer" is appropriate. Again, this is a term taken from MIFID and designed for specialised investment products. Minor non-monetary benefits may be important in building normal business relationships between product producers and intermediaries. Whilst this may enhance knowledge of respective business and services (which play an important role identifying the correct solutions for customer needs) firms may have concerns about evidencing that a particular benefit was capable of enhancing the quality of the service to consumers.

In particular in the case of tied distribution arrangements, it would not appear appropriate that restrictions should be placed on minor non-monetary benefits. Where an intermediary is clearly providing recommendations in in relation to the products of one insurer only, there can be no conflict arising in the choice of insurer. This should be recognised by differentiating between what is considered appropriate for tied intermediaries compared to multi-agency and independent intermediaries.

Question 29
Do you agree with the above examples of minor non-monetary benefits? Please set out your reasons.

We agree that the examples are reasonable, but we do not agree that this should be considered as an exhaustive list. We would propose that business entertainment of a social nature should be permissible but that an overall monetary limit should be put in place to prevent abuse.

We do not believe that the requirement that they enhance the service is practical.

Question 30
Are there any additional minor non-monetary benefits that you think should be included? Please explain your answer.

See answer to question 29.

A range of invitations to social events should be included as part of building normal business relationships. It should be noted that companies manage any inappropriate use of such benefits through strict adherence to Gifts and Hospitality polices covering limits on amounts given and logging.

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?

Where training and seminars are directly related to improving an intermediary's product or market knowledge then no monetary limit should apply but the costs should be justifiable as reasonable taking all factors into account.