



Intermediary Times

Welcome to the Intermediary Times

Welcome to the final edition of the Intermediary Times for 2018.

This bumper edition contains information on many important and interesting topics including:

- Brexit;
- The 2018 Retail Intermediary Roadshows;
- The 2018 Funding Levy;
- Findings from two recent thematic inspections:
 1. Managing General Agents (MGAs); and
 2. Sale of Gadget Insurance;
- The findings from Anti-Money Laundering inspections carried out in 2018;
- Information on transferring books of business;
- MCC and CPD Obligations; and
- Reminders for Investment Intermediaries.

For queries on any of the topics outlined in this newsletter, or any other queries you may have, please see the main contact points on page 10. We hope that you find this newsletter useful and as always, we welcome your [feedback](#).



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Supervision Division

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Brexit - Service Continuity and Customer Communications

In March 2018, the Central Bank published a special edition of the [Intermediary Times](#) in relation to the United Kingdom's ("UK") exit from the European Union ("EU") ("Brexit") and the potential impact of Brexit on firms' business arrangements and their contingency planning in this regard.

In this edition of the Intermediary Times, the Central Bank reminds firms of their key obligations in relation to Brexit, namely to:

- Have taken appropriate contingency measures to ensure the continuity of services for cross-border insurance contracts between the UK and other Member States of the EU;
- Make customers and beneficiaries aware in a timely manner of the implications of these contingency measures both for existing and for new contracts concluded before the withdrawal date;
- Provide customers with clear information on the contingency measures taken or planned and on their impact on insurance contracts; and
- Inform new customers about the impact on their contractual rights and on the provision of insurance services that may emerge from the withdrawal of the UK from the EU.

It is important that firms have robust contingency plans in place, and that they inform customers and beneficiaries of the potential impact of a hard Brexit on their financial products and services.

Firms must inform customers and beneficiaries of the potential impact of a hard Brexit on their financial products and services.



2018 Retail Intermediary Roadshows

The 2018 Retail Intermediary Roadshows were held over two days in Dublin and Cork on 24 and 25 October 2018.

400+ firms along with representatives from Brokers Ireland attended the events. 11 speakers from seven directorates across the Central Bank presented on a range of topics including:

- An overview of the European Union (Insurance Distribution) Regulations 2018;
- The new authorisation application form for retail intermediaries;
- The role of the Protected Disclosures Unit;
- Enforcement actions and investigations;
- An overview of the Investor Compensation Company DAC and the 2018 levy rates;
- Update in relation to Anti-Money Laundering & countering the financing of terrorism; and
- Developments in relation to the industry funding levy.

The feedback received from the events was very positive, with many attendees welcoming the opportunity to have direct dialogue with staff from the Central Bank.

2.5 hours Continuing Professional Development accreditation was offered to those who attended the 2018 Roadshows (applicable to the Insurance Institute of Ireland, Institute of Banking, and the Life Insurance Association Ireland).

The presentations from the Roadshows can be viewed on the Central Bank's website [here](#).



Pat Sage presenting at the Dublin event in October 2018



Joanne Doherty speaking at the Dublin event in October 2018



Attendees at the Cork event

2018 Industry Funding Levy

The objective of funding levies is to recover the relevant proportion of the cost of financial regulation activities from regulated entities. Firms that are authorised for part of the levy period are liable to a pro-rata levy covering the period in which they held an authorisation from the Central Bank.

In setting the three variables (see 1 to 3 below) for the 2018 Retail Intermediary Funding Model, the Central Bank took account of feedback provided by Industry.

The three variables for the 2018 retail intermediary levy period are as follows:

1. Minimum levy (applicable where fee and commission income is below the threshold amount): €1,020;
2. Threshold amount: €200,000; and
3. Variable levy rate (payable in addition to the minimum levy, where fee and commission income is above the threshold amount): 0.32%.

The 2018 Industry Funding Levy invoices, outlining the levy applicable to each firm, were issued by the Central Bank in November 2018 and are due for payment within 28 days. The recovery rate (i.e. proportion of the cost of regulating the sector) to be recovered from retail intermediaries and debt management companies in 2018 is 65 per cent and is in line with the recovery rate applicable to other low impact industry funding categories. In accordance with the strategy of the Central Bank, recovery rates for all categories (including Retail Intermediaries) are likely to increase in future levy periods.

If a firm fails to pay the levy by the required date, the Central Bank may take steps to recover the amount of the levy. Recovery action may include court proceedings.

Further information on the funding levy is [available here](#)

Did you know?

A funding levy is applied to all sectors regulated by the Central Bank.



Funding levy invoices were issued in November 2018.

Findings from Thematic Inspections

The Central Bank recently published the outcomes of two thematic inspections: retail intermediaries that act as Managing General Agents (“MGAs”) on behalf of motor insurers, and the Sale of Gadget Insurance.

