

# COMPLIANCE MANUAL

The complete Member's guide



**PIBA**

Professional Insurance  
Brokers Association

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## Section 1- Getting Started

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# Section 1- Getting Started

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## 1.1 The Role of the Central Bank of Ireland

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The Central Bank of Ireland has a role in ensuring that the best interests of consumers of financial services are protected.

In relation to consumer protection the Central Bank of Ireland develops and introduces statutory codes of conduct and monitors compliance with these codes. The Central Bank of Ireland also sets minimum competency standards for firms.

The Central Bank of Ireland monitors compliance with consumer protection requirements through:

- inspections
- reviews
- mystery shopping
- advertising monitoring

This section of the manual focuses on the key compliance issues which need to be addressed when setting up and operating as an insurance, investment and/or mortgage intermediary. This section applies to all new legal entities that are applying for authorisation and legal entities that are changing their business structure and require new authorisation.

### Background

- April 2001 - Central Bank of Ireland took over responsibility for the regulation of Insurance/ Investment intermediaries.
- 2003 - Central Bank was renamed the Central Bank & Financial Services Authority of Ireland (CBFSAI). A new regulatory framework was established which led to the creation of the Irish Financial Services Regulatory Authority (IFSRA) as the single financial services regulator.
- May 2003 - Regulatory responsibility for mortgage intermediaries was passed from the Office of the Director of Consumer Affairs to IFSRA.
- 2005 - IFSRA became known as the 'The Financial Regulator'.
- 2010 - A change of structure to re-unify the organisation under a Central Bank of Ireland commission became effective on the 1<sup>st</sup> of October 2010. 'The Financial Regulator' was renamed the Central Bank of Ireland.

### What does the Central Bank of Ireland expect?

In July 2006, the Central Bank of Ireland introduced the Consumer Protection Code which laid down the framework within which it expects regulated entities to operate in providing financial services to consumers in the State. All regulated entities (including insurance and mortgage intermediaries) fell under the Code with effect from the 1<sup>st</sup> of July 2007. The revised Consumer Protection Code was published on the 19<sup>th</sup> of October 2011 with requirements to be implemented by the 1<sup>st</sup> of January 2012.

The purpose of the revised statutory Code was to strengthen the protection for consumers of financial institutions since the launch of the initial Code in August 2006. The new code contains enhanced requirements where the Central Bank has concerns in relation to the treatment of consumers by financial entities.

In addition to complying with the Consumer Protection Code:

- Insurance and Investment intermediaries are required to comply with the relevant statutory requirements of the Investment Intermediaries Act 1995 and the Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries.
- Insurance intermediaries are also subject to the requirements of the Insurance Mediation Directive.
- Mortgage Intermediaries are required to comply with the relevant statutory requirements i.e. Consumer Credit Act 1995.

In addition to the above, all firms must operate within the requirements of the Minimum Competency Code, Fitness & Probity standards and Anti Money Laundering and Data Protection legislation, as well as any other regulatory requirements issued by the Central Bank of Ireland.

## 1.2 Setting up the Firm

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When establishing your business, you will firstly have to decide how best to structure your firm. Three types of business structures can be used with each structure having its own advantages and disadvantages.

### Sole trader

A sole trader is a trade that is owned and controlled by one person. To set up as a sole trader, you will need to register as a sole trader with the Revenue Commissioners and submit an income tax return once a year (deadline October 31st of the following tax year). Many sole traders decide to operate under their own name, however if you



decided to use a name other than your surname you must register the name in accordance with the Registration of Business Names Act of 1963 for a small registration fee.

A sole trader is not required to file accounts to the Companies Registration Office (CRO), which would be available for inspection by the public (however intermediaries authorised under the Investment Intermediaries Act are still required to have their annual accounts audited). The closing down of the business is generally simpler as there are less legal technicalities involved.

However, there are also a number of disadvantages to operating as a sole trader. The owner is personally liable for all debts of the business and raising capital can be more difficult. The life of the business also depends entirely on the owner.

### **Partnerships**

This is where 2 or more people agree to run a business in partnership with each other. The partnership agreement should be drawn up by a solicitor. The partners are jointly responsible for running the business, therefore if the partnership fails all partners are jointly responsible for the debt.

It is very important that a partnership agreement is set up correctly from the start so that each partner knows what is expected of them in terms of capital contributed and profit share.

### **Limited Company**

A limited company is a legal entity which is separate and distinct from that of the individual shareholders or the members who make up the company. There are a number of advantages to operating as a limited liability company as opposed to a sole trader or partnership. The main advantage being that the liability of members for the company's debt is limited to the amount that they have agreed to pay for the shares that they own in the company. The directors' personal property remains safe at all times. If the company were to be sued, only the company (not the shareholders) would be liable for the obligations of the firm as the company is separate and distinct from those who run it.

There are also tax advantages, as limited companies are subject to more favourable tax rates than an individual. Corporation tax is currently at 12.5% while personal tax rates are 20% and 41%. There are also fewer legacy issues i.e. as the death of individuals in a company, unlike that of a sole trader, will not mean that the company must be dissolved or transferred.

Disadvantages include the fact that limited companies are subject to a number of additional administrative obligations. The Companies Registration Office (CRO) requires

companies to submit a B1 Form on an annual basis (regardless of whether or not they have traded). The B1 requires information such as company and director details, issued share capital details, a copy of the profit and loss account, the balance sheet of the firm, notes on the financial statements and the directors' report. Additional reporting and auditing costs can be significant. As companies which are also insurance intermediaries are currently not eligible for the audit exemption they must forward a copy of audited accounts (this requirement also remains under Section 30 of the Investment Intermediaries Act).

### 1.3 Restrictions on use of the terms "Broker" and "Independent"

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#### What is Fair Analysis?

"Fair analysis of the market" means providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable the intermediary to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet the consumer's needs.

#### What is Limited Analysis?

"Limited analysis of the market" means providing services on the basis of a limited number of contracts and product producers available on the market i.e. although not tied to one product producer the services are not provided on the basis of a fair analysis of the market.

#### Restriction on the term independent

The term '**independent**' may only be used by an intermediary in its legal name, trading name or any other description of the firm where:

- a) the principal regulated activities of the intermediary are provided on the basis of a fair analysis of the market; and
- b) the intermediary allows the consumer the option to pay in full for its services by means of a fee.

The term '**independent**' may only be used in any trading name or other description of a regulated activity where the intermediary:

- a) provides the regulated activity on the basis of a fair analysis of the market; and
- b) allows the consumer the option to pay in full for the regulated activity by means of a fee.

Where a regulated entity does not provide all of its regulated activities in an independent capacity, it must explain the different nature of its services in a way that seeks to inform the consumer. It must ensure that there is no ambiguity about the range of services that it provides in an independent capacity.

### Restriction on the term Broker

The term **'broker'** may only be used where the principal regulated activities of the intermediary are provided on the basis of a fair analysis of the market.

