Ref: PMacD/CW 25th July 2011

Ms. Alison Molloy,
Consumer Protection Codes,
Central Bank of Ireland,
PO Box 559,
Dame Street,
Dublin 2.

Dear Alison,

IIF Submission in Response to CP54

As you will see from the IIF response to the CP54 we have concentrated our comments on areas where you have invited comment but we have not restricted ourselves to these areas. We do this because there are a number of outstanding issues where we have either not received responses to questions previously raised or we are seeking clarity.

The most important issues for us are:

Overall Approach of CP54

We are concerned that more restrictive regulations are proposed without any reasons or justifications being offered. The Central Bank has an extensive inspection regime designed to both identify problems or potential problems at individual firms and this, together with its open channel to the Financial Services Ombudsman, provide it with the capacity to identify systemic issues – issues that may or may not require a response in the form of new regulations. Some of the new rules, such as new restrictions on cold-calling, beg the question as to what industry-wide problems/issues has the Central Bank identified to support its argument that these new restrictions be required. This broad concern underlies a number of the key issues we have raised below. In order of priority these are:

1) Implementation Timeline

The implementation of the revised Code - the contents of which have yet to be finalised - will result in additional systems and documentation changes, staff training and considerable related costs. The proposed implementation date of 1st January 2012 is very ambitious given the changes that will have to be made to systems and revised training that will be required and we would therefore suggest an extended period for implementation. We would also like the Central Bank to consider the other related commitments being undertaken by the industry, notably preparations for Solvency II and the Central Bank’s own initiative on establishing a consistent approach to risk disclosure. This work is unlikely to be ready in advance of the proposed implementation date of the new Code. Consequently any subsequent additional changes will result in even more work to be carried out by businesses to meet these extra requirements. Further changes will therefore be required to be made to systems, documentation and training immediately following on from the changes made as a result of the implementation of the Code.

2) *No need for extension of unsolicited contact rules*

The draft rules propose to further restrict cold calling in a quite severe manner. Yet the Central Bank offers no reason as to why it thinks this is necessary. We have not been made aware of and have never discussed with the Central Bank any industry-wide issues that may have arisen and which could be the only real justification for such drastic changes to the rules.

Our response discusses our key points in response to this proposal: Removing Saturday when individuals are more likely to be at home and where couples are more likely to be together is not in the interests of consumers. Many people work late or irregular hours and it's only after 7pm or at weekends that they are in a position to discuss their financial affairs. Many people cannot have these types of discussions in their place of work

3) *Advertising Rules*

The proposed changes to the advertising rules make a situation which we already regard (with respect to broadcast advertising) as unjustified even more difficult for insurers. A range of literature with varying levels of detail already support the marketing of insurance products and within this literature there is already embedded an extraordinary degree of consumer protection.

CP54's advertising provisions seem to assume a role for advertising in sales and distribution that other parts of the document have already rendered impossible. Decisive protection already exists in terms of the need to furnish supporting information during the sales process, product booklets, the customer information notice required under the Life Disclosure Regulations 2001 and the customer's right to cancel a contract within a given period. The consumer does not make a decision to purchase a product based on an advertisement alone and the requirements of the Code should reflect this.

Notwithstanding extensive and strong regulations concerning the need for consumers to be made aware of key features and terms and conditions, not to mention the extensive rules surrounding the need to know the customer, the Central Bank wishes to ensure that advertisements themselves deliver a level of consumer protection which they are unable to do.

We have asked for a discussion with the Central Bank on the question of the regulatory statement within broadcast advertising. We do not believe that any consumer benefit is served by this requirement.

4) Definition of "Consumer"

We understand that the definition used – which, for example, regards all partnerships no matter how large as 'consumers' for the purposes of the code – is based on the FSOB definition. It is clearly not appropriate to include partnerships and incorporated bodies having an annual turnover of as much as €3 million within the definition of "consumer", given that most policyholders in this category are professionals or, in some cases, major enterprises which, additionally, normally have the benefit of advice from intermediaries, and are dealt with by companies' commercial underwriting departments. The turnover threshold is too high. We suggest it be reduced to €150,000 PA. We wish to discuss with the Central Bank alternatives to this definition.

5) *Distinction between 2nd and 3rd – party claimants*

In most areas insurers' goals and the policy holder's needs are aligned and generally congruent but sometimes insurers are obliged to form a view that a third-party claim runs counter to their policyholder's interests. The company's relationship with the third party claimant can therefore – in the interests of the policy-holder and in certain circumstances – be adversarial.

The Consumer Protection Code should acknowledge that the rights of some customers (i.e. policyholders) sometimes need to be defended against some 'consumers' – i.e. third-party claimants. It's important to remember that in non-life insurance the policy holder and not the insurer *per se* is the legal person against whom the action is taken.

6) *Need for consistency between other regulations - life disclosure regulations*

In our submission to CP47 we underlined the need for consistency in disclosure requirements between this code and extant regulations, such as regulations on Life Disclosure, Distance Marketing and Insurance Mediation.

We would like to meet with the Central Bank to discuss our submission.

Regards,

PAUL MacDONNELL
Head of EU, Regulatory Affairs & Planning
DD (01) 6447 792
Email paul.macdonnell@iif.ie

CONSULTATION PAPER 54

SECOND CONSULTATION ON REVIEW OF CONSUMER PROTECTION CODE

RESPONSE OF THE IRISH INSURANCE FEDERATION

The Central Bank's CP 54 invites responses to additions or changes to recommendations published in CP47. Note that following feedback the CB intends to implement this code from 1st January, 2012.

CP54	COMMENTS OF THE IRISH INSURANCE FEDERATION
	General comments *"In writing" Requirements* We are concerned about the extensive "in writing" requirements throughout Consultation Paper 54. **There are 43 specific references to "in writing", within the 294 regulations contained in the document.** This places extraordinary administrative pressure on all regulated entities both from a resource and cost perspective. These pressures will ultimately materialise in the form of higher policy premiums, at a time when cost is a major concern for customers in the Irish market. It may be that each individual "in writing" requirement seems justified but the cumulative impact must be taken into account. Could the Central Bank consider the totality of the 'in writing' requirements throughout the Code? One possible approach may be to encourage the use of on-line and telephone recording technology where practicable – much of this kind of technology is already in use in the industry. We would like to discuss further with the CB.

	Implementation timeline The implementation of the revised Code - the contents of which have yet to be finalised - will result in additional systems and documentation changes, staff training and considerable related costs. The proposed implementation date of 1st January 2012 is very ambitious given the changes that will have to be made to systems and revised training that will be required and we would therefore suggest an extended period for implementation. We would also like the Central Bank to consider the other related commitments being undertaken by the industry, notably preparations for Solvency II and the Central Bank's own initiative on establishing a consistent approach to risk disclosure. This work is unlikely to be ready in advance of the proposed implementation date of new Code. Consequently any subsequent additional changes will result in even more work to be carried out by businesses to meet these extra requirements. Further changes will therefore be required to be made to systems, documentation and training immediately following on from the changes made as a result of the implementation of the Code. If following the enactment of new risk disclosure regulations the Code should require amendment then a consolidated document should be produced. From the viewpoint of a practitioner it does not assist in trying to ensure compliance if the stated requirements are contained in a number of separate documents (as is currently the case) rather than in just one comprehensive, consolidated document. Firms will not be in a position to start the detailed implementation of the Code until the Central Bank publishes the final Code. In view of these concerns we suggest that 6 months, from the publication of the final code, be allowed for implementation of non-technical amendments and for more complex IT-dependent changes, at least 12 months be allowed.
	Potential overlap / conflict with other regimes The code needs to take **full** cognisance of other regimes – viz. rules on Life Assurance Pre-Contractual Disclosure, Distance Marketing, Occupational Pensions, PRSA regulations and Pensions Board requirements.

CHAPTER 3: COMMON RULES	
3.1 Where a regulated entity could reasonably be expected to be aware that a personal consumer is a vulnerable consumer, the regulated entity must ensure that the vulnerable consumer is provided with such reasonable arrangements and/or assistance that may be necessary to facilitate them in their dealings with the regulated entity. A regulated entity must assess whether a personal consumer is a vulnerable consumer on the basis of his or her ability to make a particular decision at the time it needs to be made (and not on their ability to make decisions in general). A regulated entity shall be taken to be aware by virtue of any information the regulated entity is required to seek, any assessment the regulated entity is required to carry out or any other action required of the regulated entity by or under this Code, whether or not the regulated entity sought such information, carried out such assessment or took such other action in the case in question.	We understand that this is a matter of judgement for individual firms and we acknowledge that this is a considerable improvement on CP47. However we are not clear that these proposals do not simply make explicit the spirit of the existing code in so far as rules on knowing the customer and suitability are concerned.
3.3 A regulated entity must ensure that all instructions from or on behalf of a consumer are processed properly and promptly.	We welcome this change from CP47.
General Requirements 3.5 A regulated entity that is in direct receipt of a negotiable or non-negotiable instrument from a consumer as payment for a financial product or service must provide that consumer with a receipt. This receipt must include the following information: a) the name and address of the regulated entity; b) the name of the consumer who furnished the instrument or payment, **or on whose behalf the instrument or payment is furnished**; c) the value of the instrument or payment received and the date on which it was received; d) the purpose of the payment; and e) in the case of an insurance intermediary, that the acceptance by the insurance intermediary of a completed insurance proposal does not itself constitute the effecting of a policy of insurance, where relevant.	In our reply to CP47 we pointed out that there is some confusion about this requirement as it overlaps with but does not exactly follow Section 30 of the Investment Intermediaries Act. We would like the Central Bank to give consideration to this.
Power Of Attorney 3.7 Where a regulated entity deals with a person who is acting for a consumer under a power of attorney, the regulated entity must: a) obtain a certified copy of the power of attorney; b) ensure that the power of attorney allows the person to act on the consumer's behalf; and c) operate within the limitations set out in the power of attorney.	We understand that this is a requirement to check that an agent of a consumer really has power of attorney and that documents to prove this must be shown. We understand that the Central Bank is not asking for new or special documentation to be created.
Bundling and Contingent selling 3.12 A regulated entity must not make the sale of a product or service	

contingent on the consumer purchasing another product or service from the regulated entity. This provision does not prevent a regulated entity from offering additional products or services to consumers who are existing customers which are not available to potential consumers.	
3.14 A regulated entity is prohibited from bundling except where it can be shown that there is a cost saving for the consumer.	
3.15 Prior to the sale of a bundled product, a regulated entity must provide the consumer with information in writing on: a) the cost to the consumer of the bundle; b) the cost to the consumer of each product separately; c) how to switch products within the bundle; d) how to exit the bundle; and e) any charges to the consumer of exiting the bundle.	
3.16 Where a consumer wishes to exit a bundle, the regulated entity must allow that consumer to retain any product(s) in the bundle that the consumer wishes to keep, without penalty or additional charge, apart from the loss of any loyalty discount.	
3.17 a) Where an optional extra is offered to a consumer in conjunction with a product or service, a regulated entity must: i) inform the consumer in writing that the optional extra does not have to be purchased in order to buy the main product or service; ii) set out the cost of the basic product or service (excluding the optional extra); and iii) set out separately the cost of the optional extra(s). 11 b) A regulated entity must not charge a consumer a fee for any optional extra offered in conjunction with a product or service unless the consumer has confirmed that he/she wishes to purchase the optional extra.	This does not take into account business carried out via call centres where immediate cover is required. The requirements should not amend the DMD regulations and should take into account DMD rules on cooling off. This is an unreasonable "in writing" obligation. It should be sufficient to advise the customer verbally of the pricing structure.
Payment Protection Insurance 3.18 Where a regulated entity offers payment protection insurance in conjunction with a loan: a) the initial repayment estimate of the loan advised to the consumer must be exclusive of the payment protection premium and the amount of the premium must be advised separately; and b) a combined application form may not be used.	

