



7 November 2018

Re: Thematic Inspection of Retail Intermediaries acting as Managing General Agents

Dear Director, Partner, Principal

The Central Bank of Ireland (the “Central Bank”) has today published the findings of its Thematic Inspection of Retail intermediaries acting as Managing General Agents (“MGAs”), with a specific focus on the sale of private motor insurance.

Scope

The inspection assessed MGAs’ arrangements for compliance with the requirements outlined in **Appendix 1**, in relation to:

- Transparency in the provision of information to policyholders;
- Firms’ governance, oversight and contingency planning;
- Product oversight and governance; and
- Claims processing and complaints resolution.

To support this supervisory work, the Central Bank also commissioned consumer research, which sought to better understand consumers’ knowledge of the identity and location of their motor insurer, factors that influence motor insurance purchases more generally, and information on consumer satisfaction with the service received. Key findings from the research are summarised in **Appendix 2**.

The thematic inspection found that all of the MGAs inspected have processes and procedures in place to support compliance with the Consumer Protection Code, 2012 (the “Code”) and other relevant legislation. However, we identified a number of areas where MGAs failed to meet the required standards, most notably in relation to the transparent provision of key information to policyholders and contingency planning in the event of an insurer exiting the Irish market. As a result, the Central Bank has required the relevant MGAs to take specific actions to strengthen their processes, procedures and practices to ensure they protect the best interests of their consumers.

The purpose of this letter is to provide the wider retail intermediary sector with feedback, which all retail intermediaries should fully consider in the context of their own compliance arrangements.

Methodology

The thematic inspection involved a four-stage process:

- Stage 1: Information Gathering;
- Stage 2: Provision of Information – Disclosure of key information to consumers;
- Stage 3: Desk-Based Review; and
- Stage 4: On-Site Inspections of MGAs selling private motor insurance.



In addition, consumer research was undertaken to inform the work of the thematic inspection.

Findings

1. Provision of Key Information

The Central Bank issued a letter to MGAs in May 2017 in relation to the transparent disclosure to consumers of the name of the insurance company underwriting their policy and its country of incorporation (“key information”). The objective was, and remains, to ensure that all policy and associated documentation make it clear to consumers who their insurer is and where their insurer is located.

The Central Bank set a deadline of the 30 June 2017 for MGAs to ensure that this key information is disclosed on all policy and associated documentation in a manner that leaves no doubt, nor disguises, diminishes or obscures key information - see **Appendix 3** for further detail on the Central Bank’s expectations in this regard.

The inspection found that, in general, MGAs did not sufficiently make consumers aware of this key information. In some instances, MGAs failed to adhere to the deadlines set by the Central Bank in May 2017 to fully implement provision of key information changes to policy and associated documentation.

The Central Bank expects all retail intermediaries to consider the above provision of key information requirements and apply them, where appropriate, to their businesses.

2. Governance and Oversight

2.1 Due Diligence

The Central Bank found that all inspected MGAs conduct due diligence on insurers and underlying retail intermediaries in advance of entering into a contractual agreement. However, the type and level of due diligence varied across the MGAs inspected. Some MGAs conducted a higher level of due diligence in advance of entering into such agreements, including:

- checking the rating of the insurer, e.g. AM Best / Standard & Poors A-Rated and / or a member of a Lloyds syndicate as appropriate;
- conducting third party independent reviews / seeking sight of auditor’s report of insurers / underlying retail intermediaries; and
- conducting due diligence checks of relevant senior personnel within firms.

2.2 Oversight (between the MGA, insurers and underlying retail intermediaries)

The inspection found that MGAs report to and engage with their insurers on a regular basis as specified in the respective terms of business arrangements, typically consisting of monthly bordereaux reporting and regular governance meetings / conference calls with their insurers. In addition, MGAs undertake desk-based audits on appointed retail intermediaries, with the majority of MGAs also conducting on-site audits. In most instances, MGAs employ a full time audit / development manager to monitor the activities of their appointed retail intermediaries.



2.3 Contingency Planning

The Central Bank found that while all inspected MGAs have contingency plans in place in the event of an insurer exiting the Irish market, in a majority of cases, these plans were not formally documented. Noting the particular role that MGAs play in bringing additional wholesale capacity to the retail intermediary market, it is vital that MGAs have formal and robust contingency plans in place to deal with an insurer exiting the market. This is to ensure that policyholders' interests are fully protected and is particularly relevant for MGAs that operate with a single insurer / capacity provider, as the absence of an alternative insurer / capacity provider represents a risk to policyholders in terms of continuity of cover.