Where an intermediary does not provide a product or service on the basis of a fair analysis of the market, it must clearly disclose to the consumer the names of those product producers whose products or services it intends to consider as part of its analysis.

Where an intermediary is tied to a single product producer for a particular product or service, it must disclose this fact to the consumer in all communications with the consumer in relation to that particular product or service.

In order to meet these requirements, the Central Bank expect that at **least 75%** of a regulated firm's total turnover, on an annual basis, comes from regulated activities provided on the basis of a fair analysis of the market. The intermediary may provide other regulated activities on a limited analysis basis or hold tied agencies, provided these activities do not constitute more than 25% of total turnover, on an annual basis.

Where the intermediary uses the term **'broker'** or **'independent'** in relation to individual regulated activities, the intermediary must ensure that the regulated activity in question is provided on the basis of a fair analysis of the market.

E.g. ABC Ltd provides life assurance & pensions on a fair analysis basis, holds a tied agency in respect of home insurance and provides mortgages on a limited analysis basis. The provision of life assurance & pensions constitutes 75% of total annual turnover from regulated activities. ABC Ltd could use the terms **'broker'** or **'independent'** to describe the firm and/or the regulated activities of providing life assurance & pensions or in any trading name used to refer to these regulated activities of the firm. It could not use those terms in relation to the provision of home insurance or mortgages, or in any trading name in relation to these activities.

## 1.4 Regulatory Application Process

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The Central Bank of Ireland is responsible for the registration and authorisation of insurance, investment and mortgage intermediaries. The authorisation process can take between 8-12 weeks, depending on the volume of applications being processed.

Registration and Authorisations are granted under the following legislation:

- Insurance Intermediary under the Insurance Mediation Directive, 2005.
- Multi-Agency Intermediary/Authorised Advisor under the Investment Intermediaries Act, 1995.

- Mortgage Intermediary under the Consumer Credit Act, 1995

### **Important!**

Individuals wishing to apply for authorisation should be aware that the Central Bank of Ireland grants authorisation, on a case by case basis, subject to background checks, experience, qualifications and references.

The application process involves submission of an application form, certain documentation and individual questionnaires for directors and the person(s) responsible for insurance mediation to appear on the register. In addition, persons may be requested to complete a Garda Vetting Application Form (only available in hard copy) as part of the probity checks.

Firms are registered when they satisfy the necessary criteria. This criteria includes good repute/probity of directors, knowledge and ability/fitness of the relevant persons in the firm and having minimum levels of professional indemnity insurance in place.

The Central Bank of Ireland will not commence the processing of any application until all required information in the application form and all supporting documentation (as outlined in the checklist below) has been received. Incomplete applications will be returned to the applicant. Applicants should ensure that they complete the latest application form as the Central Bank of Ireland will return old forms and request that the applicant submit the latest application form.

### **IMD Registration**

- The Insurance Mediation Directive (IMD) is an EU Directive which sets out an EU-wide system for regulation of insurance intermediaries.
- The Directive was implemented into Irish law by regulations on the 14<sup>th</sup> of January 2005.

The regulations cover the activity of 'insurance mediation' which is defined as:

*"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)".*

It is compulsory that all insurance intermediaries register with the Central Bank of Ireland under the IMD. An insurance intermediary cannot act as an insurance intermediary and an insurance company cannot deal with the firm unless it is registered on the Insurance Mediation Register.

If your firm was a regulated insurance intermediary under the Investment

Intermediaries Act 1995 (IIA) on the 13<sup>th</sup> of January 2005, you would have been treated as being registered automatically subject to complying with:

1. The requirement of possessing 'appropriate knowledge and ability' and meeting the professional minimum competency requirements.
2. The maintenance of a segregated 'client premium account', where relevant.
3. The holding of a specified amount of Professional Indemnity Insurance cover.

Once registered, insurance intermediaries may provide services on a cross border basis, without having to be registered in each Member State. It is important to note that firms must notify the Central Bank of Ireland (Home Member State) if they wish to provide cross border services. See [Section 4.16](#) for more details on passporting.

An applicant who wishes to act as an insurance Broker and who does not wish to provide advice on any other investment instruments as set out in the Investment Intermediaries Act can register under the IMD only. In this case, authorisation under the IIA is not required. Examples of where this situation might apply are (1) a general insurance Broker or (2) a mortgage Broker who wishes to arrange life and/or household insurance.

### The application process

- Log on to [www.centralbank.ie](http://www.centralbank.ie)
- Select Financial Regulation
- Select retail intermediaries-An option will be given here to download the various application forms:
  - [Registration as an Insurance/Reinsurance Intermediary](#)
  - [Application for Authorisation as a Retail Investment Intermediary \(Authorised Advisor & Multi-Agency Intermediary\)](#)
  - [Authorisation as a Mortgage Intermediary.](#)

## Classes of insurance

In the registration form you will be asked to select the classes of insurance for which you propose to provide mediation services to your clients. The classes are set out in the EU 3rd Life Directive. The following may provide some guidance as to what is generally applicable to life intermediaries:

I	Non-linked life	Applicable to life Brokers, as this covers non-unit linked life products such as term assurance, serious illness cover, etc.
II	Marriage, birth	Not a significant part of the market, but would apply for this to cover a broader span or unusual circumstances.
III	Linked life	Applicable to life Brokers as this covers unit linked policies such as whole of life products, pensions, savings and investments.
IV	PHI	Applicable as Permanent Health Insurance.
V	Tontine	Not applicable to life Brokers.
VI	Capital Redemption	Not generally applicable to life Brokers.
VII	Group Pension Funds	Not generally applicable to life Brokers as this relates to the actual operation and management of group pension funds.
VIII	Group Welfare	Not generally applicable to life Brokers.
IX	Operations connected with social insurance	Not generally applicable to life Brokers.

## Checklist for submission of registration application under the Insurance Mediation Directive

- Completed Application form.
- Minimum Competency Requirements- Certificate of qualification or Statement of grandfathered status. Applicants that are grandfathered or who have qualifications which do not have a CPD requirement must provide evidence of completed formal CPD. The Central Bank of Ireland requests third party evidence of formal CPD hours such as copies of receipts or certificates of attendance at course/lectures/seminars/PIBA CPD bootcamps. A list of CPD events attended by the applicant will not suffice.
- CRO Certificate of Incorporation (Companies Only).

- CRO Registration of Business-a business name certificate must be supplied for each business name (trading name) the firms intend to use (this is applicable to all firm types: sole trader, partnerships and companies).
- Written evidence of Professional Indemnity Insurance cover(copy of policy or similar).The Central Bank of Ireland notes that it is not always possible for an applicant to arrange PII when submitting the application, therefore the applicant may arrange for PII cover closer to the date of registration.
- Completed Individual Questionnaire for each principal (director, partner, trader, person responsible) in the firm.
- Curriculum Vitae (CV) - Applicants must provide a CV setting out full details of their employment history and educational qualifications and outlining main responsibilities and reasons for leaving each position. Any gaps in employment must be detailed.