Conflicts of Interest 3.22 A regulated entity must have in place and operate in accordance with a written conflicts of interest policy appropriate to the nature, scale and complexity of the regulated activities carried out by the regulated entity. The conflicts of interest policy must: a) identify, with reference to the regulated activities carried out by or on behalf of the regulated entity, the circumstances which constitute or may give rise to a conflict of interest between (i) the regulated entity or a related undertaking of the regulated entity and its customers who are consumers or (ii) a customer who is a consumer and another customer of the regulated entity or a related undertaking of the regulated entity; and b) specify procedures to be followed, and measures to be adopted, in order to manage such conflicts.	Can the Central Bank explain the objective it is trying to achieve in a) ii)? How/why are insurers expected to be able to identify conflicts of interest that exist between two or more of their customers?
3.23 A regulated entity must not knowingly create situations that may give rise to a conflict of interest whose existence may damage the interests of a consumer, including in relation to remuneration arrangements.	We understand that the Central Bank is asking insurers not to contribute to any situation where a conflict of interest may arise as between an intermediary and a consumer. However we understand that in intermediated sales, the primary obligation will remain on intermediaries to avoid conflicts of interest in order to fulfil their positive obligation to act in their clients' best interests at all times.
3.24 Where a regulated entity distributes its products to consumers through an intermediary, the regulated entity must not require the intermediary to introduce a specified level of business from consumers in order to retain a letter of appointment from that regulated entity in circumstances where this could create a conflict of interest between the intermediary and the consumer.	
Personal Contact With Consumers **Unsolicited Contact** 3.31 A regulated entity may only make an unsolicited personal visit or telephone call to a personal consumer who is an existing customer.	Disallowing calls to non-customers for the purposes of selling protection policies is not in the best interests of consumers and is, we believe, damaging to the wider economy resulting in a possible risk to jobs in this sector with no economic gain elsewhere. Other than in limited classes of business where insurance cover is legally or contractually mandatory, potential customers rarely contact insurance companies directly seeking cover. Also unlike the banking sector insurance companies do not generally operate via a high street branch network which allows for regular face to face customer interaction. The insurance industry offers important protection to consumers; such as protecting their income in the event of serious accident, illness, incapacity or death, protecting material property and protecting against legal and financial liabilities in addition to funding for retirement and long-term savings.. Such restrictions may have the effect of preventing individuals or certain sections of society from obtaining such cover – thus potentially increasing the burden on the state when their circumstances are adversely affected. The restrictions currently in place to prevent the misuse of unsolicited contact, including the National Directory Database, prohibition of calls to mobile phones and the opt-out option for existing customers under Data Protection legislation, provide fully adequate protection for consumers where such requirements are complied with.

	The restriction on contacting existing customers without having obtained prior consent potentially conflicts with the requirement to ensure that firms act in the best interests of customers as it restricts firms from providing ongoing advice to customers in relation to products unless they have provided such consent and could result in an allegation of the entity/intermediary failing in their duty of care, particularly in relation to issues such as monitoring of fund performance and providing for changes within the clients' declared and agreed needs. The proposed time restrictions will not allow the time necessary to carry out the Know Your Customer and Suitability processes adequately in addition to providing a customer with all necessary information in relation to risks, conditions, exclusions as typically consumers are only available outside of working/commuting hours and at weekends. We would suggest that protecting consumers against unwanted sales tactics is better achieved through the various robust controls in the Code in respect of knowing the customer, suitability, disclosure (including key features documentation) and product producer responsibilities and by requiring firms to have in place very tightly controlled auditing mechanisms. Further protection could be provided through the cooling off period. Reporting of complaint trends in relation to sales practices by entities may serve as an additional preventative measure. Finally, enhanced awareness of consumers' rights in relation to unsolicited contact could be achieved through advertising campaigns and other consumer education and information programmes. The immediate impact of this measure as proposed would be loss of employment for direct sales agents – who have complied with the Minimum Competency Requirements and have not been found to be responsible for any widespread incidence of mis-selling or other regulatory breaches either through he Central Bank inspections or internal compliance audits by regulated firms. We would like to draw the Central Bank's attention to the ODPC's rules that allow marketing to a non-customer by phone if they have 'opted in' ('opt out' for landline marketing to those not on NDD). The Data Protection Commissioner's view in relation to an organisation's ability to market is far more permissive compared to the proposed changes by the CB. The DPC's "Direct Marketing - A General Guide for Data Controllers" allows phone marketing to customers if they have been given the option to 'opt out'. The proposed changes deem even an 'opt in' option over the internet or when a policy is incepted at a call centre to be insufficient.

3.32 A regulated entity must not, for sales or marketing purposes, make an unsolicited personal visit or telephone call, at any time, to a personal consumer who is an existing consumer unless that personal consumer has given informed consent in writing to being contacted by the regulated entity by means of a personal visit or telephone call.	We believe that this provision will place undue and unnecessary restraint on firms and consumers. It not only significantly hinders business development but it signifies a major hurdle to effective customer relationship management. In order to develop business, strengthen customer relationships and to provide cost effective peace of mind for customers, insurers must be able to contact them via telephone. Customers are already aware of, their entitlement to opt out of all sales and marketing contact. Companies already receive and act on opt-outs and we see no evidence that customers are unhappy with this regime. Can the Central Bank point to any problem that has arisen in this regard? Can the Central Bank define unsolicited contact as covered under the Code and provide clarity here? Is the intention to stop only calls that could potentially directly result in the purchase of life/non-life insurance or any contact in relation to making an appointment at a future date? If an existing customer has consented to direct marketing, then they have the expectation that they will be contacted and that expectation should be honoured. If the Central Bank believes that the rules in relation to consent need to be updated then this should be dealt with as a separate issue. Members have contacted us with alternative suggestions to provisions 3.31 and 3.32 and we would like to discuss these with the Central Bank.
3.33 In order to comply with Provision 3.32 above, a regulated entity must have obtained the consent of the personal consumer in a separate document or separate section of a document, which includes a requirement for the personal consumer to sign that section/document and which sets out: a) the purposes for which a personal visit or telephone call may be made if the personal consumer consents, and b) the times and days for the proposed contact, which must be within the times and days specified in Provision 3.35.	See comments on 3.31 and 3.32 above. Further, this rule would mean that a third signature on application forms for life assurance products would be required: • Signature 1 under life assurance disclosure declaration • Signature 2 on application declarations • Signature 3 for specific consent The proposed changes would seem to deem even an 'opt-in' option over the internet or when a policy is incepted at a call centre to be insufficient..
3.34 A regulated entity may only make an unsolicited personal visit or telephone call to a consumer who is an existing consumer if the consumer holds a product which requires the regulated entity to maintain contact with the consumer in relation to that product. In relation to arrears, the limits set out in Provision 8.14 apply.	**See comments on 3.31 and 3.32 above** . Also this provision appears to outlaw completely cross-selling and removes the opportunity for an existing consumer to be contacted regarding new products or services.
3.35 A regulated entity may only make a personal visit or telephone call to a personal consumer between 9.00 a.m. and 7.00 p.m. Monday to Friday (excluding bank holidays and public holidays), except where: a) the purpose of the contact is to protect the personal consumer from fraud or other illegal activity, or b) the personal consumer requests, in writing, contact at other times or in other circumstances, or c) the contact is permitted at other times under the Consumer Credit Act 1995.	The draft rules seem to restrict significantly the provisions in relation to cold calling and it is not clear to us why this has been done. If there are specific issues which have arisen perhaps they could be elaborated? In addition restricting the times at which calls can be made and in particular where joint decisions are needed, in particular removing Saturday when individuals are more likely to be at home and where couples are more likely to be together would operate to the detriment of many consumers. Many people work late or irregular hours and it's only after 7pm or at weekends that they are in a position to discuss their financial affairs. Many people cannot have these types of discussions in their place of work.
3.36 When making a personal visit or telephone call, the representative	See our comments under 3.31, 3.32 and 3.33.

of a regulated entity must immediately and in the following order: a) identify himself or herself by name, and the name of the regulated entity on whose behalf he/she is being contacted; b) inform the consumer of the purpose of the contact; and c) inform the consumer that the telephone call is being recorded, if this is the case.	
3.37 Where the personal visit or telephone call is for sales or marketing purposes in accordance with Provision 3.32 above, a regulated entity must: a) establish if the personal consumer wishes the call/visit to proceed, and, if not, he/she must end the contact immediately; and b) abide by a request from a personal consumer not to make a personal visit or telephone call for sales or marketing purposes to him/her again and this request must be recorded by the regulated entity.	See our comments under 3.31, 3.32 and 3.33.
3.38 Where a personal visit or telephone call to a consumer other than a personal consumer is as a result of a business lead or referral, a regulated entity must: c) disclose to the consumer the source of the business lead or referral supporting the contact, and d) retain a record of the business lead or referral.	See our comments under 3.**3**1, 3.**3**2 and 3.**3**3. Can the Central Bank clarify what is meant by business leads and referrals?
Product Producer Responsibilities 3.46 Where a product producer distributes its products to consumers through an intermediary and imposes target levels of business or pays commission to an intermediary based on levels of business introduced, the product producer must be able to demonstrate that these arrangements: a) do not impair the intermediary's duty to act in the best interests of consumers; and b) do not give rise to a conflict of interest, either between the product producer and the intermediary or between either of them and the consumer.	3.46 this implements the recommendations of the Intermediary Working Group and we confirm that it is our understanding that these requirements do not apply to tied agents. This provision obliges product producers "to demonstrate" that their commission arrangements with intermediaries does not impinge / adversely affect the quality and suitability of the advice provided to customers. How are product producers expected to demonstrate this? *It would be helpful if the Central Bank could provide clear and unambiguous guidance regarding their intentions under this provision.* Primary responsibility should rest with the Intermediary under this provision rather than with the Product Producer.