1. Retail Intermediaries that act as Managing General Agents

The main findings were:

- Provision of Key Information: In general, consumers were not sufficiently made aware by the MGA of the name of their insurer and its country of incorporation (key information);
- Contingency Plans: While all inspected MGAs have contingency plans in place to deal with an insurer exiting the market, in a majority of cases, these plans were not formally documented; and
- Preparedness for new Product Oversight and Governance (“POG”) Requirements: MGAs inspected were unable to demonstrate sufficient preparedness for the POG requirements subsequently introduced on 1 October 2018, particularly in relation to enhanced obligations when manufacturing and / or distributing products.

Full details of the inspection findings and feedback can be found [here](#).

2. Sale of Gadget Insurance

Three insurance firms were inspected, accounting for over 80 per cent of the market in Ireland. These firms sell gadget insurance through brokers and retailers. In some cases, the retail intermediary responsible for distributing the gadget insurance product was also inspected.

The main findings were:

- Inadequate information was provided to consumers at the point of sale and during the life of their policy, which can be up to five years;
- Central Bank research shows that 21 per cent of consumers do not cancel existing policies after taking out a new gadget insurance policy;
- The overall price of gadget insurance was not clearly presented to consumers; and
- While claims acceptance rates on gadget insurance were high, at an average of 91.6%, a number of recurring reasons for declined claims were identified.

Full details of the inspection findings and feedback can be found [here](#).



Anti-Money Laundering Inspection Findings

The Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010, as amended ("**CJA 2010**"), requires firms to ensure that all staff receive training relating to Anti-Money Laundering/Countering the Financing of Terrorism ("**AML/CFT**"). Failure to provide AML/CFT training to staff is an offence under the CJA 2010. Well-trained staff play a critically important role in the detection and prevention of money laundering and terrorist financing.

Over the course of 2017/2018, the Central Bank conducted a number of on-site AML/CFT inspections of firms. Arising from these inspections, the following issues were identified in relation to AML/CFT training:

- Insufficient evidence that staff in senior roles, such as Directors and Senior Management, had received appropriate training;
- Training records were not always maintained to demonstrate who had received the training, when the training took place, or the nature of the training received; and
- Training received was high level and did not always reflect the specific AML/CFT procedures, processes and systems of the firm.

In assessing the approach of firms to AML/CFT training, the Central Bank expects that:

- Records of completed training, including copies of training materials, are retained and can be readily provided to the Central Bank upon request;
- Appropriately tailored AML/CFT training is provided to staff at least annually, with an enhanced level of training provided to staff in key AML/CFT compliance roles;
- Training content is reviewed and updated regularly to ensure it remains relevant and fit for purpose; and
- An appropriate monitoring process is in place to ensure that all staff complete training.

**ANTI-MONEY
LAUNDERING**

Did you know?

Failure to provide AML/CFT training is an offence under the CJA 2010.

A number of training issues were identified throughout the course of AML/CFT inspections of firms.

Central Bank Expectations

1. Training records are kept and readily available;
2. Appropriate training is provided at least annually;
3. Training content is reviewed and updated regularly; and
4. A monitoring process is in place.

Book of Business Transfers

The transfer of regulated activities between firms is governed by Provision 3.11 of the Consumer Protection Code, 2012 (the “Code”). Under the Code, a firm must meet certain obligations before any transfer can be completed. A firm must:

- Notify the Central Bank immediately;
- Provide at least two months’ notice to affected consumers to enable them to make alternative arrangements;
- Ensure all outstanding business is properly completed prior to the transfer, merger or cessation of operations, or, alternatively in the case of a transfer/merger, inform the consumer of how continuity of service will be provided once the transfer/merger is complete; and
- In the case of a merger/transfer of regulated activities, inform the consumer that their details are being transferred to the other regulated entity, if that is the case.

Provision 3.11 not only applies to a firm that intends to transfer its regulated activities, but also to a firm that intends to cease operating, merge with another, or transfer just part of its regulated activities to another regulated entity. Where a firm intends to transfer all or part of its business to another regulated entity, it is required to notify brokers@centralbank.ie in order to ensure compliance with Provision 3.11 of the Code. The Central Bank will review the notification and follow up with the firm to obtain specific information before any transfer can be completed.

Where a firm is proposing to cease operating, it is required to contact revoke@centralbank.ie and submit a completed revocation form for processing. A copy of the revocation form can be found on the Central Bank’s [website](https://www.centralbank.ie/). When the revocation process is complete, the firm will be removed from the Central Bank’s register and will no longer be subject to the requirements imposed on regulated entities, including payment of all applicable industry funding levies, or the submission of annual returns.



Did you know?

The transfer of regulated activities between firms is governed by Provision 3.11 of the Code.

Where a firm intends to transfer all/part of its business to another regulated entity, it is required to send a notification to brokers@centralbank.ie.

Where a firm intends to cease operating, it should send a completed revocation form to revoke@centralbank.ie.

Investment Intermediaries – Reminders!