The Central Bank expects all retail intermediaries to consider points 2.1 to 2.3 in the context of their own businesses and employ the appropriate resources, policies and procedures, systems and control checks to ensure they are acting in the best interest of consumers and the integrity of the market in which they operate.

3. Product Oversight and Governance (“POG”)

Robust product testing and controls, prior to launching new products, are essential to ensure that firms only sell to an appropriate target market, thus mitigating many risks for consumers. This is a priority area for the Central Bank.

In April 2016, the European Insurance and Occupational Pensions Authority (“EIOPA”) published Preparatory Guidelines on POG, which came into effect on 1 October 2018 via the European Union (Insurance Distribution) Regulations 2018 (“IDR”). EIOPA stated, *“because of their [POG requirements] relevance in terms of customer protection, it is of the utmost importance that the new requirements are properly implemented from the outset and applied as early as possible”*. MGAs inspected were unable to sufficiently demonstrate their preparedness for the then incoming POG requirements, particularly in relation to their obligations when manufacturing and / or distributing products.

The Central Bank expects all retail intermediaries to have a formal plan in place to ensure compliance with the POG requirements of the IDR and expects this plan to have been agreed and signed off by senior management within each firm.

4. Claims

Consumers have a right to expect that their claims will be handled fairly and efficiently and that they will be processed by accredited persons.

The inspection found that all MGAs provide training to staff in relation to claims handling, have claims procedures in place and staff are appropriately qualified to handle claims. The Central Bank also found that, in most instances, claims were handled in line with the requirements of the Code. However, some issues were identified, e.g. failure to maintain a record of all conversations with the claimant; failure to provide updates to claimants on developments with regard to a claim; and failure to discharge claims within the required timeframe where a claimant has accepted a settlement offer. The Central Bank expects all retail intermediaries to conduct regular reviews of claim files and to maintain comprehensive records to demonstrate compliance with the requirements of the Code.



5. Complaints

Consumers have a right to expect their complaints will be dealt with speedily, efficiently and fairly.

The inspection found that all MGAs provide training to staff in relation to complaints handling, have complaints procedures in place and staff are appropriately qualified to handle complaints. The Central Bank also found that, in most instances, complaints were handled in line with the requirements of the Code. However, some issues were identified e.g. failure to offer oral complainants the opportunity to have their complaint handled in line with the complaints handling process; failure to maintain a complaint log appropriately; and failure to issue correspondence to complainants within the required timeframes.

The Central Bank expects all retail intermediaries to conduct regular reviews of complaint files and to maintain comprehensive records to demonstrate compliance with the requirements of the Code.

Next Steps

The Central Bank is actively engaging directly with those MGAs which have failed to demonstrate compliance with the Code and / or where other issues of concern have arisen. Formal supervisory requirements, with specific timelines for remediation were imposed on those MGAs. MGAs in particular, and retail intermediaries in general, are required to consider the issues identified in this letter and the findings from the Central Bank's consumer research in the context of their businesses, and take all remedial action necessary to ensure that they are acting in the best interests of consumers.

In any future assessment of the areas highlighted above, the Central Bank will take into account the nature, scale and complexity of individual retail intermediaries' businesses.

The Central Bank expects that this letter will be discussed and minuted at the firm's next Board meeting (or equivalent meeting in the absence of a Board).

Should you have any queries in relation to the contents of this letter, please contact brokerssupervision@centralbank.ie.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pat Sage', written over a light blue horizontal line.

Pat Sage
Head of Function
Consumer Protection: Supervision Division



Appendix 1

Relevant Legislation

The European Insurance and Occupational Pensions Authority Preparatory Guidelines on Product Oversight and Governance

[Preparatory Guidelines on Product Oversight and Governance](#)

European Union (Insurance Distribution) Regulations 2018

Regulation 38 Product oversight and governance requirements

(1) Insurance undertakings and intermediaries which manufacture any insurance product for sale to customers, shall maintain, operate and review a process for the approval of each insurance product or any significant adaptations of an existing insurance product, before it is marketed or distributed to customers.

(2) The process for product approval referred to in paragraph (1) shall -

(a) be proportionate and appropriate to the nature of the insurance product,

(b) specify an identified target market for each product,

(c) ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and

(d) take reasonable steps to ensure that the insurance product is distributed to the identified target market.

(3) An insurance undertaking shall understand and regularly review the insurance products it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether each product remains consistent with the needs of the identified target market and whether its intended distribution strategy remains appropriate.

(4) Insurance undertakings and intermediaries which manufacture insurance products, shall make available to distributors all appropriate information on the insurance product and the product approval process, including the identified target market of the insurance product.

(5) An insurance distributor who advises on, or proposes, insurance products which it does not manufacture shall have in place adequate arrangements to obtain the information on the insurance product and the product approval process, including the identified target market of the insurance product and to understand the characteristics and identified target market of each insurance product.