3.50 Within the first year of launching an investment product which is sold to consumers, and annually thereafter, a product producer must update the information required under Provision 3.47 and provide that updated information to the intermediary. Where the product producer establishes that the target market of consumers for the investment product has changed, the product producer must: a) immediately update the information it provides under Provision 3.47 above; and b) notify the Central Bank.	Clarity is required as to the application of this regulation to investment products/investment funds that are no longer open for new business but are still operational. Must product producers provide updated information on an annual basis to intermediaries for the purposes of briefing/answering queries from their existing customers who are invested in products or funds which are no longer open for new business and may not have been for some time? With reference to life insurance bonds, does the obligation apply to the product itself or the potential range of investment offerings within that product, or both?
3.51 A regulated entity must maintain a publicly accessible register of all mortgage intermediaries to which it has issued a current appointment.	
3.52 Upon the termination of the appointment of any mortgage intermediary, a regulated entity must provide to the Central Bank a confirmation in writing that such mortgage intermediary has been removed from the register maintained under Provision 3.51.	

CHAPTER 4: PROVISION OF INFORMATION	
4.3 Where a regulated entity intends to amend or alter the range of services it provides, it must give notice to affected consumers at **least one month** in advance of the amendment being introduced.	A number of firms may find this timeline difficult. We suggest that flexibility be considered upon request from an individual insurer.
4.4 Where a regulated entity intends to withdraw a product or service provided to a consumer, the regulated entity must inform the consumer in writing two months in advance of the withdrawal, of the proposed withdrawal and the reason for the withdrawal.	The requirement to give two months notice may not always be possible. The firm should have discretion regarding the communication if the cost to the firm is disproportionate to the impact on the consumer. Firms can in certain circumstances (e.g. non payment of premium or provision of false or misleading information) cancel/void a policy of insurance without providing the customer with 2 months notice. We would like to discuss this with the Central Bank. We understand the provision does not apply to firms that do not wish to offer renewal.
4.7 A regulated entity must ensure that, where it communicates with a consumer using electronic media, it has in place appropriate arrangements to ensure the secure transmission of information to, and receipt of information from, the consumer.	
INFORMATION ABOUT REGULATORY STATUS 4.9 A regulated entity must only use a regulatory disclosure statement as set out in Provision 4.12, in the following circumstances: a) on its business stationery used in connection with its regulated activities; b) on the section of its website that relates to its regulated activities; and c) on electronic communications with consumers (excluding SMS messages) where such communications are in connection with its regulated activities.	We understand that firms will be able to run down existing stocks of printed stationery prior to implementing on new stationery.
4.10 Where a regulated entity is corresponding with a consumer otherwise than in relation to a regulated activity, the regulated entity shall refrain from including the regulatory disclosure statement in that correspondence.	We understand that general correspondence, e.g. providing references , covering letter providing sponsorship/donations to charity are outside this provision.
4.11 A regulated entity must have separate sections on any website it operates, for regulated activities and any other activities which it carries out.	
4.12 A regulated entity must use a regulatory disclosure statement in either of the following formats, depending on the Member State where it has been authorised, registered or licensed: a) "[Full legal name of the regulated entity, trading as (insert all trading	Regulated entities should be allowed to drop either their trading or legal name if both are identical but for "Limited", "PLC" or equivalent.. "XXX Limited (t/a XXX Limited) is regulated by the Central Bank of Ireland could be reduced to "XXX is regulated by the Central Bank of Ireland".

names used by the regulated entity)] is regulated by the Central Bank of Ireland"; or b) "[Full legal name of the regulated entity, trading as (insert all trading names used by that regulated entity], is authorised/licensed or registered and regulated by [insert name of the competent authority from which it received its authorisation or licence, or with which it is registered] in [insert name of the Member State where that competent authority resides] and is regulated by the Central Bank of Ireland for conduct of business rules." 21 No additional text may be inserted into the wording of the regulatory disclosure statements as set out above.	
4.13 A regulated entity must ensure that its regulatory disclosure statement is not presented in such a way as to appear to be an endorsement by the Central Bank of Ireland or other relevant EU competent authority of the regulated entity or its products or services.	
4.18 A deposit agent must ensure that each consumer is given a copy of the relevant credit institution's terms of business prior to providing the first service to that consumer. Such terms of business must set out the nature of the relationship between the credit institution and the deposit agent and the basis on which the deposit agent's regulated activities are provided.	Where an insurance intermediary is also a deposit agent, must the credit institution's terms of business be provided even where advice is not being given in relation to deposits?
4.21 The term 'broker' may only be used by an intermediary in its legal name, trading name or any other description of the firm where the intermediary provides all of its services on the basis of a fair analysis of the market.	
Information about products 4.25 Before offering, arranging or recommending a product, a regulated entity must provide information to the consumer in writing about the main features and restrictions of the product to assist the consumer in understanding the product.	We understand that this does not apply to DMD sales conducted by telephone or online. We also understand that this requirement does not restrict the immediate inception of policies where this is necessary/required by the consumer (e.g. immediate motor insurance cover).
4.26 A regulated entity must provide each consumer with the terms and conditions attaching to a product or service, before the consumer enters into a contract for that product or service.	We understand that this does not apply to DMD regulated sales conducted over the phone or online. Within Consultation Paper 47, the corresponding regulation (Regulation 4.28) obliged regulated entities to provide product specific terms and conditions "before the consumer enters into a contract for that product or service, or before the cooling-off period (if any) expires". Can the Central Bank confirm that the provision of the policy terms and conditions can continue to be provided before the expiry of the cooling off period? The provision of such documentation should only be handled by the product provider rather than the intermediary in order to have adequate controls in place to ensure the provision of the correct terms and conditions for a product. In many cases policy

	holders will be provided with key features documents. Clarification is sought as to the range of documentation that will meet this requirement. Are the product booklet and customer information notice (or equivalent documents for PRSAs and company pensions) sufficient to meet this requirement? There would be a significant cost implication if this provision was deemed to be met only by the policy terms and conditions. What is the purpose of this for sales that are already subject to cooling-off provisions?. In any case the provision appears to conflict with Section 45(1) of the European Communities (Life Assurance) Framework Regulations 1994 which applies in relation to life assurance policies. We would therefore suggest that paragraph 4.26 be amended to clearly indicate that it does not apply in relation to life assurance products
Insurance products 4.43 A regulated entity providing an insurance quotation to a consumer must include the following information in the quotation, assuming that all details provided by the consumer are correct and do not change: a) the monetary amount of the quotation; b) the length of time for which the quotation is valid; and c) the full legal name of the relevant underwriter.	There is no definition of 'insurance products' in the Definitions section. We understand that 4.43 refers to non life policies and life policies without a maturity or surrender value.
4.44 A regulated entity must set out clearly in the quotation any warranties or endorsements that apply to the policy. Where the quotation is provided in writing, this information must not be in a smaller font size than other information provided in the document.	
4.45 A regulated entity providing an insurance quotation to a consumer must clearly identify any discounts or loadings that have been applied in generating the quotation.	We suggest that this be provided on request only.
4.46 A regulated entity must, when offering a motor insurance policy to a consumer, specify to the consumer the basis on which an insurance undertaking may calculate the value of the vehicle for the purposes of settling a claim where the vehicle is deemed to be beyond economic repair following a road traffic accident, fire or theft.	This is a new requirement, and we do not believe it is necessary as we do not have evidence that consumers are unaware of how these types of claims are assessed. It should be sufficient to advise the consumer at the time of the claim only.
4.47 A regulated entity must state the full legal name of the relevant underwriter on all insurance policy documentation and renewal notices issued to a consumer.	
4.48 A regulated entity must explain to a consumer, at the proposal stage, the consequences for the consumer of failure to make full disclosure of relevant facts, including: a) the consumer's medical details or history;	

b) previous insurance claims made by the consumer for the type of insurance sought. Such consequences must include, where relevant, i) that a policy may be cancelled if such information were to come to light; ii) that claims will not be paid; iii) the difficulty the consumer may encounter in trying to purchase insurance elsewhere; and, iv) in the case of property insurance, that the failure to have property insurance in place could lead to a breach of the terms and conditions attaching to any loan secured on that property.	
4.49 Before a consumer completes a proposal form for a permanent health insurance policy, a regulated entity must explain to the consumer: a) the meaning of disability as defined in the policy; b) the benefits available under the policy; c) the general exclusions that apply to the policy; and d) the reductions applied to the benefit where there are disability payments from other sources.	
4.50 Before a consumer completes a proposal form for a serious illness policy, a regulated entity must explain clearly to the consumer the restrictions, conditions and general exclusions that attach to that policy.	
4.51 When offering a property or motor insurance policy to a consumer, a regulated entity must, where relevant, highlight to the consumer that, in the event of a claim, the regulated entity may appoint its own builder or other expert to undertake restitution work on a property or motor vehicle.	We understand that inclusion of this information within the policy wording is sufficient.
4.52 A regulated entity must issue policy documents to the consumer within 10 business days of all relevant information being provided by the consumer and cover being underwritten. This provision also applies in the case where the consumer renews an existing policy.	There is a potential conflict with 4.68 in the case where a Tracker Bond is a life assurance policy. As a result for the avoidance of doubt we would suggest changing 4.68 so that it clearly does not apply in the case of Tracker Bonds which are life assurance policies.
4.53 Where an insurance undertaking refuses to quote a consumer for property or motor insurance, it must, within five business days of the refusal issue the consumer with its refusal and its reasons for refusing cover, in writing. a) In the case of motor insurance, this document must also notify the consumer of their right to refer the matter to the Declined Cases Committee and the method of doing so. b) In the case of property insurance, this document must also notify the consumer that failure to have property insurance in place could lead to a breach of terms and conditions attaching to any loan secured on that property.	This provision is excessive. Issuing a written declinature should only be required on request from the consumer. We understand that it is not the intention that this provision should apply to on-line quotes using a comparative market-based system – either via an intermediary or directly. A consumer may obtain an automatic quote from one insurance undertaking whereas in the same process another insurance undertaking may automatically decline on the system. The Insurance Undertaking will not be aware of specific cases for which the system has issued a refusal.

