BROKERS IRELAND

Brokers Ireland Submission on the Central Bank's Discussion paper on the Payment of Commission to Intermediaries

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This submission outlines the views of Brokers Ireland in relation to the Central Bank's discussion paper on the Payment of Commission to Intermediaries.

Brokers Ireland is a co-operative structure between the Irish Brokers Association (IBA) and the Professional Insurance Brokers Association (PIBA) who together represent over 90% of full time professional intermediaries in the Irish market.

In reviewing the payment of commission to intermediaries, the key points are:

- Access to advice.
- Choice for consumers.
- Competition in the market.
- The strengths of the current regulatory regime in mitigating any risks to the consumer of the commission system.
- Ensuring a level playing field between all providers in the market.

This submission expands on these keys points.

It is acknowledged that the primary concern of the Central Bank is that customers are fully protected when they access the vast range of protection and investment products available in the domestic and international markets, availing of the advice and services offered by intermediaries that are predominantly paid by commission. We believe that every intermediary has the right to be fairly remunerated for his or her services. The market practice that has evolved over centuries has shown that consumers favour the payment of commission by the insurance undertaking/product producer. The pricing of financial products and the total expense ratio of the insurance undertaking /product producer takes into account that commission will be paid. The purchaser of the insurance and financial product is made aware that the intermediary, who acts for both parties, is remunerated by commission paid by the insurance undertaking/product provider or the consumer has an option to pay an upfront fee. It is incumbent on all stakeholders to minimise, mitigate and manage the inherent conflict of interest that such an arrangement presents. Under the Consumer Protection Code, Intermediaries are required to act in the best interest of the Consumer.

In considering any changes to the current remuneration model, it is important to consider the effects such changes would bring to the market and the potential impact of such a changed regime on the consumer. Since the introduction of the RDR[1] in the UK the cost of advice has increased which means that lower income earners are ultimately unable to afford to pay for advice and now are unadvised and exposed to greater risk when purchasing financial products[2]. Any proposed change to the current commission remuneration model should promote and encourage a level playing field and protect the availability of impartial advice in the interest of the consumer. Any move to the contrary would have a significant impact on the availability of competitive and innovative products and competition as a whole in the market and to the detriment of the consumer. In an overall assessment of risks and benefits to consumers, we believe the main charge over time in most investment and pension contracts are the life company annual management charge and this should be considered. We believe that any risks and benefits analysis should take this into account as it is a commission paid by the client to the producer. It is our view that the introduction of any changes in respect of commission payments should also apply to the product provider remuneration structure.

[1] *Post-implementation review of the Retail Distribution Review*, FCA, December 2014.

[2] Europe Economics, *Retail Distribution Review Post Implementation Review*, December 16th 2014.

Intermediaries are distinctive in that they are based in every town in Ireland and have a unique relationship with their clients which often spans over decades. Consumers who use intermediaries have more valuable pensions and investments and more financial protection than those who don't. Those who consult a financial adviser at least once a year have dramatically higher pension funds than others. They are also more financially confident[3]. Any change to the current commission remuneration model would impact on the availability of advice to clients and competition as a whole in the market. Through intermediaries, Product Providers have access to consumers and it is a more cost effective distribution channel.

The role of the professional financial adviser is a very important component of the economic and financial system, and its value needs to be recognised and remunerated appropriately. The existence of the commission model creates competition which keeps the cost of advice and financial products down. When transparency and impartiality of Broker remuneration is achieved, then the consumer's best interests are served. This helps maintain the availability of high quality advice across the market, avoiding the polarization seen in other jurisdictions. Advice should be a crucial ingredient for the best consumer outcome and this can be achieved in a system where there is a choice of remuneration based on commission or fees. The current regulatory framework is robust and offers protections to consumers - intermediaries are highly regulated.

The challenge for all stakeholders in the intermediary distribution network is to abide by and enforce the existing provisions to protect the consumer, rather than add yet another layer of regulation that acts as a barrier to business rather than as a protection for the consumer.

Below are Brokers Ireland's responses to the individual questions posed in the discussion paper.

1. In your view, what aspects of how intermediaries are paid commission work well to deliver responsible business conduct, fair treatment of consumers and avoidance of conflicts of interests when consumers are sold financial products?

Brokers Ireland believe that current commission model works very well and is consistent with responsible business conduct as defined by the OECD in 2014[4]. Commission forms a significant part of the intermediary's turnover and enables the efficient and effective delivery of both service and advice to consumers. The business relation relationship between intermediaries and consumers, remunerated by commission, has grown and developed within the legal and regulatory framework, responding to emerging technologies and adding real value for the consumer in the following areas:

Customer Choice

It promotes consumer choice. Consumers are given the option to pay for advice and service via the commission system or by a fee or a combination of both. The consumer benefits in not being required to pay a direct or upfront fee to the intermediary. Feedback from members indicates that many consumers are unable or prefer not to pay fees and exercise the option that allows for payment of commission for advice and service. Recent CSO statistics from Q2 2016[5] indicates that the average industrial weekly wage is €703.83 which illustrates that a huge percentage of the population would not have the financial means to pay upfront fees for financial advice.