Annual Audited Accounts

Investment intermediaries authorised under the Investment Intermediaries Act, 1995 (the “IIA”) must prepare annual audited accounts within six months of the relevant reporting period. Details submitted on the “Financial Information” section of the Annual Return must be based on the annual audited accounts for the financial year-end of the investment intermediary. The audited accounts do not need to be submitted to the Central Bank, but may be requested at any time following this six month period.

Statutory Duty Confirmations

Auditors of investment intermediaries are required to submit a written report to the Central Bank on an annual basis. The report must state whether or not circumstances have arisen that require the auditor to report a matter to the Central Bank under a prescribed enactment.

Statutory Duty Confirmations should be submitted within one month of the date of the auditor’s report on the audited accounts, and can be submitted via email to statutoryduty@centralbank.ie as a Word or PDF attachment. Further information can be found on the Central Bank’s [website](https://www.centralbank.ie). Firms should seek confirmation from their auditors that these requirements are being met.

The IDR and Changes to the IIA

The Insurance Distribution Directive (Directive 2016/97/EU) (the “IDD”) was transposed by the European Union (Insurance Distribution) Regulations, 2018 (the “IDR”) and came into effect on 1 October 2018. The IDR replaces the European Communities (Insurance Mediation) Regulations, 2005 (the “IMR”) with the objective of creating a level playing field across all parties selling insurance products. It amends the scope of the IMR to cover insurance companies and other businesses that sell insurance.

The IDR makes a number of amendments to the IIA. One of the key changes is the removal of “insurance policies” from the definition of “investment instruments” within the meaning of Section 2 of the IIA. If an investment intermediary held its IIA registration to provide insurance policies only, in addition to its IDR registration, it should now voluntarily revoke its IIA registration. The revocation form can be found on the Central Bank’s [website](https://www.centralbank.ie).

Did you know?

If a firm holds an authorisation as an investment intermediary, audited accounts must be prepared.



The submission of a Statutory Duty Confirmation is an ongoing requirement and the Central Bank should receive such reports every year from an investment intermediary's auditor.



“Insurance policies” are no longer classed as “investment Instruments”. Investment Intermediaries which held their IIA licence to provide insurance policies (in addition to their IDR licence) should now revoke their IIA licence.

MCC and CPD Obligations Reminder

It is the responsibility of firms (including proposed and approved Pre-Approval Controlled Functions (“PCF”) holders) to ensure that all persons comply with the Minimum Competency Code, 2017 and Minimum Competency Regulations, 2017 (the “MCC”). In addition, the [Fitness and Probity Standards](#) provide that applicants must comply with the MCC.

Firms must ensure that they retain written records of qualified and grandfathered persons’ compliance with the MCC’s Continuing Professional Development (“CPD”) requirements, and evidence of the firm’s ongoing monitoring of CPD.

Individual Questionnaire Applications

As part of their application, proposed PCF holders must provide evidence of their ongoing compliance with the provisions of the MCC.

All applicants availing of grandfathering arrangements must provide evidence of relevant CPD hours in respect of the previous three full years. The regulated firm or proposing entity must continue to verify that the applicant is fully compliant with the provisions of the MCC and the Central Bank may review the firm’s MCC-related records in respect of any persons acting in a PCF or CF at any time.

In respect of applicants who have arranged their own CPD hours, records (for the period in question) are required to demonstrate that they have satisfied the requirement (e.g. maintenance of a log, supported by receipts from courses attended, certificates of attendance, certificates of completion, etc.).

Applicants must also ensure that the course content is relevant to the retail financial products or the specified functions for which they are a qualified or grandfathered person.

All applicants should take care to ensure they supply the Central Bank with the necessary supporting material, as incomplete applications will be returned. For further information, please refer to the [Fitness and Probity](#) section of the Central Bank’s website.

Did you know?

Applicants availing of grandfathering arrangements must submit evidence to support relevant CPD hours in respect of three full years prior to the submission year.



Firms must ensure that they retain written records on file of qualified and grandfathered persons’ compliance with the MCC’s CPD requirements.

Central Bank Query	Central Bank Division	Central Bank Contact
Consumer Protection: Retail Intermediaries – Authorisation queries Retail Intermediaries – Supervision queries Retail Intermediaries – Revocation queries Retail Intermediaries – Post Authorisation queries	Consumer Protection	RIAuthorisations@centralbank.ie brokers@centralbank.ie revocations@centralbank.ie postauthorisations@centralbank.ie
Consumer Protection: Policy Policy queries Minimum Competency Code	Consumer Protection	code@centralbank.ie competency@centralbank.ie
Queries for other Central Bank Divisions:		Website
Anti-Money Laundering/Countering Terrorist Financing	Anti-Money Laundering	AMLpolicy@centralbank.ie
Fitness and Probity: Individual Questionnaire queries	Regulatory Transactions	fitnessandprobity@centralbank.ie
Funding Levy	Financial Control	funding@centralbank.ie
Online Reporting queries	Regulatory Transactions	onlinereturns@centralbank.ie