4.54 When a consumer notifies a regulated entity of the intention to use an insured vehicle in another Member State, the regulated entity must provide the consumer with contact details of the regulated entity's appointed claims representative for that Member State.	
4.55 Where a secondary market exists for a life assurance policy, and when the holder of such a life assurance policy seeks information on its early surrender, the regulated entity must divulge to the holder, at the same time as it discloses the surrender value of the policy, that this secondary market exists and that the policy may be sold on it.	
4.56 Before offering an insurance policy where the premium may be subject to review during the term of the policy, other than as a result of an alteration to the policy that is initiated by the consumer, a regulated entity must: a) explain clearly to the consumer the risk that the premium may increase; b) provide the consumer with details of the period for which the initial premium is fixed; and c) include the following warning on the application form for the product: Warning: The current premium may increase after [insert period of time for which the premium is fixed].	
Investment Products 4.62 Before offering, arranging or recommending an investment product the regulated entity must provide the consumer with the following information, where relevant, in a stand-alone document: a) capital security; b) the risk that some or all of the investment may be lost; c) leverage and its effects; d) any limitations on the sale or disposal of the product; e) restrictions on access to funds invested; f) restrictions on the redemption of the product; g) the impact, including the cost, of exiting the product early; h) the minimum recommended investment period; i) the risk that the estimated or anticipated return will not be achieved; j) the potential volatility in price, fluctuation in interest rates, and/or movements in exchange rates on the value of the investment; and k) **the level, nature, extent and limitations of any guarantee and the name of the guarantor.** Parts (g) and (i) are not required to be disclosed in this document for life assurance products, where such information is already required to be disclosed under the Life Assurance (Provision of Information) Regulations 2001 or any other regulations made under Section 43D of	Does this avoid overlap with Life disclosure regulations? The provision of information to customers who buy life Assurance products is generally governed by the Life Assurance (Provision of Information) Regulations 2001 with equivalent disclosure requirements for Occupational Pensions and PRSAs. The Central Bank is proposing additional disclosure to customers in addition to these requirements. It is widely acknowledged that where customers receive too much information, there is a tendency not to read the documents. The additional disclosure requirements will add to the documentation that the customer will receive. The Central Bank has already recognised that there is a need to overhaul and simplify the disclosure requirements and published CP34 on review of the Life Assurance (Provision of Information) Regulations in September 2008. In this consultation paper the Bank stated "we propose to introduce a new format of disclosure to replace the existing disclosure documentation. The new proposed disclosure regime aims to be simpler and to present key information more clearly to consumers". Research conducted by the Central Bank at the time found: • The disclosure document is not read on a widespread basis • Consumers tend to rely on either information provided to them by an advisor when selling them a product or their assumptions about these products. • Disclosure documentation is viewed by consumers as additional small print, alongside other material provided by the product provider.

the Insurance Act 1989 concerning provision of information for life assurance policies.	The Central Bank intended to address these findings when reviewing the Consumer Protection Code. Until the Central Bank undertakes an overhaul of the Life Disclosure Regulations (and equivalent regimes for PRSAs and occupational pensions) firms that operate these disclosure regimes should be considered to have met their obligations under provisions 4.62 and 4.72. In any case 4.62 appears to require a further stand alone document to be provided to the consumer. Under existing disclosure rules there is only limited scope for providing some of the information in a standalone document where the product is a life assurance policy. **For the avoidance of doubt we would suggest that none of the requested information should be provided in the case of life assurance products where this information is already provided under relevant disclosure obligations.** **Also PRSAs have their own specific disclosure requirements and for clarity it should also be confirmed that this provision does not apply to PRSAs.**
4.63 A regulated entity must include the following warning statement with all illustrations: **Warning: These figures are estimates only. They are not a reliable guide to the future performance of your investment.**	Presumably this warning is not required in CINs or SRPs given the prescribed equivalent warnings there already?
4.68 A product producer of a tracker bond must produce and issue a document, within three business days of the start of the tracker bond, to any consumer to whom it has sold its tracker bond or to any intermediary that has sold its tracker bond setting out: a) the name(s) and address(es) of the consumer(s); b) the date of investment; c) the amount of the investment; d) the date or dates on which the minimum payment is payable; e) disclosure of the make up of the investment, if the make up differs from that shown in the Key Features Document prepared in accordance with Provision 4.66; f) the date the investment will mature; and g) if a consumer has the right to cancel the tracker bond within a certain period of time from the sale, the cooling off period of [Insert number] days starts from [insert date: the commencement of the investment date/date of receipt of policy document]. The intermediary must, within three business days of receiving this document, provide it to the consumer(s) who purchased the tracker bond.	As the Central Bank has witnessed at first hand during numerous themed inspections, the issuing of tracker bond policy documentation and the regulations affecting them are putting extensive pressures on product producers. It was proposed in Consultation Paper 47 to amend the time for issuing documentation from “within two business days” to “within five business days”. However, CP54 proposes “within three business days”. This may make it difficult to balance both adherence to the regulations and the issuing of accurate policy documentation. We believe that this should revert to the earlier proposal of “within five business days”. See also comments on 4.52 above.
4.70 Prior to offering, arranging or recommending a tracker bond, where relevant, the product producer of a tracker bond must explain to the consumer in writing that the consumer’s return will be capped/limited	Should this form part of the “Key Information” document required to be issued for Tracker Bonds as opposed to a specific standalone requirement?

and that the product producer and / or a third party will retain the excess of earnings over that cap/limit.	
Personal Retirement Savings Accounts (PRSAs) 4.71 Before offering, arranging or recommending a Personal Retirement Savings Account ('PRSA'), a regulated entity must provide the consumer with the information set out in Appendix B to this Code. Where a non-standard PRSA is offered or recommended to a consumer the regulated entity must complete the declaration set out in Appendix C to this Code.	The introduction of rules for PRSAs will mean that PRSA providers would need to comply with two sets of different regulations from the Central Bank of Ireland and the Pensions Board. In addition PRSA providers will need to report any issues or errors identified to two regulatory bodies. These duplicate existing requirements and we suggest that the improved requirements in relation to knowing the consumer and suitability should be adequate.
Information About Charges 4.72 A regulated entity must: a) prior to providing a product or service to a consumer, provide the consumer with a written breakdown of all charges, including third party charges, which will be passed on to the consumer. Where such charges cannot be ascertained in advance, the regulated entity must notify the consumer that such charges will be levied as part of the transaction; b) notify affected consumers of increases in charges, specifying the old and new charge, or the introduction of any new charges, at least 30 days before the change takes effect; and c) where charges are accumulated and applied periodically to accounts, notify consumers at least 10 business days before deduction of charges and give each consumer a breakdown of such charges, except where charges total an amount of €10 or less.	Can the Central Bank confirm that the provisions of 4.72 (b), do not apply to whole of life insurance policy benefit charges? Such policies are subject to disclosure of the projected benefits and costs at the policy proposal and commencement stage. In accordance with the policy conditions such policies in addition undergo periodic policy reviews where customers are advised whether the current premium is sufficient to sustain the current level of benefits until the next review date. While whole of life insurance policies are subject to annual increases in benefit charges in line with mortality rates, such increases are required to take place in order to keep the policy on cover. There is no benefit in writing to such customers on annual basis to provide information on the cost of each benefit. As outlined in our comment on provision 4.62, compliance with the requirements of the Life Assurance (Disclosure) regulations and equivalent requirements for PRSAs and occupational pensions should be sufficient to meet the obligations under part a). In any case we do not believe that this provision should apply to Life Assurance policies – especially given the reference to accounts.
4.73 A regulated entity must notify in writing consumers who have been charged penalty charges, including surcharge interest, of the methods by which these penalties may be mitigated.	
4.74 Where a regulated entity intends to impose a charge in respect of the provision or arrangement of a loan to a personal consumer, the regulated entity must, prior to the personal consumer signing an application form for a loan: a) inform the personal consumer of their right to pay such a charge up-front; and b) where the personal consumer opts to include the charge in the sum borrowed, provide the personal consumer, in writing, with the total cost of this charge over the term of the loan.	
4.75 A regulated entity must make a schedule of its fees and charges publicly available. If the regulated entity has a website, its schedule of fees and charges must also be made publicly available through placing it on its website.	We assume that this does not apply to insurance as both premium rates for life and non-life products and charges that are applied to life investment products cannot be meaningfully presented in this way.
Information About Remuneration 4.76 Prior to offering, arranging or providing a product or service a	

mortgage intermediary and a firm authorised under the Investment Intermediaries Act 1995 must disclose in writing to a consumer the existence, nature and amount of any fee, commission or other remuneration received or to be received from a product producer in relation to that product or service. Where the amount cannot be ascertained, the method of calculating that amount must be disclosed. The disclosure must be in a manner that is comprehensive, accurate and understandable. **This provision does not apply where the product or service relates to an insurance policy.**	
4.77 Where remuneration is to be received by an intermediary from a product producer on an ongoing basis in respect of a product or service, the intermediary must disclose to the consumer in writing, prior to the provision of that product or service, the nature of the service to be provided to the consumer in respect of this remuneration.	
4.78 In the case of non-life insurance: a) An insurance intermediary must disclose in general terms to a consumer that it is paid for the service provided to the consumer by means of a remuneration arrangement with the product producer. b) An insurance intermediary must disclose to a consumer the range of commission earned, either in percentage terms or the actual amount, in respect of each product type. c) Prior to the sale of a product, an insurance intermediary must either inform the consumer of the amount of remuneration receivable in respect of that sale or that details of remuneration are available on request.	
4.79 An intermediary must disclose in general terms to a consumer any remuneration arrangements with product producers that are not directly attributed to the service provided to an individual consumer but are based on levels of business introduced by the intermediary to that product producer or that may be perceived as having the potential to create a conflict of interest.	
4.80 The disclosure required at Provisions 4.78 and 4.79 must be in the terms of business or through some other suitable mechanism, and with renewal notices.	
4.81 Where an intermediary allows the consumer the option to pay for its services by means of a fee, the option of payment by fee and the amount of the fee must be explained in advance to the consumer. Where the intermediary charges a fee and also receives commission in respect of the product or service provided to the consumer, it must explain to the consumer whether or not the commission will be offset against the fee, either in part or in full.	