[3] *The Value of Advice Report 2012,* Unbiased and Standard Life.

[4] https://www.oecd.org/investment/toolkit/policyareas/responsiblebusinessconduct/42267935.pdf

[5] http://www.cso.ie/en/releasesandpublications/er/elcq/earningsandlabourcostsq12016finalq22016preliminaryestimates

Service Provided to Consumers

Commission is paid by product producers for work carried out by the intermediary, in insurance mediation as described in both the Insurance Mediation Directive and the Insurance Distribution Directive that includes ''any activity involved in proposing or undertaking preparatory work for entering into insurance contracts, or of assisting in the administration and performance of insurance contracts that have been entered into (including dealing with claims under insurance contracts)''

Service Provided to Insurance Undertakings/Product Providers

- Collation and electronic input of information to insurance undertaking systems.
- Delegated authority for binding cover including underwriting, mid-term alterations and claims handling.
- Issue of documentation.
- Collection of premiums.

Building Sustainable Relationships

In this highly regulated environment intermediaries are enabled to build up strong relationships with their clients, understand their financial needs and wants and make representations on their behalf to insurance undertakings and product providers.

Advice for All

The current remuneration model has been and continues to be a major contributing factor in the success of ensuring that advice is available for those seeking it. An exclusively fee-based market has the potential to exclude many people from access to any level of advice or assistance in relation to financial decisions they will make throughout their lives. According to management consultancy Deloitte, "5.5 million disenfranchised customers will either choose to cease using financial advisers or lack access to them" following the RDR.[6]

The Benefit of Advice

There is even a stronger argument for retaining commission on products such as protection and pensions. These products require to be sold and are not bought. Consumers often require advice to act in their own best interests. Consumers' prioritise immediate needs over long term or contingent needs resulting in under provision in pensions and protection which requires compulsion (mortgage protection, employer nominated pension schemes) or pro-active sales to act. A fee based scenario for protection would result in less pro-actively selling of products such as insurance/pensions by financial intermediaries/advisers.

The current regulatory regime offers protections to the consumer, via required sales compliance documents and disclosure requirements to mitigate risks highlighted.

Encourages Competition

The current remuneration model also facilitates competition in the market as the intermediary channel facilities the distribution of products by a range of providers to consumers throughout Ireland. Taking the mortgage market as an example where there is already limited competition, it is clear that the existence of the intermediary channel supported the introduction of a new lender recently to the market. This is to the benefit of consumers.

[6] *Bridging the advice gap, Delivering Investment products in a post- RDR world, November 2012*

2. In your view, what aspects of how intermediaries are paid commission do not succeed in delivering responsible business conduct, fair treatment of consumers and avoidance of conflicts of interests when consumers are sold financial products, or present particular risks in this regard?

We are satisfied that the current commission payment system works very well and succeeds in delivering outcomes for consumers that are in line with internationally recognised standards and applicable law. The existing regulatory framework, providing prudential and consumer risk based due diligence offers sufficient protections to mitigate any risk to consumers of the commission system.

The level of regulation and enforcement provisions requires each business depending on the nature and complexity of the financial products sold, to identify and at all time monitor and control potential risks to consumers however they may arise. Risks such as mis-selling, including churning, in-appropriate products, overselling and acquisitions of business through cold calling, in-appropriate advertising and pressure to achieve sales have all been addressed in the consumer protection code. Payment of commission is contingent on compliance with codes during the sales process and in the after sales service to the consumer.

The assessment of this process and the enforcement of the provisions of the CPC prior to the payment of commissions are considered to be the best incentive to drive responsible behaviour of both individuals and firms in the sales process. Evidence of compliance with the CPC and other relevant regulations is required in all aspects of the sales process.

A measure of irresponsible business conduct by intermediaries in unfair treatment of consumers, acting in self interest in the sale of financial products and any other unfair or reckless behaviour would be reflected in complaints to the Central Bank, complaints made and upheld by the Financial Services Ombudsman (FSO)/Pensions Ombudsman or claims on professional indemnity insurance policies. We are aware that complaints arising from the insurance sector are by far the smallest percentage of issues being handled by the FSO. We are aware that the issues relating to the mis-selling of payment protection insurance products by banks added to the burden of cases handled by the FSO in the past. The FSO consistently report that the number of cases involving intermediaries is minimal in comparison with banks and other financial service providers (See Appendix 1).

Relative to the number of intermediaries and the volume of contracts that are concluded, there is no evidence to suggest that service is badly or unprofessionally delivered, that customers are not treated fairly or that benefit to the intermediary firm take precedence over the best interest of the consumer. In the few intermediary cases that are handled by the FSO, detriment to consumers due to payment of commission is not highlighted as a concern.

3. In your view, are there any changes needed to commission arrangements in Ireland, regulatory or otherwise, to do more to encourage responsible business conduct, fair treatment of consumers and avoidance of conflicts of interests when consumers are sold financial products?