(6) Any policies, processes or arrangements pursuant to this Regulation shall be without prejudice to all other requirements under these Regulations including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interest, and inducements.

(7) This Regulation shall not apply to insurance products which consist of the insurance of large risks.



Regulation 193 of the European Union (Insurance and Reinsurance) Regulations 2015

(1) Where a non-life insurance undertaking is offering insurance in the State through a branch or pursuant to the freedom to provide services, it shall inform the policy holder before any commitment is entered into, of the Member State in which its head office is situated or, where appropriate, the branch with which the contract is to be concluded is situated.

(2) Any documents issued to the policy holder shall convey the information referred to in paragraph (1).

(3) The obligations imposed in paragraphs (1) and (2) shall not apply to large risks.

(4) The contract or any other document granting cover, together with the insurance proposal where it is binding upon the policy holder, shall state the address of the head office or, where appropriate, of the branch of the undertaking which grants the cover.

(5) Those documents shall also contain the name and address of the representative of the undertaking referred to in Regulation 17(4)(i).



Consumer Protection Code, 2012

Chapter 2: General Principles

A regulated entity must ensure that in all its dealings with customers and within the context of its authorisation it:

- 2.1 acts honestly, fairly and professionally in the best interests of its customers and the integrity of the market;
- 2.2 acts with due skill, care and diligence in the best interests of its customers;
- 2.3 does not recklessly, negligently or deliberately mislead a customer as to the real or perceived advantages or disadvantages of any product or service;
- 2.4 has and employs effectively the resources, policies and procedures, systems and control checks, including compliance checks, and staff training that are necessary for compliance with this Code;
- 2.5 seeks from its customers information relevant to the product or service requested;
- 2.6 makes full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer;
- 2.7 seeks to avoid conflicts of interest;
- 2.8 corrects errors and handles complaints speedily, efficiently and fairly;
- 2.9 does not exert undue pressure or undue influence on a customer;
- 2.10 ensures that any outsourced activity complies with the requirements of this Code;
- 2.11 without prejudice to the pursuit of its legitimate commercial aims, does not, through its policies, procedures, or working practices, prevent access to basic financial services; and
- 2.12 complies with the letter and spirit of this Code.

Chapter 4: Provision of Information

- 4.1 A regulated entity must ensure that all information it provides to a consumer is clear, accurate, up to date, and written in plain English. Key information must be brought to the attention of the consumer. The method of presentation must not disguise, diminish or obscure important information.
- 4.4 A regulated entity must ensure that the font size used in all printed information provided to consumers is:
 - a) clearly legible, and



- b) appropriate to the type of document and the information contained therein.
- 4.30 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.
- 4.34 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.

Chapter 7: Rebates and Claims Processing

- 7.6 A regulated entity must endeavour to verify the validity of a claim received from a claimant prior to making a decision on its outcome.
- 7.7 A regulated entity must have in place a written procedure for the effective and proper handling of claims. At a minimum, the procedure must provide that:
- a) where an accident has occurred and a personal injury has been suffered, a copy of the Personal Injuries Assessment Board Claimant Information Leaflet is issued to the claimant as soon as the regulated entity is notified of the claim;
 - 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 to the claimant 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 claimant to policy terms and conditions that may be of benefit to the claimant;
 - e) a record must be maintained of all conversations with the claimant in relation to the claim; 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 ten business days of the development. When additional documentation or clarification is required from the claimant, the claimant must be advised of this as soon as required and, if necessary, issued with a reminder on paper or on another durable medium.
- 7.8 An insurance intermediary who assists a consumer in making a claim must on receipt of the completed claims documentation, transmit such documentation to the relevant regulated entity within one business day.
- 7.9 Where a regulated entity engages the services of a loss adjuster and/or expert appraiser it must notify the claimant 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* and the *regulated entity* must maintain a *record* of this notification.

- 7.10 In the case of motor insurance and property insurance claims, and other claims where relevant, the *regulated entity* must notify the *claimant* 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 and the *regulated entity* must maintain a *record* of this notification.
- 7.11 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 or her behalf in relation to a claim.
- 7.12 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*.
- 7.13 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 on paper or on another *durable medium*, with details of the scope of the work that has been approved and the cost.
- 7.14 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, on paper or on another *durable medium*, 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 at least to the standard that existed prior to the insured event.
- 7.15 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.
- 7.16 A *regulated entity* must, within ten *business days* of making a decision in respect of a claim, inform the *claimant*, on paper or on another *durable medium*, of the outcome of the investigation explaining the terms of any offer of settlement. When making an offer of settlement, the *regulated entity* must ensure that the following conditions have been satisfied:
- a) the insured event has been proven, or accepted by the *regulated entity*;
 - b) all specified documentation has been received by the *regulated entity* from the *claimant*; and
 - c) the entitlement of the *claimant* to receive payment under the policy has been established.
- 7.17 A *regulated entity* must allow a *claimant* at least ten *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.