### **Insurance and Investment Intermediaries**

The status of Insurance and Investment intermediaries authorised under the Investment Intermediaries Act 1995 falls into two main categories; Authorised Advisors and Multi-Agency Intermediaries.

The Central Bank of Ireland maintains and publishes on its website, a Register of intermediaries who are authorised to provide investment and insurance services. The Register provides the status of each intermediary and lists the product producers with which the firm holds an agency appointment.

### **Categories of Authorisation**

It is necessary to consider all of the options available before making a decision as to what category you are going to apply for. The first step is to think through:

- On what products you wish to advise.
- The scope of advice i.e. broad based or only across agencies held.
- How the organisation will be structured.
- Who will manage the firm?
- How it will operate on a day to day basis.

Preparation is the key to obtaining authorisation and successfully launching a new entity.

The 'Matrix of Key Requirements for Investment Intermediaries' sets out some of the key differences between the categories of intermediaries.

## Matrix of Key Requirements for Investment Intermediaries.

	Multi-agency intermediaries	Authorised Advisors
<b>Advice</b>	Can only give <i>product specific advice</i> where an agency is held. Can provide information where no agency is held – provided no advice is given.	Must provide <i>broad-based advice</i> across the market, irrespective of agencies held. Can only place business where an agency is held.
<b>Accounts</b>	Annual Audited accounts	Same as MAI.
<b>Cash Handling</b>	Can only handle insurance premiums and where proposal accepted/renewal invited by insurer.	Same as MAI.
<b>Capital Adequacy</b>	<ul style="list-style-type: none"> <li>MAI- net solvency</li> <li>Lloyds Broker -€10k</li> <li>Wholesaler (Product Producer) -€50k</li> </ul>	<ul style="list-style-type: none"> <li>AA-€10k</li> <li>Lloyds Broker-€10k</li> <li>Wholesaler (Product Producer) - €50k</li> </ul>
<b>Disclosure Statement</b>	XYZ Ltd. t/a XX is regulated by the Central Bank of Ireland.	XYZ Ltd. t/a XX is regulated by the Central Bank of Ireland.
<b>Central Bank of Ireland Expectations on a fee based sale</b>	Income by way of commission or fees, with expectation of mainly commission based sales.	Income by way of commission or fees, with expectation that AA's will charge some fees.

The majority of Intermediaries currently operate as multi-agency intermediaries. The majority of this category are authorised under Section 26 of the Investment Intermediaries Act 1995 (as amended) – frequently referred to as 'deemed authorised'. These were Intermediaries who simply had to register with the Central Bank at the time as they were in business prior to April 2001.

New firms (since 2001) making an application to the Central Bank of Ireland will be authorised under Section 10 of the Act as one of the following:

- Multi-agency intermediary (MAI).
- Multi-agency intermediary (dealing with a Lloyds Broker).
- Multi-agency intermediary (Product Producer).
- Authorised Advisor (AA).
- Authorised Advisor (AA) (Product Producer).

(In the context of the intermediary market, an Intermediary who is a Product Producer generally issues agency appointments to other intermediaries in order to enable



placement of particular types of business or schemes – mainly applicable to General insurance.)

It is very important in considering these categories which one you fit into best, as this will determine how you conduct your business and the level of regulation to which you will be subjected.

The authorisation process generally takes 8-12 weeks, although this can take longer if the Central Bank of Ireland has any specific issues with applicants or correct documentation is not provided.

### Checklist for submission of authorisation application under the Investment Intermediaries Act

- Completed Application form.
- Completed Individual Questionnaire.
- Curriculum Vitae (CV) - Applicant must provide a CV setting out full details of their employment history and educational qualifications and outlining main responsibilities and reasons for leaving each position. Any gaps in employment must be detailed.
- Copy of Certification of Incorporation (Company).
- Memorandum & Articles of Association (Company).
- Partnership Agreement (Partnerships).
- Copy of Certificate of Registration of Business name (if applicable), i.e. if the applicant (sole trader, partnership or company) intends to use trading names.
- Group Organisation Chart (if applicable).
- Confirmation of Solvency/Capital Adequacy.
- Business Plan.
- Letter of Intent from Product Producer (if applicable).
- Details on resources and procedures in place to provide broad based advice (Authorised Advisors).
- Most recent audited account (if applicable).
- Confirmation of registered and beneficial ownership of shares (Company).
- Details regarding share ownership requested in Part 1, Q.16 (if applicable).
- Application for registration as an insurance/reinsurance intermediary (if applicable).
- Passporting Form (if intending to offer insurance mediation services in other EU/EEA jurisdictions).
- Written evidence of PII cover (copy of policy or similar).The Central Bank of Ireland notes that it is not always possible for an applicant to arrange PII cover when submitting the application.
- The details required by part 5, Q4 (if applicable).

- Details on the controls in place regarding payments from the applicant's business and client premium bank accounts.
- The details requested in Part 8(Compliance and Administrative Arrangements.
- The details in Part 10 (if applicable).

### Professional Indemnity

Insurance Intermediaries are required to hold Professional Indemnity cover of at least €1 million per claim, with a minimum aggregate limit of €1.5 million p.a. for all claims, unless:

- The insurance is already provided by an insurer on whose behalf the intermediary is acting e.g. sometimes provided for Tied Agents; or
- The insurer has taken full and unconditional responsibility for the intermediary's actions.

### Mortgage Intermediaries

A mortgage intermediary is defined as;

*“any person, other than a mortgage lender or credit institution, who in return for a commission, payment or some other form of consideration:*

*arranges, or offers to arrange, for a mortgage lender to provide a consumer with a housing loan*

*or*

*introduces a consumer to an intermediary who arranges, or offers to arrange, for a mortgage lender to provide the consumer with such a loan.”*

Under Section 116 of the Consumer Credit Act, 1995, a person shall not engage in the business of being a mortgage intermediary unless he is the holder of an authorisation granted for that purpose by the Central Bank of Ireland and holds a letter of appointment in writing from each undertaking for which he/she is an intermediary.

Note: Mortgage Intermediaries can only advise clients on products from Lenders with whom they hold a letter of appointment.

### Checklist for submission of authorisation application under the Consumer Credit Act

- Completed Mortgage Application form.
- Appointment in writing from an undertaking – An appointment in writing should be provided in respect of all undertaking (i.e. mortgage lender or mortgage intermediaries) for which the applicant wishes to act as a mortgage intermediary. At least one appointment must be included with the application form. The Central

Bank of Ireland has stated that appointments issued conditional on the applicant being authorised by the Central Bank of Ireland will not be acceptable. Current (i.e. recently issued) Revenue tax clearance certificate- An application for the tax clearance certificate is available from [www.revenue.ie](http://www.revenue.ie).

