

Consumer Protection Codes Department  
Central Bank of Ireland  
PO Box 559  
Dame Street  
Dublin 2

### **Response to Consultation Paper CP47 on review of the Consumer Protection Code.**

Lockton Companies LLP is an insurance intermediary and is authorised and regulated by the FSA in the UK and operates in Ireland through its Dublin branch office approved under Passport rules and regulated by the Central Bank of Ireland for conduct of business rules only. Our response is limited to matters relevant to our business.

#### **Vulnerable consumers**

1. Do you agree with the indicative list of circumstances that could render a consumer vulnerable that have been included in the definition of 'vulnerable consumer'? **YES**

2. Do you think that the inclusion of a definition for a vulnerable consumer and the proposals and amendments outlined above will be effective in improving the level of care afforded to vulnerable consumers during the sales process? **YES**

#### **Termination of appointments**

15. Do you agree with this proposal? **YES**

#### **Remuneration disclosure**

16. Do you agree with the proposal that a requirement to disclose remuneration from product producers should be imposed in circumstances where there are currently no requirements in place in this regard?

**YES - in relation to disclosure and transparency of remuneration arrangements and disclosure of amounts earned on request.**

#### **Errors handling (Chapter 11, Provisions 1 to 7)**

17. Do you think this approach to errors handling will reduce the incidence of errors and lead to an improvement in the way in which regulated entities handle errors involving consumer detriment? **YES as good practice.**

18. Do you think the proposals are adequate to prevent repeat errors from occurring?  
**NO – while they will assist manage and mitigate the risk, errors mainly arise from basic human error and mistakes that can never be completely avoided.**

19. Do you think the six-month timeframe to rectify errors involving consumer detriment is appropriate?

**NO – we have concerns that this is too simplistic an approach and rectifying errors can only work in very straightforward cases where a mistake is clear and has obviously created a financial loss or risk of loss that can be easily rectified. That may be true of some investment product and rare insurance cases, but is not the case in most general insurance E&O cases where issues are more complex.**

**Consumers do of course always have the option to report Complaints to the Ombudsman which as a process will take much longer than 6 months anyway.**

**As an example of complexity, if cover is arranged that a consumer then complains is not suitable and may cause detriment because the insurer imposed a particular condition or restriction or exclusion in the policy he was not aware of and that the broker did not specifically point out and explain. Responsibility is open to dispute. The consumer would have seen the term in his insurance documentation that are clear and not ambiguous. While the broker will point out unusual and significant terms, this may not have been considered unusual to require specific explanation. The term may also be standard where cover is not readily available from this insurer or the market on another basis. The insurer would deny any wrong doing. There is no actual loss involved or detriment, just an allegation of potential detriment that broker and insurer would both deny. So how does this fit with 19.**

**Most E&O cases involving brokers are circumstances that have not actually resulted in any detriment or claim but could do in the future, so do not lend themselves to such time-frames and may be open for several years.**

20. Do you think our proposal that only errors that cannot be resolved within one month should be reported is an improvement on the current situation? Is the one-month timeframe appropriate? If not, please suggest an alternative.

**NO – we think this an unreasonable obligation to impose on intermediaries as the vast majority of E&O cases are circumstances or of complexity that they may run on for months or years and do not fit with monthly reporting.**

**We are not sure of the amount of information you would require and if just a list of cases or more detail or the purpose of such regular reporting.**

**We suggest instead that you should see details of errors or complaints that cannot be resolved on either a six monthly or annual basis.**

### **Unsolicited contact (Chapter 3)**

21. Do you think that the proposed times for permitting unsolicited contact are appropriate? **YES**

22. Do you think the restriction on the sale of products or services to protection policies only and the prohibition on the sale of protection policies on a first unsolicited contact will enhance consumer protection? **YES**

### **OTHER**

While outside the Consultation one of the specific provisions following the review of the Intermediary market gives rise to practical concerns as below.

### **Recommendations from the Review of the Intermediary Market**

The term 'broker' may be used by intermediaries who offer consumers a 'fair analysis of the market'. (Chapter 4, Provision 24)

24. The term 'broker' may only be used to describe the services of an intermediary where the intermediary offers *consumers a fair analysis of the market* for that particular product or service.

**Broking firms describe themselves as brokers in letter headings and other template documentation. We consider ourselves to continue to be a broker acting for a client where there is not fair analysis and a risk is placed with a single insurer or under a delegated authority but as required by the Code disclose this to the consumer and the level of service and any conflict of interests that may be involved.**

**We do not understand how we can no longer call ourselves a broker due to a lack of fair analysis when we are clearly still acting as the clients broker and placing their risk and the description of broker is still embedded in much of our standard letter headings and insurance documentation and TOBA. Does this mean we need a different description and documentation when not carrying out fair analysis which would get very complicated and confusing for both staff and clients.**

**It is not made clear in the Code how else we should then describe ourselves. We would certainly not consider ourselves to be acting as a tied agent just because we select cover with a single insurer or arrange it under a binder.**

**Can someone please explain how this new provision should be complied with.**

Regards

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