CHAPTER 5: KNOWING THE CONSUMER AND SUITABILITY	
Knowing the Customer 5.1 A regulated entity must gather and record sufficient information from the consumer before it offers, arranges or recommends a product or service appropriate to that consumer. The level of information gathered should be appropriate to the nature and complexity of the product or service being sought by the consumer, but must be to a level that allows the regulated entity to provide a professional service and must include details of the consumer's: a) Needs and objectives including, where relevant: i) the length of time for which the consumer wishes to hold a product, ii) need for access to funds, need for emergency funds, iii) need for accumulation of funds. b) Personal circumstances including, where relevant: i) age, ii) health, iii) knowledge and experience of financial products, iv) dependents, v) employment status, vi) potential future changes to his/her circumstances. c) Financial situation including, where relevant: i) income, ii) savings, iii) financial products and other assets, iv) debts and financial commitments. d) where relevant, attitude to risk, in particular, the importance of capital security to the consumer. The regulated entity is only required to seek the information set out at a) to d) above where it is relevant to the assessment of suitability to be carried out under this Chapter.	We agree that the information in 5.1 should be obtained where relevant. However, we feel that a customer should not be prohibited from taking out a financial product on the basis that they refuse to disclose some or all of the information. The firm should be required to ask the customer to disclose the information outlined in 5.1. Where the customer refuses to provide some or all of the information, then the firm should make the customer aware it is in their best interest to provide this information in order for the firm to provide the customer with appropriate financial advice. If the customer is still unwilling to provide the information, a note to this effect should be kept on file and recorded in the suitability statement. The draft Code does not address the complexity of the sales process for customers wishing to set up an Occupational Pension Scheme using insurance investment products, and it will be open to interpretation.

5.2 In the case of a standard Personal Retirement Savings Account (PRSA), where an employer has chosen a provider and the regulated entity makes a presentation to employees, the regulated entity must gather and record the following minimum relevant information namely, that the consumer: a) is an employee of the firm; b) has no other form of pension provisions; and c) intends to select the default investment strategy of the provider.	
5.3 A regulated entity must gather and maintain a record of details of any material changes to a consumer's circumstances before offering, arranging or recommending a subsequent product or service to the consumer. Where there is no material change, this must be noted on a consumer's records.	We agree with the CB view that identifying material changes is an important part of meeting the know-your-customer requirements for subsequent review. The firm should be able to demonstrate that they have taken these changes into account when offering, arranging or recommending a product.
5.4 A regulated entity must ensure that, where a consumer refuses to provide information sought in compliance with Provisions 5.1 and 5.3, the refusal is noted on that consumer's records. The regulated entity must inform the consumer that as it does not have the relevant information necessary to assess suitability it cannot offer the consumer the product or service sought.	If the regulated entity is not able to sell a product in this case, there would appear to be limited benefit in noting this information on a customer's file. See comment on 5.1 for alternative approach.
5.5 A regulated entity must endeavour to have the consumer certify the accuracy of the information it has provided to the regulated entity. Where the consumer declines to do so, the regulated entity must note this on the consumer's records.	
Assessing Suitability 5.17 When assessing the suitability of a product or service for a consumer, the regulated entity must, at a minimum, consider and document whether, on the basis of the information gathered under Provision 5.1: a) the product or service meets that consumer's needs and objectives; b) the consumer: i) is able to meet the financial commitment associated with the product on an ongoing basis; ii) is financially able to bear any reasonably foreseeable risks attaching to the product or service; iii) in the case of credit products, has the ability to repay the debt in the manner required under the credit agreement, on the basis of the outcome of the assessment of affordability, and, c) the product or service is consistent with the consumer's attitude to risk.	See comments under 5.1 above.
5.18 A regulated entity must ensure that any product or service offered or recommended to a consumer is suitable to that consumer, having regard to the facts disclosed by the consumer and other relevant facts	

about that consumer of which the regulated entity is aware. The following additional requirements apply: a) where a regulated entity offers a selection of product options to the consumer, the product options contained in the selection must represent the most suitable from the range available to the regulated entity; and b) where a regulated entity recommends a product to a consumer, the recommended product must be the most suitable product for that consumer.	
5.19 A regulated entity must not advise a consumer to carry out an investment product transaction, or a series of investment product transactions, with a frequency or in amounts that, when taken together, are deemed to be excessive and/or detrimental to the consumer's best interests. Where a consumer instructs a regulated entity to carry out an investment product transaction, or series of investment product transactions, with a frequency or in amounts that, when taken together, are deemed to be excessive and/or detrimental to the consumer's best interests, the regulated entity must make a contemporaneous record that it has advised the consumer that in its opinion the transaction(s) is/are excessive and/or detrimental to the consumer's best interests, if the consumer wishes to proceed with the transaction(s).	
Statement Of Suitability 5.21 Before offering, arranging or recommending a product or service, a regulated entity must prepare a written statement setting out: a) the reasons why a product or service offered to a consumer is considered to be suitable to that consumer; or b) the reasons why the product options contained in a selection of product options offered to a consumer are considered to be the most suitable to that consumer; or c) the reasons why a recommended product is considered to be the most suitable product for that consumer. The reasons set out in the statement must reflect the information gathered under Provision 5.1 to assist the consumer in understanding how the product(s) or service(s) offered or recommended meets, where relevant, the consumer's: i) needs and objectives, ii) personal circumstances, and iii) financial situation. The written statement must also include an outline of the following, where relevant: iv) how the risk profile of the product is aligned with the consumer's	As we stated to the Financial Regulator during discussions prior to the introduction of the 2006 Consumer Protection Code this provision should not apply to execution-only and protection contracts. These polices are relatively simple and understandable to the customer and therefore requiring the production of a suitability statement merely adds to the volume of paperwork without any proportional benefit to the customer.

attitude to risk; and v) how the nature, extent and limitations of any guarantee attached to the product is aligned with the consumer's attitude to risk. The regulated entity must sign the statement and give a copy of this statement, dated on the day on which it is completed, to the consumer before providing a product or service, and retain a copy.	
5.22 A regulated entity must include the following notice at the beginning of the statement of suitability: Important Notice – Statement of Suitability This is an important document, which sets out the reasons why the product(s) offered or recommended is/are considered suitable, or the most suitable, for your particular needs, objectives and circumstances.	
5.23 A regulated entity must inform the consumer that he/she has the right to ask questions about the information in the statement of suitability.	
5.24 Where a regulated entity has provided an oral explanation to the consumer to assist the consumer in understanding the product(s) offered or recommended, a regulated entity must include a record of the detail of such explanation in the statement of suitability.	This provision cannot be complied with as it stands, in the case of policies within the scope of 5.25 where the statement of suitability may be in a standard format for travel, motor and home insurance. For clarity, 5.24 should specifically exclude standard format statements of suitability provided in accordance with 5.25 We assume that this provision does not apply to DMD regulated sales. From a call centre perspective, the employee is working from detailed scripts which reflect the information provided to the consumer in written format once the sale is complete. The consumer has the protection of the cooling-off period to withdraw from the contract.
5.25 In the case of travel, motor and home insurance provided to a personal consumer, the statement of suitability may be in a standard format.	
5.26 In the case of non-life insurance policies, a statement of suitability may be issued to the consumer immediately after the product has been provided, where immediate cover is required.	

Exemption From Knowing The Consumer And Suitability 5.27 Provisions on Knowing the Consumer and Suitability do not apply where: a) the consumer has specified both the product and the product producer by name and has not received any assistance from the regulated entity in the choice of that product and/or product producer; or b) the regulated entity has established that the consumer is seeking a term deposit of less than one year or a notice deposit account and has alerted the consumer to any restrictions on the account. c) where consumers other than personal consumers are seeking credit. The above exemption in Provision 5.27 a) does not apply where: i) a personal consumer is seeking: a. credit amount above €75,000, b. a mortgage, c. a home reversion agreement. ii) a consumer is seeking an investment product.	See our comment after 5.21 above. The wording of this provision suggests that a life assurance investment bond is not exempt from the provision of Knowing the Consumer and Suitability and therefore cannot be sold on an execution only basis. Is it the intention of the Central Bank to prohibit Direct/Execution only business of this kind?

CHAPTER 6: STATEMENTS	
6.1 A regulated entity may provide statements or make statements available electronically to a consumer, provided that the statements are provided through a durable medium. However, if requested by a consumer, the regulated entity must issue statements in paper format to the consumer's last known postal address.	This provision should not rule out the development of business models that make exclusive use of electronic communications. If the market is diverse enough to provide for different models/channels of communication then no customer interest is served by the Central Bank's imposing paper-based communications on companies and consumers who wish to trade and communicate exclusively on-line.
6.2 In relation to a joint account, and when a consumer is a personal consumer under this Code, statements must be provided or made available separately to each of the joint account holders in the following circumstances: a) where there are different postal addresses for each joint account holder; or b) where a joint account holder has requested that a separate statement be issued to each account holder.	
Investment products 6.5 A regulated entity must issue statements for each investment product held with it at least on an annual basis, in respect of the previous 12 month period. The statements must include, where applicable: a) the opening balance or value; b) all additions including additional amounts invested in the relevant 12 month period; c) all withdrawals in the relevant 12 month period; d) the total sum invested in the relevant 12 month period; e) the number of units held during the relevant 12 month period; f) details of interest paid during the relevant 12 month period; g) all charges and deductions affecting the investment product including any charges associated with the management, selling, set up and ongoing administration of the investment product; and h) a closing balance or statement of the value of the investment. In the case of an investment product which is not covered by the Life Assurance (Provision of Information) Regulations 2001, the above information must be provided to the consumer on a forecast basis in respect of the next 12-month period, if requested by the consumer.	In our response to CP47 we asked for clarification that this will not apply where there are existing statutory communication requirements for customers i.e. Life Disclosure Regulations, PRSA, SORP. The changes proposed would result in significant system development costs for an area that is already governed by the Life Assurance (Provision of Information) Regulations 2001. If applicable to life policies, there is a need to clarify the exact scope of this provision , including whether it is intended to apply to investment only policies or covers all policies with an investment element including whole of life insurance policies; and whether it applies to policies issued following the implementation of the disclosure regulations in 2001 or to all policies. Unlike savings or investment policies, life policies can have multiple benefit charges based on the benefit cover in place. The scope of this provision will have a significant impact on the systems development required and the cost of same and it is therefore essential that such important issues are clarified. We do not think it is appropriate to apply new requirements in relation to annual statements without taking appropriate account of existing legislation. Until such time as the Central Bank streamlines all requirements in relation to life assurance policies for providing annual updates to customers, meeting the existing statutory communication requirements should be deemed to meet the obligations of life assurance companies under this provision.