This provision does not apply in the case of surrender or encashment of life assurance investment policies or to claims on life assurance *protection policies* where the settlement amount is set out in the policy terms and conditions and/or the policy schedule.



- 7.18 Where a claimant has agreed to accept the offer made by the regulated entity to settle a claim, the regulated entity must discharge the claim within ten business days from the date the claimant has agreed to accept the offer, once the appropriate amount has been agreed subject to finalisation of legal costs, where applicable.

Where a method of direct settlement is being applied, the regulated entity must discharge the claim without delay.

- 7.19 If the regulated entity decides to decline the claim, the reasons for that decision must be provided to the claimant on paper or on another durable medium.
- 7.20 A regulated entity must provide a claimant with written details of any internal appeals mechanisms available to the claimant.
- 7.21 Where the policyholder who is a consumer is not the beneficiary of the settlement the policyholder must be advised, on paper or on another durable medium, 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.

Chapter 10: Errors and 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 this handled in accordance with the regulated entity's complaints process.
- 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:
- the regulated entity must acknowledge each complaint on paper or on another durable medium within five business days of the complaint being received;
 - 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;
 - the regulated entity must provide the complainant with a regular update, on paper or on another durable medium, 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;
 - 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 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 on paper or on another durable medium 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) including dates;
 - 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.



Appendix 2

Key Findings from Consumer Research¹

Consumer knowledge of the identity of their motor insurer was mixed

- When asked whether they checked specific documentation for the identity of their insurer:
 - 59% of respondents stated that they checked the name of their insurer on their insurance quotation document; and/or
 - 32% stated that they checked their policy document; and/or
 - 23% stated that they checked their renewal notice.
- 23% of respondents stated that they did not check any documentation for the identity of their insurer.
- 76% of respondents stated that they knew the identity of their motor insurer². However, of these, 25% stated the name of a retail intermediary, indicating some degree of misunderstanding.

Price, rather than the insurer, was the primary driver of choice

- 79% of respondents said that price was the most important factor that influenced their last purchase of motor insurance.
- Cover/benefits was identified as the second most important factor (53%).
- 49% of respondents said that the location of the motor insurer mattered to them (although less than half of these respondents (45%) indicated that location outside Ireland might change their decision).
- 23% of respondents stated that they would be likely to purchase motor insurance from a non-Irish domiciled motor insurer in the future. This scored highest amongst younger respondents and those in lower socio-demographic groups.

Satisfaction with the service of current motor insurer was high

- 90% of respondents stated they were 'satisfied' or 'very satisfied' with the service provided by their motor insurer, based on their last interaction with them.

The majority stayed with their current provider at last renewal

- 58% of respondents renewed their motor insurance with the same insurer or retail intermediary at their last renewal, compared to 42% who switched to a different company.

¹ 346 consumers, who sought advice and purchased motor insurance from a retail intermediary in the past five years, were surveyed through face-to-face and in-home interviews in April 2017 for this research. To qualify for participation, respondents had to have experience of dealing with a retail intermediary in the past five years (sought advice and purchased motor insurance through an intermediary). In the research, an insurer was defined as "the company that underwrites your policy and pays out if you have a valid claim in the event of an accident or damage to your car".

² The explanation given to the consumer was that the insurer is the company that underwrites your policy and pays out if you have a valid claim in the event of an accident or damage to your car.



Appendix 3

Provision of Key Information

Insurance companies and their appointed MGAs must disclose in full all relevant material information in a way that best informs the consumer. The name of the insurance company and its country of incorporation are two such pieces of information (“key information”). Consumers are to be made aware of this key information in a manner which can leave no doubt, nor disguise, diminish or obscure in any way this important information. The name and location of the MGA or any other company must not be presented in a manner that would in any way confuse the consumer about the name and location of the insurance company underwriting their policy of insurance.

Clarification in respect of the provision of key information in policy and associated documentation:

1. All policy and associated documentation provided to consumers in Ireland, either directly or through appointed intermediaries, should clearly disclose the name of the insurance company and its country of incorporation (“key information”) in a manner that does not disguise, diminish or obscure this key information.
2. Where the main policy of insurance (e.g. private motor insurance) includes ancillary cover (e.g. legal expenses) underwritten by a secondary insurance company, disclosure of the name and country of incorporation of the secondary insurance company should be made in the appropriate section of the policy