When consideration is given to the potential for conflict of interest that may arise in the sale of financial products and the need for change we are conscious of the:

- range of measures already in place to ensure the customer is treated fairly.

- safeguards built in to commission arrangements such as 'clawback' and cooling off periods to guard against mis-selling and allowing consumers time to change their minds without penalty.
- effects of recent change in other jurisdictions as a result of this process

Interventions to change commission arrangements in other territories at best have been cost neutral to the high net worth consumer and in many cases have had a negative impact. The impact has been felt primarily by the less well-off and vulnerable consumers who cannot afford to pay fees up front but badly need financial advice and services.

Changes without obvious immediate and tangible benefits are far more likely to pose a risk to the consumer rather than provide added protection.

Volume based override commissions could be reviewed to ensure they support improved product offerings or delivery of enhanced systems or business processes for the benefit of the consumer.

4. Are there other features or types of commission arrangements that the Central Bank should take into account in considering this topic?

Competition

Competition between providers in a vibrant market has led to a reduction in commissions in recent times that has benefitted consumers.

Consumer Protection Measures

- Clawback

One important feature of the current commission payments system is that contracts for sale of products incorporate commission clawback clauses. If policies are cancelled, commission is clawed back from the intermediary by the original product provider.

- Persistence Monitoring

We feel that the Central Bank should also take into account that Product Providers also monitor persistency rates of intermediaries. This deters the potential for mis-selling by the intermediary. It should be acknowledged that a certain element of provider switching is healthy for competition in the market and can often be in the best interest of the consumer.

Cost Control that Benefits Consumers

Through intermediaries, product providers have access to consumers throughout Ireland. It is a more cost effective distribution channel, as evidenced by the fact that many providers have down-scaled both their numbers of direct sales force and tied agents. The commission system also facilitates competition in the market by keeping the cost of advice down. Many providers do not provide advice directly to members of the public and rely on brokers as a primary distribution channel.

Added Value Through Services Provided

A feature of commission that seems to have been omitted from the Discussion Paper is that commission payments to intermediaries represent turnover, not profit. When looking at commission payments it is important to take into account what intermediaries must do to earn the commission paid and meet the costs of running their business. Also, when looking at the payment of commissions, there is a need to differentiate the range of commission payable depending on the nature of the product e.g. commission received by an intermediary advising on a Tractor policy versus a complex investment product.

Delegated Authorities and Data/Document Interchange

Commission is only paid when transactions are completed and in many cases uploaded to the provider's operating systems. In each of these transactions the intermediary is required to act and carry out all the functions described in Chapter 3 of the Discussion Paper.

It is a requirement under the Fitness & Probity and Minimum Competency Code that each one of these functions is carried out by suitably competent employees of the intermediary firm.

5. Are there practices or features of commission arrangements in other jurisdictions to which you think the Central Bank should have regard to?

We refer to an analysis carried out by Towers Watson for the FCA (Advice Gap Analysis, December 2014) which concluded that the number of retail investment advisers required to meet the modelled demand for retail investment advice is in the region of 25,000. Hence, with an estimated 30,000 advisers active in the market in 2014, there is overcapacity and any advice gap that may exist is not due to the supply of advisers. However, adviser capacity may not be optimally aligned at customer segment level. The consultants conclude, based mainly on anecdotal evidence, that in the post-RDR world, advice capacity serving less affluent segments is likely to have been reduced. They cite anecdotal evidence that advisers are focusing on customer segments that are most likely to be able to afford that advice, or where the benefits of taking advice are most cost-effective; the increased adoption of holistic financial planning models that are more likely to be capacity-intensive and that new large-scale services focused on the needs of the less affluent customers are yet to develop to a significant extent.

Furthermore Deloitte[7] warns that due to RDR, current investors will no longer have access to advice and may make inappropriate investment decisions, and that prospective investors may feel that investment is too complicated, and hence do not invest at all. This results in an increase in the current 'savings and retirement gaps'.

Taking into account the findings of Deloitte and Towers Watson, we are concerned that the ban on commissions (excluding general insurance) in the UK has created an inequitable market for consumers. It has created;
- a strong invigorated market at the high net worth end;
- a contracted less stable environment in the middle of the market where many Independent Financial Advisors (IFAs) have been squeezed into exiting that segment; and
- the lower end of the market that has been effectively ignored.

[7] *Recognising RDR Reality – The need to challenge planning assumptions, 2013*

The reality is that those segments of the market that arguably require most financial advice are now being largely ignored and devoid of advice and service. The costs of financial advice have also increased. The introduction of the total commissions ban (excluding general insurance products) in the Netherlands resulted in a 30% contraction in the number of independent financial advisers, with the likely result of many consumers being un-serviced and competition in the market being diminished.

In both of these jurisdictions it is not clear that the abolition of commissions (excluding non-life products) has actually resulted in cheaper products for the consumer and many may no longer be in a position to receive advice. As commissions are banned, fees have increased and the net result to the consumer has been neutral at best. In Ireland, it is unlikely that the replacement of commissions with fee-based advice would result in lower prices.