- Certificate of Incorporation (Companies Only).
- Partnership Agreement- If applicable, please advise the Central Bank of Ireland in writing if the applicant does not hold a formal partnership agreement.
- Business Name Registration Certificate-a business name certificate must be supplied for each business name (trading name) the firms intend to use (this is applicable to all firm types including sole traders, partnerships and companies).
- Individual Questionnaire for principal, all directors of a limited company, all partners in a partnership, compliance officers etc.
- Certificates of Qualifications - Certificate of qualification or grandfathered letter. Applicants that are grandfathered or who have/hold qualifications which do not have a CPD requirement must provide evidence of formal CPD. The Central Bank of Ireland requests third party evidence of formal CPD hours such as copies of receipts or certificates of attendance at course/lectures/seminars/PIBA bootcamps. A list of CPD events attended by the applicant will not suffice.
- Consumer Protection Code - A description of the applicant's internal procedures to ensure compliance with the Consumer Protection Code and a copy of the internal procedures and controls that will be in place.

### Period of Authorisation

- From the 1<sup>st</sup> of July 2006 authorisations are generally issued for a period of either 5 or 10 years. **The Central Bank of Ireland reserves discretion to issue an authorisation for less than these periods.**
- This applies to applications for authorisation or for renewal of an existing authorisation.
- 10 year authorisation period – only issued to Mortgage Intermediaries who are authorised under Section 10 of the Investment Intermediaries Act, 1995 (e.g. as AA and MAI).
- 5 year authorisation period – issued to firms registered under Section 26 of the Investment Intermediaries Act, 1995 (e.g. deemed authorised MAI).

Please see [Section 10](#) for further details on Mortgage Intermediaries.

#### Levies Payable

- Central Bank of Ireland levy
- Investor Compensation Company Limited (ICCL) levy (not applicable for Mortgage Brokers)
- Financial Services Ombudsman levy

## Note on Markets in Financial Instruments Directive (MiFID)

The Markets in Financial Instruments Directive (MiFID) was transposed into Irish Law on the 15<sup>th</sup> of February 2007 and came into effect for the industry on the 1<sup>st</sup> of November 2007. MiFID replaces the Investment Services Directive (ISD), which is the basis on which investment firms are regulated by the Central Bank of Ireland and other Regulators throughout the EU.

MiFID applies to the higher level of authorised firms such as investment firms, stockbrokers, credit institutions when providing certain investment services. Such services may include handling client monies, discretionary portfolio management, etc.

For the majority of Multi-Agency Intermediaries and Authorised Advisors, MiFID does not apply where advice is provided within Ireland in relation to insurance policies, tracker bonds or PRSAs. Equally, where Brokers are authorised only to receive and transmit orders and provide advice, in relation to, transferable securities and UCITS, MiFID will not apply. However, Brokers who wish to passport investment services for certain investment instruments within other EU countries would be subject to MiFID.

It is the responsibility of each firm to review its own operations and consider if further authorisation is required.

## 1.5 Minimum Competency Requirements

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### What are they?

The Mandatory Minimum Competency Standards were introduced on the 1<sup>st</sup> of January 2007 and established minimum professional standards for financial services providers, with particular emphasis on dealing with consumers.

The Central Bank of Ireland published the revised Minimum Competency Code on the 1<sup>st</sup> of September 2011 ([Appendix 1](#)). The new code came into effect on the 1<sup>st</sup> of December 2011. The revised code enhances the minimum professional standards for all persons who provide consumers with financial advice and products or undertake certain specified functions.

The code applies to the persons exercising a controlled function or a pre-approved controlled function on a professional basis, the exercise of which includes the following:

- a) providing advice to consumers on retail financial products;
  - b) arranging or offering to arrange retail financial products for consumers, including any amendments to insurance cover and the restructuring or rescheduling of loans;
- or

- c) the exercise of a specified function.

### Satisfying the Minimum Competency Requirements

Compliance with the Minimum Competency Requirements will be achieved by:

- the attainment of a professional qualification in respect of the category of product/service in which an individual provides advice/sells on  
or
- The person is a grandfathered person in respect of the function to be exercised  
or
- The person is a new entrant participating in a training process under the supervision of a qualified person or a grandfathered person,  
and
- satisfying Continuing Professional Development (CPD) requirements on an ongoing basis.

Appendix 1 sets out the Minimum Competency Code. Here you will find information on the categories of retail financial products and recognised qualifications in relation to each category.

### Advice

The Central Bank of Ireland's Minimum Competency Code defines the provision of advice as:

*"advice" means the provision of advice to a consumer, whether at the consumer's request or at the initiative of the firm, in the course of providing or in relation to the provision of a retail financial product or in carrying out any of the specified functions. For the avoidance of doubt, this does not include any of the following:*

- a) *the provision of a brochure or booklet or other information to a consumer, without the provision of advice to that consumer;*
- b) *information given in a newspaper, journal, magazine or other publication, including electronic publications, where the principal purpose of the publication taken as a whole is not to lead consumers to use any specific retail financial product or any specific provider of such products;*
- c) *information given in a lecture, seminar or similar event or series of such events, where the principal purpose of the event or events taken as a whole is not to lead consumers to use a specific retail financial product or any specific provider of such products and where persons engaged in the organisation or presentation of such events will earn no remuneration, commission, fee or other reward as a result of any particular decision, by a consumer attending such event and arising out of such attendance, to use any particular retail financial product or any specific provider of such products;*

- d) *information given in sound or television broadcasts where the principal purpose of such broadcasts taken as a whole is not to lead consumers to use any specific retail financial product or any specific provider of such products;*
- e) *advice to undertakings on capital structure, industrial strategy and related matters and advice relating to mergers and the purchase or sale of undertakings;*
- f) *providing information on an incidental basis in conjunction with some other professional activity (which is not subject to this Code), so long as the purpose of the activity is not to assist a consumer to enter into or to become entitled to benefit under, terminate, exercise any right or option under, or take any benefit from one or more retail financial products.*

### **Prescribed Script Function**

Where a person, in the exercise of a controlled function, operates within a narrow and rigid set of criteria and according to a prescribed script and routine, the following standards apply:

- a) The person must operate in accordance with a script devised by a person who is a qualified person or a grandfathered person for that function.
- b) The person must have completed a training programme, organised by the regulated firm on whose behalf the person is acting, which is relevant to the function to be exercised or have obtained part of a relevant recognised qualification for that particular function.
- c) The person must complete additional training on an ongoing basis, which is relevant to the function to be exercised, to keep his/her knowledge up to date.
- d) The person must refer requests for information and advice, that are outside the specific content of the script, to a person who is a qualified person or a grandfathered person for that function.
- e) The person must operate under the supervision of a person who is a qualified person or a grandfathered person for that function.

A person operating within a narrow and rigid set of criteria and according to a prescribed script or routine shall be taken to have complied with Part 1 of this Code once the person complies with the standards set out in a) – e) above.

### **Register of Accredited Persons**

A regulated firm must maintain a register of all accredited persons acting as, for or on behalf of the regulated firm. The register shall record the following information:

- name of accredited person;
- qualification, grandfathered status, new entrant or prescribed script function;
- retail financial product or specified function in respect of which the person is an accredited person;
- date the person obtained a recognised qualification or was grandfathered;

- if the person is a new entrant:
  - the date of commencement of the function, and
  - the qualification being pursued.