CHAPTER 7: REBATES & CLAIMS PROCESSING	
Premium Rebates 7.1 A regulated entity must issue a premium rebate to a consumer within five business days of the rebate becoming due. Where the regulated entity is an intermediary, the premium rebate becomes due when: a) the insurance intermediary has received the premium rebate from the relevant insurance undertaking; or b) the insurance undertaking has notified the insurance intermediary that such rebate is due and permits the insurance intermediary to issue the rebate from the funds held by the insurance intermediary which are due to the insurance undertaking.	This provision would seem to have been drafted with non-life return premiums in mind. In any case we believe that, for non-life the timescale is too short.
7.2 An insurance intermediary may handle premium rebates due to consumers only where an express agreement exists whereby the insurance intermediary acts as agent of a regulated entity in passing rebates to consumers so that in handling the rebated premium the insurance intermediary does not become a debtor of the consumer.	
7.4 Where a premium rebate is due to a consumer, and the value of the rebate is €10 or less, the regulated entity **must** offer the consumer the choice of: a) receiving payment of the rebate; b) receiving a reduction from a renewal premium or other premium currently due to that regulated entity; or c) the regulated entity making a charitable donation of the rebate amount to a registered charity. In respect of options b) and c), the regulated entity must maintain a record of the consumer's decision.	Insurers do not collect additional premiums if the amount is too small because this is impractical. The expense of issuing rebates of under €10 will far exceed the benefit of to consumers and this expense will, ultimately, be passed onto consumers. Can the Central Bank re-consider this provision?
7.5 Where an insurance intermediary has issued a rebate cheque to a consumer, and the rebate cheque has not been presented for payment within six months from the date of issue, the insurance intermediary must issue a reminder to the consumer. If the rebate has not been presented for payment within six months from the date of issue, the insurance intermediary must return the rebate to the insurance undertaking. Should the consumer seek the rebate in the future, it must be issued by the insurance undertaking or by the insurance intermediary in accordance with Provision 7.1 above.	If provision 7.4 remains firms could be holding very small sums for a large number of individual consumers for an indefinite period of time.
7.6 Where the consumer has agreed under Provision 7.4 c) that a premium rebate will not be paid to the consumer and that a charitable donation can be made, the regulated entity must document the donation and retain a receipt from the relevant charity.	Please see comments on 7.4 and 7.5 above. Where donations are made, an aggregate receipt on a quarterly basis with a corresponding list of individual amounts which make up the final figure should be sufficient ? Issuing and tracking individual receipts would not be cost-efficient for charities or regulated firms.
Claims Processing 7.8 A regulated entity must have in place a written procedure for the	In most areas, insurers' goals and the policy holder's needs are aligned and generally congruent but sometimes insurers are obliged to form a view that a third-party claim runs counter to their

effective and proper handling of claims. At a minimum, the procedure must provide that:	policyholder’s interests. The company’s relationship with the third party claimant can therefore – in the interests of the policy-holder and in certain circumstances – be adversarial.
a) where an accident has occurred and a personal injury has been suffered, a copy of the Personal Injuries Assessment Board information leaflet (reference no.) is issued to the claimant as soon as the regulated entity is notified of the claim;	This would result in more administration whilst also impacting on the ability to settle a claim prior to it being submitted to the Injuries Board.
b) where the potential claimant has been involved in a motor accident with an uninsured or unidentified vehicle or with a foreign registered vehicle, the regulated entity must advise the potential claimant to contact the Motor Insurance Bureau of Ireland (MIBI);	
c) where a claim form is required to be completed, it is issued within five business days of receiving notice of a claim;	
d) the regulated entity must offer to assist in the process of making a claim, including, where relevant, alerting the consumer to policy terms and conditions that may be of benefit to the consumer;	This fails to take account of the necessary distinction between third party claimants and policyholders. As a third party claim is a legal proceeding against the person(s) insured under the policy, the interests of the claimant and the policyholder/defendant (both potentially “consumers” within the Code) are almost always at odds. Whilst the insurer can reasonably be obliged to facilitate the **process** for the third party claimant, the Code should make it clear firms are not expected to act contrary to their own policyholders’ interests in doing so. Whilst insurers will provide every assistance to policyholders in processing claims under their policies, the terms and conditions of the policy contract between insurer and policyholder are irrelevant to an extraneous third party claimant, whose claim lies in tort law AGAINST the policyholder or other insured person whom the insurer indemnifies under the policy. If 7.8 d) is to be retained it is suggested that the reference to alerting “the consumer” to policy terms and conditions that may be of benefit should be changed to alerting “the policyholder” ,
e) details of all conversations with the claimant in relation to the claim must be noted; and	
f) the regulated entity must, while the claim is ongoing provide the claimant with updates of any developments affecting the outcome of the claim within 10 business days of the development. When additional documentation or clarification is required from the claimant, the claimant must be advised of this at an early stage and, if necessary, issued with a reminder in writing.	This provision will, in the absence of considerable additional elucidation, be open to wide interpretation, particularly as to what in practice constitutes a “development affecting the outcome of the claim”. See also comments above on 7.8 d) re conflicts of interest between policyholders/customers and third party claimants in handling claims.
7.10 Where a regulated entity engages the services of a loss adjuster and/or expert appraiser it must inform the claimant in writing of the contact details of the loss adjuster and/or expert appraiser it has appointed to assist in the processing of the claim and that such loss adjuster and/or expert appraiser acts in the interest of the regulated entity.	Informing claimants in writing is onerous and time consuming, particularly when time is a factor for reviewing a claim. To ensure that insurers act quickly and in the best interest of the customer, they should be allowed to conduct business over the phone (with call recording). It may be more appropriate that the loss adjuster appointed could advise the claimant verbally of his / her status.
7.11 In the case of motor insurance and property insurance claims, and other claims where relevant, the regulated entity must inform the	Under existing provisions, confirmation is provided over the phone at first notification stage that the claimant can appoint a Loss Assessor to act on their behalf.

claimant in writing that the claimant may appoint a loss assessor to act in their interests but that any such appointment will be at the claimant's expense.	Informing claimants in writing will be time consuming, particularly when time is a factor for reviewing a claim. To ensure we act quickly and in the best interest of the customer, it is necessary that insurers be able to continue to conduct business over the phone (noting that calls are recorded).
7.12 At the claimant's request and with the claimant's written consent, a regulated entity must engage with a third party which a claimant has appointed to act on his/her behalf in relation to a claim.	
7.13 A regulated entity must be available to discuss all aspects of the claim with the claimant, including assessment of liability and damages, during normal office hours, or outside of these hours if agreed with the claimant.	
7.14 Where an insurance undertaking appoints a third party to undertake restitution work in respect of a claim, the insurance undertaking must provide the claimant in advance and in writing, with details of the scope of the work that has been approved and the cost.	To maintain integrity within the industry and avoid misleading a claimant, the scope of works should be provided in advance but not the cost. The claimant is always at liberty to obtain their own quote for the same scope of works for complete and independent comparison against the insurer's/adjuster's quote.
7.15 Where a method of direct settlement has been used, a regulated entity: a) must not ask the claimant to certify any restitution work carried out by a third party appointed by the insurance undertaking; and b) must certify in writing to the claimant that the restitution work carried out by the third party appointed by the insurance undertaking has been carried out to restore the claimant's property to the standard that existed prior to the insured event.	We suggest amending b): "Where a method of direct settlement has been used, a regulated entity: <u>subject to policy terms & conditions</u>, must certify in writing to the claimant that the restitution work carried out by the third party appointed by the insurance undertaking has been carried out to restore the claimant's property to the standard that existed prior to the insured event." The claimant needs to take some responsibility to ensure they are satisfied with the work before accepting end product.
7.16 A regulated entity must ensure that any claim settlement offer made to a claimant is fair, taking into account all relevant factors, and represents the regulated entity's best estimate of the claimant's reasonable entitlement under the policy.	See comments above on 7.8 d). Whilst claims settlement negotiations with third party claimants – or more usually their legal advisers – are entered into by insurers in good faith, with the objective of finalising a settlement that is fair and in conformity with prevailing legal norms, there must be recognition that the negotiation is a tactical process of offer, counter-offer and compromise. In many cases, settlement demands made by claimants can appear unreasonable to defendants and their insurers/legal advisers; equally third party claimants can feel that settlement offers made may sometimes be unduly parsimonious. The fact is that expectations differ and no two cases are the same. It is not often immediately obvious to either litigant what constitutes a "fair" offer as there is no absolute tariff or precise valuation system in place. In addition the insurer involved in settling a third party claim owes an equal – or arguably a greater – duty of fairness to its own customers: both the defendant/policyholder in the individual case and the wider population of policyholders. That duty obliges the insurer not to waste funds by over-compensating any claimant. It is inappropriate to impose an inflexible and – we would submit, unenforceable (because subject to such wide differences of view in any given case) regulatory requirement on insurers in these circumstances. Either 7.16 should be dropped or at the very least it

	should be clearly stated that it applies only to policyholder, and not third party claims. We stress that this proposal does not suggest that insurers will not continue to seek to achieve fair settlement of third party claims, merely that such an undifferentiated and general regulatory rule is unsuitable and unnecessary in this context.
7.17 A regulated entity must, within 10 business days of making a decision in respect of a claim, advise the claimant in writing of the outcome of the investigation explaining the terms of any offer of settlement.	
7.18 The claimant must be allowed at least 10 business days to accept or reject the offer. Where the claimant waives this right and accepts the settlement offer within this timeframe, the regulated entity must retain a record of this decision.	It is not possible to allow a period of 10 days to elapse in all offer scenarios. Furthermore this will be a barrier to an efficient and proactive consumer settlement experience. At the least this provision should be amended to exclude settlements where the defined policy benefit is payable or where the only deduction from the amount claimed is the appropriate excess.
7.19 If the regulated entity decides to refuse the claim, the reasons for that decision must be provided to the claimant in writing.	
7.20 Where the policyholder is not the beneficiary of the settlement the policyholder must be advised in writing by the regulated entity, at the time that settlement is made, of the final outcome of the claim including the details of the settlement. Where applicable, the policyholder must be informed that the settlement of the claim will affect future insurance contracts of that type.	
7.21 A regulated entity must provide a claimant with written details of any internal appeals mechanisms available to the claimant.	
7.22 A regulated entity must pay a claim to the claimant within 10 business days from the date the claimant has agreed to accept the offer made by the regulated entity offering to pay a particular amount in discharge of a claim, unless a method of direct settlement is being applied, once the following conditions have been satisfied: a) the insured event has been proven; b) all specified documentation has been received by the regulated entity from the claimant; c) the entitlement of the claimant to receive payment under the policy has been established; and d) the appropriate amount has been agreed subject to finalisation of legal costs, where applicable.	