It is clear from evidence elsewhere that fees do not result in consumers getting better value. Deloitte[8] showed that in Australia, wrap accounts or platforms are associated with high total fees, averaging 2.5% to 3.5% per annum. This is primarily driven by the high ongoing percentage-based adviser fees. The average Annual Management Charge (AMC) levied to customers for a retail fund in the UK is typically around 1.5%, with platforms typically taking up to 0.5% of this as their remuneration. These fees are higher than those that exist in Ireland at the moment.

To give an illustration of how these charges would impact on consumers over the longer term, take €100,000 invested in a pension and assume 7% per year gross investment returns before charges:

Amount after	10 years	15 years	20 years
1.5% AMC	€170,810	€223,250	€291,780
2.5% AMC	€155,300	€193,530	€241,170

This table shows that small increases in AMCs can have a dramatic impact in value returned to consumers especially over the longer term. Most retail funds in Ireland would have AMCs less than 1.5% per year and Irish fund charges are extremely competitive by international standards.

Upfront commissions allow intermediaries to be remunerated appropriately for their work and hold other potentially higher charges such as AMC or fund charges in check. Restrictions on commissions in other jurisdictions have been associated with flatter but higher AMC charges with longer term detriment to consumers as illustrated above.

6. Are there any changes to these practices which you consider necessary or appropriate to better promote responsible business conduct, fair treatment of consumers and avoidance of conflicts of interests when consumers are sold financial products?

No, we believe that the current consumer protection framework as set down by the Consumer Protection Code, covers the areas of concern highlighted such as disclosure requirements, knowing the consumer requirements, suitability and conflicts of interests that mitigate the risks to consumers of payments of commissions to intermediaries.

We acknowledge that in any business conflicts of interests may arise and the sales of financial products are no exception. There are increasing regulatory requirements for product producers to carry out robust product governance coupled with existing suitability tests that address many of the

[8] *Analysis of the introduction of rebate bans on the platform market*, Deloitte, February 2012.

concerns expressed in relation to conflicts of interest in individual cases. Factors such as clawback act as a deterrent to over selling. Internal governance within larger intermediary firms require regular management information clearly detailing commissions that are received and how the inherent risks are managed in the firm adding to accountability and transparency.

7. Are there features of the current consumer protection framework that you would highlight as strengths in the context of commissions specifically?

We are satisfied that the current regulatory framework works well and offers strong consumer protections in the context of commissions.

The requirement for intermediaries to detail in their terms of business the method of their remuneration, complete a factfind; carry out appropriateness and suitability tests, issue statements of suitability all demonstrate a clear paper/audit trail showing that the needs of the consumer are at the forefront of the sales process. Consumers are provided with a 30 day cooling off period within which time they can cancel their policy if on reflection they feel that the product is not suitable to their needs. Furthermore, consumers have the right to refer any complaints to the Financial Services Ombudsman and intermediaries are required to hold professional indemnity insurance.

Information gathered by the Department of Social Protection in addressing the nation's pension deficit indicates that a significant proportion of the population is under pensioned. The commission system encourages the intermediary to challenge the consumer's natural behavioural economic bias to prioritise current requirements over long-term future needs. Consumers need advice in this area to highlight shortfalls in their financial circumstances and to identify financial needs and objectives. Whilst it is important to protect vulnerable and less knowledgeable consumers, it is also important to recognise sophisticated consumers who are aware of the market and wish to transact business in a manner appropriate to their own knowledge and expertise.

The blended approach of both the prudential operation of intermediaries and the application of all the relevant parts of the Consumer Protection Code in the day to day conduct of the business, not only ensure that the consumer is well protected, but that there is evidence to back this up and that robust standards of fairness, transparency and accountability apply across the board whilst providing value to the consumer and the economy.

The best interest of the consumer is very closely aligned with the best interest of the Intermediary. Adverse publicity or any form of a Central Bank fine/sanction or penalty would lead to immediate and irreparable damage to both the reputation of the intermediary firm and the individuals associated with it.

8. Are there weaknesses or gaps in the current consumer protection framework in the context of commissions specifically?

No, we believe that the current consumer protection framework as set down by the Consumer Protection Code mitigates the risks to consumers of payments of commissions to intermediaries.

However, when considering commissions paid to intermediaries a major gap is the tendency not to distinguish the differing approaches to payments for protection, investment and banking products. Commissions for protection insurance are linked to the premiums paid and do not impact on the value of an insurance payment on the occurrence of an insured event. In contrast commissions for investment and banking products are linked to the value of the investment and may in some

circumstances impact on the sum invested. The cost and value of the services associated with the advice, sale and delivery of the financial service should be quantified and highlighted to the consumer before the transaction is completed to enable full transparency.

Getting the balance right between transparent adequate information and excessive information presents challenges to insurance undertakings, product providers and intermediaries alike. Consumers are overwhelmed with documentation at every step of the transaction; even though the information supplied is rarely read or understood. There is a need for more concise clearer communication of key information in a way that seeks to inform and educate the consumer. Measures to promote a more efficient and effective approach to provision of information is expected with imminent EU requirements for Key Information Documents (KID) and Product information Documents (PID).