A sample register of accredited persons is outlined in [Appendix 1\(a\)](#) .

### **Removal from register**

A grandfathered person or a holder of a recognised qualification, the ongoing maintenance of which is not dependent on the completion of CPD, who has failed to complete 15 formal hours of CPD more than once in any five-year period must be removed from the regulated firm's Register of Accredited Persons.

A person who has been removed from the Register for non-compliance with the CPD requirements but who otherwise has complied with Part 1 of this Code must be restored promptly once he or she is again in compliance with the CPD requirements.

### **Confirmation of Competency**

Where a consumer seeks confirmation from a regulated firm, that the person providing advice on or arranging or offering to arrange retail financial products or undertaking specified functions meets the Standards set out in Part 1 of this Code, the regulated firm must provide the consumer with a certificate on the firm's headed stationery.

### **Grandfathered Individuals**

A person shall be taken to be a grandfathered person in respect of a function(s) to be exercised only if all of the following conditions are met:

- a) on January 1st 2007, the person was dealing with the retail financial product or specified function in respect of which he/she is availing of the grandfathering arrangements, and
- b) the person had four years experience carrying out the function to be exercised in the period between January 1st 1999 to January 1st 2007 , and
- c) an assessment for grandfathering purposes was carried out and documented by the regulated firm, and
- d) the regulated firm certified the person's compliance with the experience requirement, and
- e) the person complies with the requirement to complete Continuing Professional Development (CPD) on an ongoing basis, commencing from January 1st 2008.

The assessment for grandfathering purposes and certification of experience may continue to be carried out up to the 31st of December 2012, subject to the individual meeting the 4 years experience requirement as at the 1st of January 2007 and having completed the required number of CPD hours since the 1st of January 2008.

Please note: The CPD requirement was 60 hours in respect of the three-year cycle from the 1st of January 2008 to the 31st of December 2010, 40 hours of which had to be



formal and 20 hours of which had to be informal. **The requirement is 15 formal hours each year from the 1st of January 2011 onwards.**

Where a regulated firm carries out an assessment for grandfathering purposes in accordance with this paragraph the regulated firm must retain the following records:

- a) The documented assessment that was carried out for grandfathering purposes, including details of the experience of the person that meets the criteria for grandfathering purposes.
- b) Certification of the person's compliance with the experience requirement.
- c) Supporting documentation to confirm the person's experience (e.g. sample sales completed). Self-certification by the person is not sufficient.
- d) Where the person's experience was with a previous employer, confirmation from that previous employer of the person's experience including whether the person's experience was in respect of a full category of retail financial product or specified function or part of a category of retail financial product or specified function is required. Where a person's experience was in respect of part of a category of retail financial product or specified function, the confirmation must include details of the relevant part.
- e) The reason for the delay in carrying out the assessment.
- f) Any other relevant documentation.

A regulated firm that has carried out an assessment for grandfathering purposes must ensure that the assessment and the certification of the individual's compliance with the experience requirement are complete and accurate.

#### **Statement of Grandfathered Status**

By the 1<sup>st</sup> of January 2013, all regulated firms must complete and retain on file a Statement of Grandfathered Status, in the format set out at [Appendix 1 \(b\)](#), confirming the grandfathered status of each grandfathered person acting on behalf of the regulated firm and the functions in respect of which that person has availed of the grandfathering arrangements. This Statement must be completed by the regulated firm on whose behalf the grandfathered person is currently acting, regardless of whether that firm carried out the assessment for grandfathering purposes for that grandfathered person or not. The Statement must be signed by the regulated firm.

A statement must also be provided to a grandfathered person when he/she ceases employment with a regulated firm or at any other time, if requested by the grandfathered person.



## **New Entrants**

If acting for the first time the new entrant must participate in a training process that includes the following requirements:

### **a) Initial training**

The new entrant must first undergo a training programme organised by the regulated firm on whose behalf the new entrant is acting, which is relevant to the function to be exercised, or have obtained part of a relevant recognised qualification for that particular function.

### **b) Supervision**

- i) The new entrant must act under the immediate direction and supervision of another nominated person, who is a qualified person or a grandfathered person in respect of the particular function being carried out by the new entrant.
- ii) The new entrant must ensure that all documentation relating to advice on or arranging or offering to arrange retail financial products or specified functions is checked and signed off by a person who is a qualified person or a grandfathered person, in respect of the function being carried out, until the new entrant obtains a qualification recognised in respect of the function being carried out.

### **c) Working towards a recognised qualification**

The new entrant must be working towards obtaining a relevant recognised qualification. In this regard, the new entrant must:

- i) register for the first available sitting of the relevant examination which the person could reasonably be expected to sit and should the person fail to pass the examination on that occasion, each available sitting thereafter until the person obtains the qualification; and
- ii) work towards obtaining examinations for the relevant qualification on a consistent and timely basis, until completion; and
- iii) maintain a record of all examinations completed, results obtained and examinations scheduled for completion.

### **d) Timeframe**

- i) The maximum period for which a new entrant may participate in the training process is four years in total.
- ii) A pro-rata adjustment may be applied to the requirement to obtain a relevant recognised qualification within four years in the following circumstances.

### **e) Statutory leave: A pro-rata adjustment in requirements may be applied to those taking:**

- i) block parental leave, or
- ii) statutory maternity leave, or
- iii) statutory adoption leave, or
- iv) Statutory Carer's leave;

provided the person is not carrying out any of the relevant functions while availing of the statutory leave (includes statutory paid and unpaid leave only; does not include additional unpaid leave or holidays).

f) Serious illness: Persons out of work due to long term illness i.e. not less than 2 months, may apply a pro-rata adjustment subject to medical certification of the illness.

g) Career break.

A pro-rata adjustment will not apply in the following circumstances:

- Part-time work, or
- Unemployment, or
- Retirement, or
- Holidays

### **Supervision of new entrants by firms**

1. A regulated firm must:

- a) inform the new entrant, before he or she commences the activity, of the requirement to obtain a relevant recognised qualification within four years;
- b) agree a plan for obtaining a recognised qualification with a new entrant and monitor the new entrant's progress in adhering to this plan; and
- c) where an opportunity to sit an examination is not availed of by a new entrant, the regulated firm must document the reasons why.

2. Regulated firms must have procedures in place to ensure that new entrants are adequately supervised. Such procedures must include, at a minimum, provision for the following:

- a) All documentation relating to advice on or arranging or offering to arrange retail financial products for consumers or undertaking specified functions must be checked and signed off by a person who is a qualified person or a grandfathered person for that function until the new entrant obtains a qualification recognised in respect of the function carried out.
- b) An initial period must be specified, during which new entrants must be accompanied at all times by a person who is a qualified person or a grandfathered person, in respect of the function being carried out when providing advice on or arranging or offering to arrange retail financial products for consumers or undertaking specified functions.
- c) Following the initial period specified in paragraph b), the level of accompaniment may be reduced incrementally.
- d) There must be regular meetings and contact between the supervisor and the new entrant.
- e) The length of the initial period referred to in paragraph b), the subsequent levels of supervision referred to in paragraph c) and the frequency of meetings and contact with the new entrant referred to in paragraph d) must be based on an assessment

by the regulated firm of the performance of the new entrant.