CHAPTER 9: ADVERTISING	
General Requirements 9.1 A regulated entity must include a regulatory disclosure statement, which meets the requirements set out in Provision 4.12, in all advertisements.	We feel that the advertisement will have the opposite effect to that intended by the Central Bank. Advertisements will contain so much information that they will lose their clarity. The Central Bank's proposal will in practice prohibit the advertising of financial products. A range of literature with varying levels of detail support the marketing of insurance products. This includes advertisements, product booklets and the customer information notice required under the Life Disclosure Regulations 2001. The customer does not make a decision to purchase a product based on an advertisement alone and the requirements of the Code should reflect this. Can we discuss the rationale for insisting that regulatory statements be included in radio advertisements? We do not believe any purpose is served by them.
9.2 A regulated entity must ensure that all its advertisements are clear, fair and not misleading.	
9.3 A regulated entity must ensure that an advertisement does not influence a consumer's attitude to the advertised product or service or the regulated entity either by inaccuracy, ambiguity, exaggeration or omission.	This must be reworded. Whilst a ban on inaccuracy etc is reasonable, it is going too far to require that advertisements do not "influence a consumer's attitude to the advertised product or service". This after all is the very point of advertising.
9.4 The name of both the regulated entity publishing an advertisement and the regulated entity providing the product or service must be clearly shown in all advertisements.	
9.5 A regulated entity must ensure that the nature or type of the advertised product or service is clear and not disguised in any way.	
9.6 A regulated entity must ensure that an advertisement is designed and presented so that any reasonable consumer knows immediately that it is an advertisement.	
9.7 A regulated entity must ensure that key information, in relation to a product or service, is included in the main body of the advertisement for that product or service. This information must not be obscured or disguised in any way by the content, design or format of the advertisement.	See comment on provision 9.1. We would like to see some clarity provided in relation to this new requirement The definition of "key information" is too vague to be of any use/guidance.
9.8 A regulated entity must ensure that small print or footnotes are only used to supplement or elaborate on the key information in the main body of the advertisement. Where small print or footnotes are used, they should be of sufficient size and prominence to be clearly legible and should not be directly related to the product or service in the advertisement.	
9.9 A regulated entity must ensure that any qualifying criteria in relation to: a) availing of the advertised product or service;	The need to detail the qualifying criteria in the main body of any advert is very prohibitive - this could be very lengthy and not practical.

b) obtaining a minimum price for the advertised product or service; or c) benefiting from a potential maximum savings relating to the advertised product or service must be included in the main body of the advertisement.	
9.10 A regulated entity must ensure that the design and presentation of an advertisement allows it to be clearly understood.	
9.11 A regulated entity must ensure that warnings appear alongside the benefits of the product or service to which they refer. They must not be obscured or disguised in any way by the content, design or format of the advertisement.	See comment on provision 9.1 The obligation to place large warnings alongside the benefits of a product on advertisements is onerous. Aesthetically this will look displeasing and will reduce both effect and customer interest in advertisements. It must be borne in mind that customers do not and, indeed as a result of this code, cannot, purchase a financial product or service based on an advertisement alone and in the vast majority of cases will seek advice in relation to same. As such, the existing requirements to place large, bold and boxed warnings at the bottom of advertisements must be considered effective and sufficient. Furthermore, the regulation is unclear as to whether a warning must be placed beside a benefit each time said benefit is detailed in an advertisement which may well be more than once. In such an instance, the same warning may be detailed on an advertisement numerous times which will be both confusing and frustrating for customers attempting to digest the advertisement. This requirement will potentially be problematic particularly in the case of a booklet where the benefits of the product are stated on virtually every page of the document. Can it be reworded to remove the reference to “alongside the benefits of the product or service”. Can clarification be obtained from Central Bank as to the intent of this provision. Clarification is required from the CBI regarding “warnings” – are the warnings referred to the warnings that are specifically outlined in the CPC?
9.12 A regulated entity must ensure that all warnings required by this Code are prominent i.e. they must be in a box, in bold type and of a font size that is larger than the normal font size used throughout the advertisement. In the case of non-print media, it is sufficient that the warning statements are outlined at the end of the advertisement.	
9.13 A regulated entity must ensure that an advertisement that uses promotional or introductory interest rates clearly states the expiry date of that interest rate and provides an indication of the rate that will apply thereafter.	
9.14 A regulated entity must ensure that any statement or promise contained in an advertisement is true and not misleading at the time it is made. Any assumptions on which the statement is based must be reasonable, up to date and stated clearly.	
9.15 A regulated entity must ensure that any forecast contained in an advertisement is not misleading at the time it is made and any	

assumptions on which it is based must be reasonable and stated clearly.	
9.16 A regulated entity must ensure that an advertisement is not misleading in relation to: a) the regulated entity's independence or the independence of the information it provides; b) the regulated entity's ability to provide the advertised product or service; c) the scale of the regulated entity's activities; d) the extent of the resources of the regulated entity; e) the nature of the regulated entity's or any other person's involvement in the advertised product or service; f) the scarcity of the advertised product or service; g) past performance or possible future performance of the advertised product or service.	
9.17 A regulated entity must ensure that an advertisement that promotes more than one product sets out clearly the key information relating to each product in such a way that a consumer can distinguish between the products.	
9.18 A regulated entity must ensure that any recommendations or commendations quoted are complete, fair, accurate and not misleading at the time of issue, and relevant to the advertised product or service.	
9.19 A regulated entity must ensure that a recommendation or commendation may not be used in an advertisement without the consent of the author. If the author is an employee of the regulated entity or a connected party of the regulated entity, or has received any payment from the regulated entity or a connected party of the regulated entity for the recommendation or commendation, the advertisement must state that fact.	
9.20 Where an intermediary is tied to a single provider for a particular product it must disclose this fact in all advertisements for that particular product.	
9.21 A regulated entity must ensure that comparisons or contrasts are based either on facts verified by the regulated entity, or on reasonable assumptions stated within the advertisement. They should be presented in a clear, fair and balanced way and not omit anything material to the comparison or contrast. Material differences between the products must be set out clearly.	
9.22 It is not necessary for a regulated entity to display the required warnings set out in this chapter if the advertisement does not refer to the features or benefits of a product or service but only names the product or service and invites a consumer to discuss the product or service in more detail with the regulated entity.	See comments under 9.1 above.

9.23 A regulated entity must ensure that an advertisement which contains an acronym (AER, EAR, CAR, APR etc.) also includes an explanation of what the letters in the acronym stand for.	
Savings 9.33 A regulated entity must ensure that where an interest rate for a savings or deposit account is displayed in an advertisement, it clearly states the following: a) whether the interest rate quoted is fixed or variable, and if fixed, for what period and, where relevant, an indication of the rate that will apply thereafter; b) the relevant interest rate for each term quoted together with the annual equivalent rate, and each rate should be of equal size and prominence; c) the minimum term and/or minimum amount required to qualify for a specified rate of interest, if applicable; and d) if any tax is payable on the interest earned.	Can the Central Bank clarify that savings products do not include investment products as defined in the Code?
Investments 9.34 A regulated entity must ensure that an advertisement for a product where the consumer may not get back 100% of the initial capital invested contains the following warning: Warning: If you invest in this product you could lose [xx]% of the money you put in.	It is only possible to indicate to a customer the extent of any potential losses where these are quantifiable, i.e., where a product offers an element (but not 100%) capital security, and this needs to be stated within this regulation. For tracker bonds, this regulation has been applied via Regulation 4.65. For non-tracker bond products which offer an element (but not 100%) capital security, such a regulation should also apply. However, as currently worded, this regulation applies to investment products/investment funds irrespective of whether any proportion of capital security is offered. Unless the intention of this regulation is to detail, for investment products / investment funds that do not offer any element of capital protection, that customers could lose 100% of their capital, this regulation needs to be reworded to specifically relate it to investment products/investment funds which offer an element (but not 100%) capital security. Most Investment Products invest in unit funds where a consumer may not be guaranteed to get back 100% of the initial capital invested due to negative market conditions but it is not possible to quantify in advance the potential percentage loss that may be experienced. It is also not accurate to describe the potential loss on all unit linked funds as 100% where such a loss cannot be ascertained as this does not present an accurate reflection of the associated risk. The suitable warning for investment products investing in unit linked funds should be that outlined in provision 9.44 where by the consumer is warned of the risk of the investment value going down and the risk of getting back less than invested. An investment in a standard managed fund would require, in theory, the following warning "If you invest in this product you could lose 100% of the money you put in." This would be in addition to the standard warning required under provision 9.44. Is this deliberate? Or is this warning intended for use with structured products only?
9.35 A regulated entity must ensure that an advertisement for a product where the promised 'return of capital' is only applicable on a specific	

date, contains the following warning: Warning: If you cash in your investment before [specify the particular date] you may lose some or all of the money you put in.	
9.36 A regulated entity must ensure that an advertisement for a product where there is no access to funds for the term of the product contains the following warning: Warning: If you invest in this product you will not have any access to your money for [insert time required before the product matures].	
9.37 Where a regulated entity gives information about the past performance of the advertised product or service or of the regulated entity, this information must: a) be based on a product similar to that being advertised; b) not be selected so as to exaggerate the success or disguise the lack of success of the advertised product or service; c) state the source of the information; d) be based on actual performance; e) state clearly the period chosen, which must be related to the term of the product being advertised; where that term is open-ended, the longest term available should be included; f) include the most recent period; g) indicate, where they arise, details of transaction costs, interest and taxation that have been taken into account; and h) state, where applicable, the basis upon which performance is quoted.	
9.38 A regulated entity must ensure that an advertisement which contains information on past performance contains the following warning: Warning: Past performance is not a reliable guide to future performance.	
9.39 Where a regulated entity has a position or holding in the product or service the subject of an advertisement by that regulated entity, it must include a statement to this effect in the advertisement.	
9.40 Where a regulated entity gives information in an advertisement about the simulated performance of the advertised product or service or of a regulated entity, this information must: a) be based on a simulated performance that is relevant to the performance of the advertised product or service or of the regulated entity; b) not be selected so as to exaggerate the success or disguise the lack of success of the advertised product or service or of the regulated entity; c) state the source; and d) indicate whether, and to what extent transaction costs, interest and taxation have been taken into account.	
9.41 A regulated entity must ensure that an advertisement which contains illustrations or information on simulated performance must also contain	

the following warning: Warning: These figures are estimates only. They are not a reliable guide to the future performance of this investment.	
9.42 A regulated entity must ensure that an advertisement must not describe a product as guaranteed or partially guaranteed unless: a) there is a legally enforceable agreement with a third party who undertakes to meet, to whatever extent is stated in the advertisement, the consumer's claim under the guarantee; b) the regulated entity has made, and can demonstrate that it has made, an assessment of the value of the guarantee; c) it clearly states the level, nature and extent of limitations of the guarantee and the name of the guarantor; and d) where it is the case, the advertisement must state that the guarantee is from a connected party of the regulated entity.	
9.43 A regulated entity must ensure that where an advertisement contains a reference to the impact of taxation, it must: a) state the assumed rate of taxation; b) state, where applicable, that the tax reliefs are those currently applying, and state that the value of the tax reliefs referred to in the advertisement apply directly to the consumer, to the provider of the advertised product or service or its provider, as appropriate; c) state, where applicable, that the matters referred to are only relevant to a particular class or classes of consumer with particular tax liabilities, identifying the class or classes of consumer and the type of liabilities concerned; d) state who has the responsibility for obtaining the tax benefits advertised; e) not describe the advertised product or service as being free from any liability to income tax unless equal prominence is given to a statement, where applicable, that the income is payable from a product from which income tax has already been paid; and f) not describe the advertised product or service as being free from any liability to capital taxation unless equal prominence is given to a statement, where applicable, that the value of the advertised product or service is linked to a product which is liable to capital taxation.	
9.44 A regulated entity must ensure that where the product or service that is the subject of the advertisement can fluctuate in price or value, an advertisement contains the following warning: Warning: The value of your investment may go down as well as up. You may get back less than you put in.	
9.45 A regulated entity must ensure that where the return on an advertised product or service is not set until a particular date (for	