9. Do you have any other observations on the current domestic framework as it relates to the practice of paying commissions in Ireland?

Commission levels have come down by well over 50% over the last 20 years and are at appropriate levels. We believe it is important to bear in mind that the main charge over time in most investment and pension contracts is the life company management charge – any risks and benefits analysis should take this into account as it is a commission paid by the client to the producer. If the Central Bank seeks to introduce any changes in respect of commission payments then these changes should apply to the product provider remuneration structure as well.

In particular, we believe that if a "fee only" structure is to be considered or were proposed – then life company management charges deducted at source from clients, should be similarly broken into product production, investment, and administration separate charges, and costed accordingly on a "fee basis" to the clients (i.e. by invoice).

Product providers have clawback procedures in place and also monitor persistency of business placed. This underpins the quality of advice and ongoing suitability of products for consumers.

It is the view of Brokers Ireland that all intermediaries must have regard to the best interests of the consumer and avoid acting in any way which is detrimental to those interests. The law of the land and in particular the law of agency obliges the intermediary to put the interests of its principal above all other considerations and also requires that an agent may not make a secret profit. Furthermore, placing insurance or reinsurance on a basis which increases or potentially increases the intermediary's remuneration against the interests of the proposed policyholder without his knowledge is not in keeping with the intermediary's agency duty. These principles apply in all cases and are supplemented and reinforced by all other applicable laws, directives and regulations.

10. Do you have any general views on the potential benefits to consumers of properly designed commission structures outlined in this section?

The existence of the commission system has helped to create and sustain independent distribution of insurance and financial products. This has led to enhanced competition between product providers as full time experts in the market evaluate the benefits of different offerings of what are sometimes complex products. This enhanced competition has led to lower charges, better investment performance, better product design and better service. Indeed, many life companies have reported that the charges on Irish pension and investment contracts are lower than their counterparts in other jurisdictions – and this in large part is down to the competition in the Irish market. There is a risk that a fee only system would leave independent distribution to higher

earners and those with large assets; bank and tied channels may serve the rest of the population with lower competition leading to higher charges, less innovation and lower service.

The element of informed choice for consumers is severely compromised in the direct channel and tied agent due to the absence of:

- Objective product research across a range of producers and
- Detailed client knowledge and fact find is restricted to product specific enquiry and fails to take into account the broader requirements of the consumer.

The cost of product distribution from the insurer's viewpoint is not clear in the overall calculation of how a premium is set. The cost of retained direct sales forces and tied agents is not separately available. Commission payments made by product producers, however, is clear, quantifiable and easily monitored across all the regulated entities receiving such payments. These figures are accountable, measurable and presently are subject to declaration on annual returns to the Central Bank and are disclosed to the client at quotation and on completion of the transaction.

In considering alternative methods of remuneration, any adverse impact on consumers should be considered. Undermining competition, resulting in an increase in tied/direct sales channels at the expense of the broker market would be the inevitable result, thereby impacting consumers in pricing, service and product innovation.

11. Are you aware of any additional potential benefits to consumers? If so, please describe them.

Consumers want choice and access to as many markets and advisers as possible. In the current, commission based model, a customer may go to as many intermediaries or direct channels to get quotations for all insurance requirements. In both the broker and direct distribution channels there is no charge until a decision is made to proceed with the purchase of the insurance product. Whilst the direct channel will only focus and give advice on their own product the broker channel, with access to various producers, will offer impartial choice, competiveness and competition for the consumer. Consumers are challenged to make an informed choice, deciding between comparable quotations for similar products from separate direct providers. The activity of the broker provides a stimulus to guard against the dangers of consumer inertia which is often one of the biggest reasons why consumers do not switch providers or seek better value/service.

The continued presence of the retail intermediary in local communities provides for ongoing advice and assistance especially when incidents giving rise to claims occur. A commission based model affords consumers and especially the vulnerable consumer, more ongoing advice and service, immediate access to broad range of markets, knowledge and information about market developments. It preserves greater choice leading to maintenance of a highly competitive market offering extensive options of covers and investments providing for consumer protection and investment for the future.

The primary benefit of the existing system is that it allows the consumer to decide what form of remuneration best suits their needs, commission or fee, or a hybrid of both. Intermediaries help to address the information asymmetry that exists between product manufacturers and consumers. Dependent on the form of change proposed additional regulatory intervention runs the risk of denying consumers that choice and service.

The cost associated with the payment of commission covers the cost of marketing which would be incorporated into the cost of the product to the consumer. Through intermediaries, product providers have access to consumers throughout Ireland and it is a more efficient distribution channel, this is demonstrated by the fact that many providers have down-scaled both their numbers of direct sales force and tied agents.

12. Have you observed any of these potential benefits? If so, please provide examples and describe the kind of benefit that has accrued.