This assessment must be documented and must consider at least the following:

- i) The nature and complexity of the functions undertaken by the new entrant;
  - ii) The quality of the advice and services provided by the new entrant to consumers;
  - iii) The new entrant's knowledge of and compliance with regulatory and legislative requirements relevant to the new entrant's role;
  - iv) Any complaints in relation to the new entrant; and
  - v) Ethics and behaviour.
- f) Each supervisor must supervise no more than seven new entrants.
- g) The regulated firm must maintain written records of the supervision of new entrants, including:
- i) the length of the initial period during which the new entrant was accompanied at all times;
  - ii) for each incremental reduction in supervision:
    - the assessment of the performance of the new entrant,
    - the criteria for reducing the level of supervision, and
    - the level of reduced supervision.
  - iii) records of meetings between the supervisor and the new entrant.

### Records

Firms must ensure that the following written records are maintained in respect of new entrants:

1. Date on which the individual commenced the function.
2. Details of the training or part of a recognised qualification completed by the new entrant prior to dealing with consumers.
3. The qualification being obtained.
4. Details of the arrangements for supervision by an appropriately qualified person or an appropriately grandfathered person, including the name of supervisor, the date supervision commenced and the level of supervision.
5. Pro-rata adjustments including: the extent of adjustment; the reason for adjustment; a medical certification of illness, where appropriate.
6. Any other relevant documentation.

### CPD

- a) A person who is subject to this Code and is the holder of a recognised qualification (Appendices 3 & 4) with a professional designation, the ongoing maintenance of which depends on the completion of CPD, shall be taken to have complied with this section where he or she has successfully completed the CPD requirements of that recognised qualification.
- b) A person who is subject to this Code and is the holder of a recognised qualification, the ongoing maintenance of which is not dependent on the completion of CPD, shall be required to complete 15 formal hours of CPD each calendar year.
- c) A grandfathered person shall, with effect from the 1st of January 2012 will be required to complete 15 formal hours of CPD each calendar year.

- d) A person who is grandfathered in respect of a function(s) to be exercised and holds a recognised qualification for other functions is required to complete 15 formal hours of CPD in total each calendar year. The content of the CPD hours must be relevant to the functions in respect of which the individual is a qualified person and a grandfathered person. For example, an individual holding the CIP in respect of personal general insurance policies and grandfathered in respect of pensions must ensure that the CPD undertaken includes both personal general insurance and pensions.
- e) A person must complete at least one hour of CPD each calendar year for each function undertaken that falls within the scope of these Standards.
- f) A person must complete at least one hour of CPD each calendar year which relates to ethics.
- g) Surplus hours in one year may not be carried forward into the following year.
- h) Where a person fails to complete 15 formal CPD hours in any year, the shortfall may be made up by the end of the following year (in addition to the requirement for that CPD year) provided the person has not incurred another shortfall within the previous five years.

### **Formal Hours**

All formal CPD hours must be accredited by the provider of a recognised qualification or one of the professional educational bodies providing recognised qualifications that have a CPD requirement. The maximum number of formal hours in any day is eight hours and the maximum for any single topic is four hours.

### **Monitoring compliance with CPD requirements**

The regulated entity is responsible for ensuring the compliance with CPD requirements of both qualified persons and grandfathered persons. Firms must have procedures in place to monitor CPD compliance such as checking the number of hours completed & planned to be completed and the relevance of the content to the activities undertaken by the person. This should be done at least once within the first nine months of the year and again at least once within six weeks from the end of the relevant year.

Sample CPD Log – [Appendix 1 \(c\)](#).

## **1.6 Fitness and Probity**

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On the 1<sup>st</sup> of September 2011, the Central Bank of Ireland (the "Central Bank") published its new fitness and probity standards (the "Standards") for all persons performing a prescribed "controlled function" (a "CF") or a "pre-approved controlled function" (a "PCF") in entities in Ireland that are regulated by the Central Bank (excluding Credit Unions).

The Standards will on a phased basis from December 2011, apply to persons performing any prescribed function in such an organisation. They are built on requirements of competence, capability, honesty, integrity and financial prudence.

Standards, Regulations and Guidance notes are available at [Appendix 2](#).

### **Pre-Approved Controlled Functions**

The regulations identify 42 senior positions as Pre-Approval Controlled Functions (PCFs) - these require the Central Bank's approval before people can take up those positions. Outlined below are the PCF's applicable to intermediaries.

1. In the case of a regulated financial service provider that is a body corporate incorporated in the State, a person who holds or performs the duties of any of the following positions or offices in the regulated financial service provider:
  - (a) The office of:
    - Executive director (PCF-1)
    - Non-executive director (PCF-2)
    - Office of secretary (PCF-9).
2. In the case of a regulated financial service provider that is a partnership established in the State, each member of the partnership (PCF-10).
3. In the case of a regulated financial service provider that is a natural person, that person (PCF-11).
4. In the case of each regulated financial service provider established in the State:
  - Head of Compliance (PCF-13),
  - Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation (PCF-16).

**Note:** All proposed appointments to PCF(s), on or after the 1<sup>st</sup> of December 2011, require the prior written approval of the Central Bank.

### **Controlled Functions**

The Regulations also prescribe specific categories of staff as **Controlled Functions** (CFs). These are positions from which individuals can be temporarily or permanently removed or indeed prohibited from taking up in the future. Outlined below are the CF's applicable to intermediaries (Note: for the full list, please see the Fitness & Probity Regulations).

1. A function in relation to the provision of a financial service which is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a regulated financial service provider (CF-1).

2. A function in relation to the provision of a financial service which is related to ensuring, controlling or monitoring compliance by a regulated financial service provider with its relevant obligations (CF-2).
3. A function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a regulated financial service provider in one or more of the following ways:
  - a) Giving of advice to a customer of the regulated financial service provider, in the course of providing, or in relation to the provision of, the financial service (CF-3).
  - b) Arranging or offering to arrange, a financial service for a customer of the regulated financial service provider (CF-4).
  - c) Assisting a customer in the making of a claim under a contract of insurance or reinsurance (CF-5).
  - e) Acting in the direct management or supervision of those persons who act for a regulated financial service provider in providing the services referred to above (CF-7).
  - f) Adjudicating on any complaint communicated to a regulated financial service provider by a customer in relation to the provision of a financial service (CF-8).
4. In respect of CF 1&2 - it includes an insurance intermediary where (a) a reasonable proportion of the persons concerned in the direction & management of the undertaking who are responsible for mediation in respect of insurance products and (b) all other persons directly involved in insurance.
5. A function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a regulated financial service provider in one or more of the following ways:
  - a) dealing in or having control over property of a customer of the regulated financial service provider to whom a financial service is provided or to be provided, whether that property is held in the name of the customer or some other person (CF-10); or
  - b) Dealing in or with property on behalf of the regulated financial service provider, or providing instructions or directions in relation to such dealing (CF-11).