example, the maturity date of the advertised product or service), this is clearly stated.	
9.46 A regulated entity must ensure that where a product the subject of an advertisement is described as being likely to yield income or as being suitable for a consumer particularly seeking income and where the income from such product can fluctuate, the advertisement contains the following warning: Warning: The income you get from this investment may go down as well as up.	
9.47 Where a product that is the subject of an advertisement offers the facility of a planned withdrawal from capital as an income equivalent, a regulated entity must ensure that the effect of the withdrawal upon such a product is clearly explained in the advertisement.	
9.48 A regulated entity must ensure that where an advertised product or service is denominated or priced in a foreign currency, or where the value of an advertised product or service may be directly affected by changes in foreign exchange rates, the advertisement contains the following warning: Warning: This [product/service] may be affected by changes in currency exchange rates.	
9.49 A regulated entity must ensure that an advertisement for a product which is not readily realisable, states that it may be difficult for consumers to sell or exit the product and/or obtain reliable information about its value or extent of the risks to which it is exposed.	
9.50 A regulated entity must ensure that an advertisement for a product that cannot be encashed prior to maturity, or which incurs an early redemption charge if encashed prior to maturity, clearly states that this is the case.	
9.51 A regulated entity must ensure that an advertisement for a product subject to front-end loading states that: a) deductions for charges and expenses are not made uniformly throughout the life of the product, but are loaded disproportionately onto the early period, b) the consumer must be warned that, if the consumer withdraws from the product in the early period, the practice of front-end loading will impact on the amount of money which the consumer receives, and c) if applicable, that a consumer may not get back the full amount they invested.	
9.52 Where a regulated entity advertises an interest rate relating to a proportion of the tracker bond to be placed on deposit, the advertisement must also clearly state the following:	

a) whether the rate quoted is fixed or variable, and if fixed, for what period and, where relevant, an indication of the rate that will apply thereafter; b) the relevant compound annual rate of this deposit over the full term of the tracker bond; and c) whether any tax is payable on the interest earned. Each rate provided to a consumer under this provision must be of equal font size and prominence.	
9.53 Where a regulated entity advertises a projected return on investment for a tracker bond, the value of that return must be expressed and shown as prominently as the equivalent compound annual rate.	
9.54 Where a regulated entity advertises a projected return on investment for a tracker bond, the advertisement must also include the value of the total return of all the combined parts of the tracker bond for the full term of the tracker bond and this must be expressed and shown as prominently as the equivalent compound annual rate.	

CHAPTER 10: ERRORS AND COMPLAINTS RESOLUTION	
Errors 10.1 A regulated entity must have written procedures in place for the effective handling of errors which affect consumers. At a minimum, these procedures must provide for the following: a) the identification of the cause of the error; b) the identification of all affected consumers; c) the appropriate analysis of the patterns of the errors, including investigation as to whether it was an isolated or systemic error; d) proper control of the correction process; and e) escalation of errors to compliance/risk functions and senior management.	The current requirement that only material errors should be reported should remain and be enhanced with the addition of a clear definition of the criteria firms should use to determine the 'materiality' of an error. The 6 month timeframe should be a reasonable benchmark for the majority of errors. A fixed 6 month timeframe does not however take account of the nature and size of a particular error and the potential complexity of designing and implementing control enhancements within regulated entities processes and systems. In complex or larger cases we would suggest that once factors are determined and a material error is reported, there should be flexibility for a discussion to take place with the Regulator to agree a timeframe for resolution where appropriate. While the movement from one month to 40 business days in the reporting requirement is an improvement, we believe a 3 month/60 business days requirement would be a more appropriate measure to drive reporting. This would ensure a better balance between the number of smaller errors not requiring reporting and a greater focus only on those that are more complex, taking longer to address and hence being reported to the Central Bank. The proposed 40 business days requirement could prove onerous for both the company and the Central Bank as a large volume of small errors will be required to be reported.
10.2 A regulated entity must resolve all errors within six months of the date the error was first discovered, including: a) correcting any systems failures; b) ensuring effective controls are implemented to prevent any recurrence of the identified error; c) effecting a refund (with appropriate interest) to all consumers who have been affected by the error, where possible; and d) notifying all affected consumers, both current and former, in a timely manner, of any error that has impacted or may impact negatively on the cost of the service, or the value of the product, provided, where possible.	The Code should include a provision to allow for an extended period of time beyond the 6 month timeframe allowing for the remediation of complex errors that may require large system developmental projects.
10.3 Where an error has not been fully resolved (as outlined in Provision 10.2) within 40 business days of the date the error was first discovered, a regulated entity must inform the Central Bank in writing within five business days of that deadline.	The proposals need to allow for the difference between errors that are simple and those that are complex – for example in relation to pensions errors could take longer than 6 months to resolve (see 10.2 in CP54) – due, for example, to the need to deduct tax. There needs to be some flexibility where insurers can seek an extension.
10.4 A regulated entity must not benefit from any balance arising out of a refund, which cannot be repaid, in respect of an error.	What options are open to a regulated entity, for example what is the option if a cheque is returned ?
10.5 A regulated entity must maintain a log of all errors which affect a consumer. This log must contain:	See comments under 10.1 above.

a) details of the error; b) the date the error was discovered; c) an explanation of how the error was discovered; d) the period over which the error occurred; e) the number of consumers affected; f) the monetary amounts involved; g) the status of the error; h) the date the error was resolved; i) the number of consumers refunded; and j) the total amount refunded.	
10.6 A regulated entity must maintain a record of all steps taken to resolve an error which affects a consumer, including details of the steps taken where: a) any affected consumers were dissatisfied with the outcome; b) there were difficulties contacting affected consumers; and c) a refund could not be repaid.	
Complaints Resolution 10.7 A regulated entity must seek to resolve any complaints with consumers.	
10.8 When a regulated entity receives an oral complaint, it must offer the consumer the opportunity to have the complaint treated as a written complaint.	
10.9 A regulated entity must have in place a written procedure for the proper handling of complaints. This procedure need not apply where the complaint has been resolved to the complainant's satisfaction within five business days, provided however that a record of this fact is maintained. At a minimum this procedure must provide that: a) the regulated entity must acknowledge each complaint in writing within five business days of the complaint being received; b) the regulated entity must provide the complainant with the name of one or more individuals appointed by the regulated entity to be the complainant's point of contact in relation to the complaint until the complaint is resolved or cannot be progressed any further; c) the regulated entity must provide the complainant with a regular written update on the progress of the investigation of the complaint at intervals of not greater than 20 business days, starting from the date on which the complaint was made; d) the regulated entity must attempt to investigate and resolve a complaint within 40 business days of having received the complaint; where the 40 business days have elapsed and the complaint is not	With regard to, c) , would not a telephone update supported by call recording technology be sufficient ?

resolved, the regulated entity must inform the complainant of the anticipated timeframe within which the regulated entity hopes to resolve the complaint and must inform the consumer that they can refer the matter to the relevant Ombudsman, and must provide the consumer with the contact details of such Ombudsman; and e) within five business days of the completion of the investigation, the regulated entity must advise the consumer in writing of: i) the outcome of the investigation; ii) where applicable, the terms of any offer or settlement being made; iii) that the consumer can refer the matter to the relevant Ombudsman, and iv) the contact details of such Ombudsman.	
10.10 A regulated entity must maintain an up-to-date log of all complaints from consumers subject to the complaints procedure. This log must contain: a) details of each complaint, b) the date the complaint was received, c) a summary of the regulated entity's response(s), d) details of any other relevant correspondence or records, e) the action taken to resolve each complaint, f) the date the complaint was resolved, and g) where relevant, the current status of the complaint which has been referred to the relevant Ombudsman.	
10.11 A regulated entity must maintain up to date and comprehensive records for each complaint received from a consumer.	
10.12 A regulated entity must undertake an appropriate analysis of the patterns of complaints from consumers on a regular basis including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers. This analysis of consumer complaints must be escalated to the regulated entity's compliance/risk function and senior management.	

CHAPTER 11: RECORDS & COMPLIANCE	
11.1 A regulated entity must ensure that all instructions from or on behalf of a consumer are properly documented and the date of both the receipt and transmission of the instruction is recorded. 11.2 A regulated entity must ensure that any decision in the exercise of its discretion on behalf of a consumer with respect to a product is recorded. 11.3 A regulated entity must ensure that, where it accepts an instruction from a consumer that is subject to any condition imposed by the consumer, it maintains a record of the condition to which the instruction is subject.	
CHAPTER 12: DEFINITIONS	
"**consumer**" means any of the following: a) a person or group of persons, but not an incorporated body with an annual turnover in excess of €3 million in the previous financial year (for the avoidance of doubt a group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate) or b) incorporated bodies having an annual turnover of €3 million or less in the previous financial year (provided that such body shall not be a member of a 67 group of companies having a combined turnover greater than the said €3 million); and includes where appropriate, a potential 'consumer' (within the meaning above);	We understand that the definition used – which, for example, regards all partnerships no matter how large as 'consumers' for the purposes of the code – is based on the FSOB definition. I It is not appropriate to include partnerships and incorporated bodies having an annual turnover of as much as €3 million within the definition of "consumer", given that most policyholders in this category are professionals who, additionally, normally have the benefit of advice from intermediaries, and are dealt with by companies' commercial underwriting departments. The turnover threshold is too high. We suggest it be reduced to €150,000 PA.
"**key information**" means any information which is likely to influence a consumer's actions with regard to a product or service;	This is a broader definition than that in CP47. This may cause confusion in those parts of the code where it is relied upon.
"**vulnerable consumer**" means a natural person who, a regulated entity could be reasonably expected to be aware, a) has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so (for example, hearing impaired or visually impaired persons); and/or b) has limited capacity to make his or her own decisions and who requires assistance to do so (for example, persons with intellectual disabilities or mental health problems). A natural person must be assumed to have capacity unless it is established that they lack capacity. Capacity is always defined in relation to a specific decision at a specific time.	