In the current market consumers tend to shop around for financial products that suit them best but also take into consideration the commissions and fees and relevant fees due to all parties. There is very strong competition in the market. This is evident by the fact that the consumer can go to typically 4 or 5 providers and get quotations from each without incurring any cost. This allows the consumer to choose who they will deal with at the best price.

In a fee based model the consumer does not have the opportunity to compare and contrast financial propositions without incurring costs. Broker knowledge of clients enables them to prepare and plan for the future, and provide for the insurance and financial needs of the consumer.

13. Would you weight any of these potential benefits over others as requiring special consideration or attention, and if so why?

The fundamental benefit of the commission system is that it enables consumers to access professional, impartial advice with no upfront fee. Feedback from members indicates that consumers prefer not to pay fees, or may not have the financial ability to pay upfront fees. As referenced previously, recent CSO statistics from Q2 2016 indicates that the average industrial weekly wage is €703.83 which illustrates that a huge percentage of the population would not have the financial means to pay upfront fees for financial advice.

14. Do you have any suggestions as to how the current regulatory framework could be improved or changed so as to enhance the potential benefits to consumers that arise from the payment of commissions to intermediaries so as to better promote responsible business conduct, fair treatment of consumers and avoidance of conflicts of interest when consumers are sold financial products?

We believe that the current consumer protection framework as set down by the Consumer Protection Code mitigates the risks to consumers of payments of commissions to intermediaries.

As referenced in G20 Report[9] we agree that consumers would benefit from improved knowledge of insurance and financial products and services. This could be provided through initiatives involving media, citizen's advice, schools programmes etc.

[9] *G20 HIGH-LEVEL PRINCIPLES ON FINANCIAL CONSUMER PROTECTION, October 2011*

15. Do you have any general views on the potential risks to consumers of commission structures outlined in this section?

Potential risks arising from various commission structures are managed, mitigated and minimised as outlined below:

Product Bias

Evidence indicates that a significant proportion of the population are under insured and under pensioned. The commission system combats consumer's natural behavioural economic bias to prioritise current requirements over long-term future needs. Consumers need advice in this area to highlight shortfalls in their financial circumstances and to identify financial needs and objectives of the future.

Producer Bias

There is strong competition between all providers leading to a very similar level of commission being paid to intermediaries. The risk of producer bias based on commission's payable is therefore muted.

Quality of Advice

This risk is mitigated by the fact that intermediaries are required to detail in their terms of business the method of their remuneration. Please see our answer to question 7 where reference is made to factfind requirements, appropriateness and suitability testing, statements of suitability etc.

Consumers are provided with a 30 day cooling off period within which time they can cancel their policy if on reflection they feel that the product is not suitable to their needs. Consumers have the right to refer any complaints to the Financial Services Ombudsman and intermediaries are required to hold professional indemnity insurance.

Clawback procedures also act as a deterrent; this is described in question 7.

Long-term Suitability

Intermediaries are required to complete a factfind; demonstrate appropriateness and suitability, issue a statement of suitability so there is a clear paper/audit trail that the needs of the consumer are put first. Specifically, intermediaries are required to assess both the risk appetite and financial position of the consumer in every case and supply long term solutions to address the need and wants of the consumer.

Product provider's clawback procedures also monitor persistency of business placed. This serves as a secondary check on the quality of advice and the long term suitability of products for clients.

Overselling

It is generally accepted that a significant proportion of the population are under insured and under pensioned. The commission system combats consumer's natural behavioural economic bias to prioritise current requirements over long-term future needs. Consumers need advice in this area to

highlight shortfalls in their financial circumstances and to identify financial needs and objectives. In practice, it is highly questionable that consumers will invest/borrow more than required purely because the intermediary could earn additional commission.

Fund Erosion

As highlighted previously, commission levels have come down by well over 50% over the last 20 years and are at appropriate levels. When looking at this risk, it is important to bear in mind that the main charge over time in most investment and pension contracts is now the life company management charge – any risks and benefits survey should take this into account as it is a commission paid by the client to the producer. Should the Central Bank seek to introduce any changes in respect of commission payments then these changes should apply to the product provider remuneration structure as well. In particular, we believe that if a "fee only" structure is to be considered or were proposed – then life company management charges deducted at source from clients should be similarly broken into product production, investment, and administration separate charges, and costed accordingly on a "fee basis" to the clients (i.e. by invoice).

No Ongoing Benefit to Consumers for Ongoing Payments

Intermediaries and their clients have a unique "one -to- one" relationship which develops over the years in tandem with the client's financial needs and objectives. This unique relationship should be acknowledged by the Central Bank and contrasted with a client's relationship with larger financial institutions such as banks. In practice, Brokers continue to service their client's needs and review their current policies so this risk is muted.

The consumer is free to switch intermediary if unsatisfied with the level of service received with no effect on their policy.

Transparency and Consumer Comprehension

As outlined previously, intermediaries are required to detail in their terms of business the method of their remuneration, complete a factfind; demonstrate appropriateness and suitability, issue a statement of suitability so there is a clear paper/audit trail that the needs of the consumer are put first.