### **The Standards**

Employers are responsible for ensuring that staff meets the Standards, both on entry to the financial services industry and throughout their careers. The Standards will not apply to a person whose function is solely concerned with, acting in accordance with, a written set of instructions in the form of a script, provided for that person to give a prescribed reply or follow a prescribed course of action in the event of a particular matter being raised; with respect to a range of routine matters arising in the course of providing or in relation to the provision of the financial service (i.e. call centre worker).

In order to comply with the Fitness & Probity standards a person is required to be:

- a) competent and capable;
- b) honest, ethical and to act with integrity; and
- c) financially sound.

Information provided by a person to a regulated firm or the Central Bank of Ireland must be full, fair and accurate in all respects and not misleading to the best of his or her knowledge. Regulated financial service providers must bring the standards to the attention of persons performing CFs and they must sign a template agreement and must reconfirm this on an annual basis. (Appendix 2 (a))

#### **(a) Competent and Capable**

A person must have the qualifications, experience, competence and capacity appropriate to the relevant function.

The person must be able to demonstrate that he or she:

- a) has professional or other qualifications and capability appropriate to the relevant function;
- b) has obtained the competence and skills appropriate to the relevant function – either through training or experience gained in employment;
- c) has shown the competence and proficiency to undertake the relevant function through the performance of previous functions which, if carried out at present, would be subject to this Code or current controlled functions or performance by the person of any role similar or equivalent to the functions that are covered by this Code;
- d) has a sound knowledge of the business of the regulated financial service provider as a whole and the specific responsibilities that are to be undertaken in the relevant function;
- e) has a clear and comprehensive understanding of the regulatory and legal environment appropriate to the relevant function;
- f) shall not allow the conduct of concurrent responsibilities to impair his or her ability to discharge the duties of the relevant function or otherwise allow personal conflicts of interest to arise; and
- g) is compliant with the applicable Minimum Competency Code issued by the Central Bank of Ireland.



**(b) Honest, Ethical and to act with Integrity**

A person must be able to demonstrate that his or her ability to perform the relevant function is not adversely affected, to a material degree, where one or more of the following may be applicable:

- a) the person is or was a sole trader or a director or partner in a legal entity which has, in any jurisdiction, been refused, prohibited, restricted or suspended from the right to carry on any trade, business or profession for which a licence, registration or other authorisation is required by the law, in that jurisdiction; or has had any such registration, authorisation, membership or licence revoked, other than on a voluntary basis;
- b) the person has been the subject of any complaint made to the Central Bank, the Financial Services Ombudsman or any equivalent body, reasonably and in good faith, relating to activities regulated by the Central Bank or regulated by an equivalent authority in any jurisdiction. In considering whether the complaint adversely affects the person's ability to carry out a Relevant Function, consideration shall be given to the outcome of any inquiry or investigation or any similar process into that complaint if same has been concluded;
- c) the person is or has been, in any jurisdiction, subject to any disciplinary proceedings or has been issued a warning, reprimand or other administrative sanction or its equivalent by the Central Bank or an equivalent measure issued by any other regulatory authority (including any previous regulator), any clearing house and exchanges, any professional body, government body or agency;
- d) the person has been, in any jurisdiction, dismissed or asked to resign and did resign from any profession, vocation, office or employment or from any position of trust or fiduciary appointment, whether or not remunerated;
- e) the person has, in any jurisdiction, been a director of a company that was struck off the register of companies (or its equivalent) by the Registrar of Companies (or its equivalent) on an involuntary basis;
- f) the person has been disqualified or restricted from acting as a director in any jurisdiction or has been disqualified from acting in any managerial capacity;
- g) the person has, in any jurisdiction:
  - i) been convicted of an offence either of money laundering or terrorist financing (or their equivalents);
  - ii) been convicted of an offence which could be relevant to that person's ability to perform the relevant function; or
  - iii) had a finding, judgment or order made against him/her involving fraud, misrepresentation, dishonesty or breach of trust or where the person is subject to any current proceedings for fraud, misrepresentation, dishonesty or breach of trust.
- h) the person has been the subject of any civil penalty enforcement action taken by a regulatory authority under any law in any jurisdiction;
  - i) the person has been untruthful or provided false or misleading information to the Central Bank or been uncooperative in any dealings with the Central Bank;



- j) the person or any business with which the person held a position of responsibility or influence has been or is being, in any jurisdiction, investigated, disciplined, censured, suspended or criticised by a regulatory or professional body, a court or tribunal or any similar body, whether publicly or privately; or
- k) the person has, in any jurisdiction, been found by the Central Bank or any other regulatory authority to have perpetrated or participated in any negligent, deceitful or otherwise discreditable business or professional practice.

### **Financial Soundness**

A person shall manage his or her affairs in a sound and prudent manner.

Without prejudice to above, a person must be able to demonstrate that his or her role in a relevant function is not adversely affected by the fact that one or more of the following may be applicable:

- a) the person has defaulted upon any payment due arising from a compromise or scheme of arrangement with his or her creditors or made an assignment for the benefit of his or her creditors;
- b) the person is subject to a judgment debt which is unsatisfied, either in whole or in part, whether in the State or elsewhere;
- c) the person is or has been the subject of a bankruptcy petition, whether in the State or elsewhere;
- d) the person has been adjudicated bankrupt and the bankruptcy is undischarged, whether in the State or elsewhere; or
- e) a person was a director of an entity which has been the subject of insolvency. The regulated entity (i.e. employer) must be satisfied that the person complies with the standards and the person must have agreed to abide by the standards.

### **Approval process for PCFs**

Before a regulated financial service provider can appoint a person to a PCF, the Central Bank must have approved the appointment in writing. A regulated financial service provider can inform a person of an intention to offer the person a position (which is a PCF) if it is made clear that the actual offer is subject to receiving the Bank's prior approval in writing of the appointment of the person to perform the function.

The Central Bank expects a regulated financial service provider to have conducted its own due diligence before proposing a person for appointment to a PCF. The approval process will require the submission of an individual questionnaire ("IQ") which is available on the Central Bank's website. IQ's will be completed online and will allow applicants to attach CV's. The proposed individual will have to complete online declarations confirming that the information is correct and accurate. An officer from the proposing entity will also have to complete an online declaration. The Central Bank may if they deem appropriate seek an interview with the proposed PCF depending on the risk attached to the appointment to the role. Where an application is refused by the Central Bank an appeal may be made to the Irish Financial Services Appeals Tribunal.

A person shall not be taken to be responsible for the performance of a pre-approval controlled function solely as a result of the temporary officer being responsible for the performance of such function on a temporary basis, pending the regulated financial service provider appointing a person to perform such a pre-approval controlled function. The temporary officer can only perform such a function under an arrangement agreed in writing with the Bank in advance of, the person in question, assuming such responsibility as a temporary officer. This will only be allowed in exceptional circumstances e.g. in the death of an individual who performed a pre-approved controlled function.