Consumers are also protected by the requirements of the Life Disclosure Regulations and provided with a 30 day cooling off period within which time they can cancel their policy if on reflection they feel that the product is not suitable to their needs. Consumers have the right to refer any complaints to the Financial Services Ombudsman and intermediaries are required to hold professional indemnity insurance.

Higher Costs of Products

There is no evidence of this happening in practice; commission is a cost of distribution which the insurer would have anyway. Many product providers have scaled back their direct sales force/tied agents in recent years pointing to the relative efficiency of the intermediary distribution channel. Commission levels have come down by well over 50% over the last 20 years and are at appropriate levels. There are 2600 authorised intermediaries and no barriers to entry, so this industry is close to a competitive model where remuneration is at equilibrium levels.

This being the case, we would assume that there would be a one for one swap between fee and commission levels if a fee only model be introduced - a fee would naturally be the same amount. How the advisor gets paid would be largely irrelevant, but from a consumer point of view, where a commission is paid, and in particular where the client gets a 100% allocation rate initially, (common in most cases these days), the consumer effectively gets an interest free loan from the life office concerned, to pay the advisors fees over the lifetime of the contract. This is ultimately to the advantage and financial benefit of consumers.

Additionally, the existence of the commission system has helped to create and sustain independent distribution of insurance and financial products. This has led to enhanced competition between product producers as full time experts in the market evaluate the benefits of different offerings of what are sometimes complex products. This enhanced competition has led to lower charges, better investment performance, better product design and better service than would otherwise be the case. Indeed, many life companies have reported that the charges on Irish pension and investment contracts are lower than their counterparts in other jurisdictions – and this in large part is down to the competition in the Irish market. There is a risk that a fee only system would leave independent distribution to higher earners and those with large assets; bank and tied channels may serve the rest of the population with lower competition leading to higher charges, less innovation and lower service.

The ban on commissions in the UK has created a rigorous market at the high net worth end. There has been a contraction in the middle of the market and it has been squeezed, with many IFAs exiting that segment. The lower end of the market is now effectively ignored. In reality, those segments of the market that arguably require most financial advice are now being largely ignored. The costs of financial advice have also increased. The introduction of the total commissions ban (excluding general insurance products) in the Netherlands resulted in a 30% contraction in the number of independent financial advisers, with the likely result of many consumers being un-serviced and competition in the market being diminished.

In both of these jurisdictions, it is not clear that the abolition of commissions has actually resulted in cheaper products for the consumer. As commissions are banned, fees have increased and the net result to the consumer has been neutral at best. In Ireland, it is unlikely that the replacement of commissions with fee-based advice would result in lower prices.

It is clear from evidence elsewhere that fees do not result in consumers getting better value. Deloitte[10] showed that in Australia, wrap accounts or platforms are associated with high total fees, averaging 2.5% to 3.5% per annum. This is primarily driven by the high ongoing percentage-based adviser fees. The average annual management charge (AMC) charged to customers for a retail fund in the UK is typically around 1.5%, with platforms typically taking up to 0.5% of this as their remuneration. These fees are higher than in Ireland at the moment.

Less than Optimal Terms and Conditions for Consumers

Providers in many cases offer commission options to intermediaries whereby the different choices don't impact the final price/charges to the consumer.

[10] *Analysis of the introduction of rebate bans on the platform market*, Deloitte, February 2012.

In other cases commissions may be chosen by the adviser in agreement with the client to reflect the balance of upfront and ongoing advice. This is not sub-optimal – this is the client selecting and paying for their desired service and advice levels.

Risks Specific to Commission on Credit Products

In respect of mortgages consumers require a certain amount in order to purchase a house; a factfind will be completed, a valuation of the proposed property is required and the client will be restricted to a certain loan to value amount and the criteria set down by the lender as required by the Central Bank. In practice, clients will only have a certain amount at their disposable for investment purposes.

16. Do you consider the potential risks to be accurately described? If not, please explain why.

Yes, however all the risks outlined are minimised or eliminated under the current regulations, CPC and framework documents.

17. Are you aware of any additional potential risks to consumers? If so, please describe them.

Brokers Ireland is not aware of any additional potential risks to consumers.

18. Have you observed any of these potential risks at play? If so, please provide examples and describe the impact of the risk?

The potential risks outlined in Section 5 of the discussion paper are not apparent either anecdotally or evidentially. The office of the Financial Ombudsman handles and adjudicates complaints from consumers in relation to advice and sale of financial services and products. Records and reports from the FSO show virtually no impact in respect of the risks outlined. Analysis of the complaints show that the bulk of them come from banking related insurance purchases. These would occur whether or not payment was commission or fee. See attached Appendix 1.

19. Would you weight any of these potential risks over others as requiring special consideration or attention, and if so why?

Brokers Ireland is not aware of any other potential risks to consumers.

20. Do you have any suggestions as to how the current regulatory framework could be improved or changed so as to better manage the potential risks to consumers that arise from the payment of commissions to intermediaries?

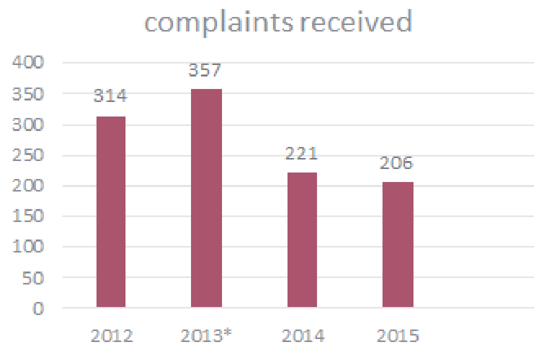
Brokers Ireland feel that the current regulatory framework is very robust and clients are protected by the knowing the consumer and suitability requirements of the Consumer Protection Code. A clear audit trail exists to demonstrate that the most suitable product has been recommended to the client which meets their needs. Additional requirements may restrict consumer choice and be more costly to regulate and may result in no additional benefit to the consumer. Any proposed change to the current commission remuneration model should promote and encourage a level playing field and protect the availability of impartial advice in the interest of the consumer. Any move to the contrary would have a significant impact on the availability of competitive and innovative products and competition as a whole in the market and to the detriment of the consumer.

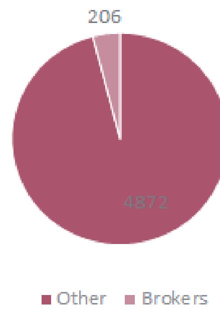
However, in relation to life assurance products, we believe that there should be a review of the format of the disclosure documents as required by the Life Assurance (Provision of Information) Regulations 2001 to reflect the changes and developments in legislation and practice over the past 15 years. The clear nature and accurate presentation of information is a necessary component in the consumer's purchasing decision process. Key information should therefore not be lost in a swamp of superfluous information. The disclosure document should refocus on what is important to the client, by placing key information such as price and benefits in a one page document similar to the format of the KID.

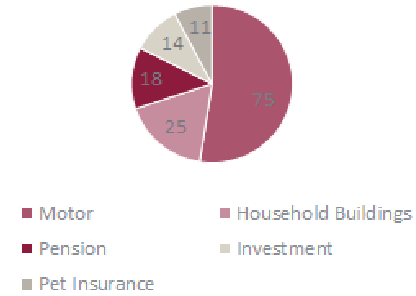
In conclusion, we believe that the commission system works well to deliver choice to the individual consumer and competition to the market which results in better prices, service, product innovation and investment returns. The regulatory framework works well to mitigate the risks of the commission system and ensures the consumer is put at the heart of the advisory process.

Appendix 1

Broker complaints

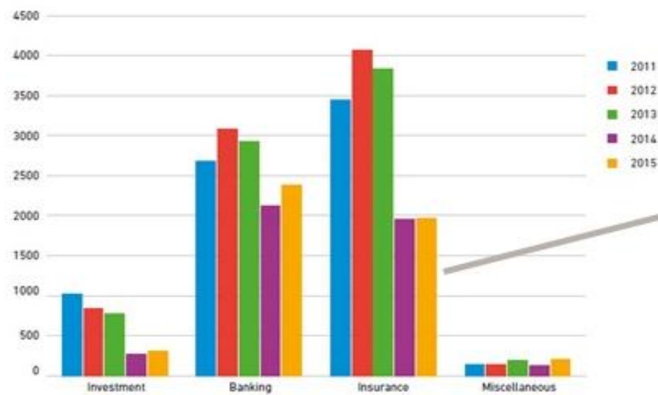






*PPI 93 complaints in 2013

Some statistics …



Sector	2011	2012	2013	2014	2015
Investment	1024	840	770	271	307
Banking	2680	3087	2925	2127	2385
Insurance	3443	4064	3835	1955	1973
Miscellaneous	140	144	192	124	207
Total	**7287**	**8135**	**7722**	**4477**	**4872**

Miscellaneous in the table above includes complaints that do not relate to a regulated financial service product and/or a service provider who is not a regulated financial provider and were therefore referred to another body.

Product Type	2011	2012	2013	2014	2015
Commercial	85	83	61	17	44
Critical / Serious Illness	104	103	70	46	59
Hospital Cash Plan	11	0	0	0	2
Household	617	472	322	184	226
Income Protection and Permanent Health	137	158	104	78	87
Life	443	451	407	253	267
Medical Expenses	360	296	229	162	249
Mobile Phone	25	0	0	7	30
Mortgage Protection	199	209	184	83	48
Motor	564	495	344	210	399
Payment Protection Policy	405	1280	1736	670	239
Personal Accident	37	47	0	16	20
Pet Insurance *	20	22	21	11	45
Miscellaneous**	75	123	123	15	88
Travel	361	325	234	203	170
Total	**3443**	**4064**	**3835**	**1955**	**1973**

*Pet Insurance was included in Miscellaneous in the previous years but due to the increase in complaints received in 2015 it now has its own category.

**Miscellaneous relates to products, including but not limited to, marine, farm and computers.