### **Determining the standard of fitness that is appropriate to the particular Controlled Function**

The regulated financial service provider should be well placed to determine the particular demands of a CF, i.e. what qualifications, experience, knowledge and other relevant factors will make a person fit for the performance of that function.

The Central Bank expects regulated financial service providers to undertake the following due diligence when assessing a person's 'fitness':

- i) Evidence of compliance with the Minimum Competency Code (the "MCC"), where relevant: where a person is performing or proposes to perform a CF(s), the performance of which is subject to the MCC; that person can be taken to have the appropriate qualifications or competence to conduct that CF, where compliant with the MCC. The regulated financial service provider should satisfy itself that the person has the recognised qualification(s)/ Grandfathered status by obtaining a copy of the certificate/transcript/records evidencing the qualification.
- ii) Evidence of additional required professional qualification(s).
- iii) Evidence of continuing professional development ("CPD"), where relevant: where maintenance of a qualification is dependent on completing CPD, the regulated financial service provider should require the person to self-certify that he or she is compliant with the particular CPD requirements.
- iv) Record of interview and application: where the regulated financial service provider uses the interview process to assess competence and capability (such as skills and experience) it should maintain written notes of the interview to evidence this. Similarly where a written application was submitted for the particular CF this should be maintained on file.
- v) References: the Central Bank expects regulated financial service providers to obtain references from former employers or other relevant persons and to obtain verification from the third party referees that the reference provided is true and correct in all cases. The Central Bank expects regulated financial service provider to maintain evidence of this correspondence.
- vi) Record of previous experience: where a person demonstrates skills and experience gained through a previous role (for example, through the applicant's CV or the institution's interview process), the regulated financial service provider should assess and document how the person's performance in that role equips that person with the expertise and experience necessary for the performance of the current function.
- vii) Record of experience gained outside the State.

### **Probity - determining the standard of probity**

Individuals proposed for CFs or PCFs must be honest, diligent and independent-minded and must act ethically and with integrity.

Probity is a matter of character demonstrated by a person's past behaviour. In general, where a person is found not to be a person of probity due to a lack of honesty, integrity or ethical judgement that person may not be suitable for any CF or PCF. Probity may also include individuals ensuring that they act without conflicts of interest.

The Central Bank expects regulated financial service providers to undertake the following due diligence when assessing a person's 'probity':

- i) The regulated financial service provider should seek and obtain signed written confirmation from the person performing or proposing to perform a CF as to whether or not any of the circumstances set out in the standards inclusive, apply to that person. Regulated financial service providers may wish to use the questions outlined in the Individual Questionnaire as a template.
- ii) Where the person confirms that one or more of the circumstances set out applies, the person must be in a position to demonstrate that his or her ability to perform the CF(s) is not adversely affected to a material degree by that matter(s).
- iii) The regulated financial service provider should require from the person concerned, underlying documents relevant to the matter (for example, a final decision or report and/or key correspondence). The regulated financial service provider should inform the person concerned that failure to provide information requested by the regulated financial service provider, which is relevant to the matter may result in the regulated financial service provider being unable to satisfy itself that the person complies with the Honest, Ethical and to act with Integrity and Financial Soundness sections of the Standards.

A conviction for a criminal offence will not automatically mean that the person fails to meet the standard of probity. The firm must ensure that it is satisfied that a person is fit and proper having regard to any conviction for an offence, "*...which could be relevant to that person's ability to perform the relevant function*". Convictions which could be considered relevant in this regard include, but are not limited to: offences involving dishonesty; fraud; financial crime or offences under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking or any other financial service provider, insolvency, consumer credit, insurance, consumer protection, market manipulation, insider dealing or revenue law.

Convictions which may not be relevant in particular circumstances might be road traffic offences where a custodial sentence was not imposed or minor public order offences.

A regulated financial service provider is not required to remove or suspend a person from acting in a CF solely on the basis that one or more of the matters listed in the Honest, Ethical and to act with Integrity and Financial Soundness sections of the Standards may have occurred.

Examples of due diligence required by firms is outlined in [Appendix 2 \(b\)](#).

## Register to be maintained and documents to be retained by the regulated financial service provider.

Regulated financial service providers must identify and maintain a record of persons performing PCFs and CFs. Regulated financial service providers are required to document and record all due diligence undertaken in relation to persons performing CFs together with any documentation provided by the person including any responses given and signed by the person in relation to standards of probity. These records should be kept in an appropriate manner and made available for review by the Central Bank at its request.

## 1.7 Contact with the Central Bank of Ireland and Business Changes

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When applying for authorisation, the firm should provide additional information that it believes may give the Central Bank of Ireland a better insight into the type of business that it intends to operate. It is important to note that certain specific *changes require the prior approval* of the Central Bank of Ireland e.g. change of shareholders or shareholdings; appointment of CEO, Directors, Compliance Officers and other key personnel such as Managers etc.

### Change of Shareholding/Acquiring Transactions

The Central Bank cannot retrospectively approve such transactions. Therefore, it is the Central Bank's interpretation that any such purported acquiring transaction, carried out without the necessary prior approval of the Central Bank, may be rendered invalid in law.

The Investment Intermediaries Act requires that any person who proposes to make an acquiring transaction or disposal in an investment firm must notify the Central Bank in writing. Section 40 provides that an acquiring transaction shall not proceed until the Central Bank has informed the investment business firm and the party making the acquiring transaction in writing, that it approves of the acquiring transaction or until 3 months have elapsed during which the Central Bank has not refused to approve of the acquiring transaction, whichever first occurs.

See [Appendix 3](#) for Central Bank industry letter on "*Acquiring transactions under the Investment Intermediaries Act, 1995 (as amended) ('the IIA')*".

### Contingency planning

Each new firm is expected to have a contingency plan in place i.e. what would happen to the business and clients if a Sole Trader was unable to operate due to serious illness or death? You must therefore make such plans for the future when applying for a new authorisation.

The firm must also ensure that it continues to have in place business continuity arrangements for any unforeseen events such as illness of key personnel (CEO, Compliance Officer and Money Laundering Reporting Officer).

The firm should also consider other '*What if?*' scenarios such as computer failings, loss of files etc. to ensure possible measures are in place to minimise the effect of the occurrence of the event on the continuity of the business.

### **When to notify the Central Bank of Ireland?**

The Central Bank of Ireland expects firms to be open and co-operative in their dealings with it and expects to be notified in the eventuality of certain events outlined below taking place.

#### **To be notified by giving reasonable advance notice**

- Change in any business or trading name.
- Change in legal status (NB: likely to require re-authorisation from the Central Bank of Ireland).
- Change in firm's registered office.
- Establishment of any new branch, office or subsidiary.
- Change in communication details i.e. telephone number, fax number, email address etc.
- Change of accounting reference date.
- All changes in Senior Management (bear in mind that prior approval of the Central Bank of Ireland is required before you can make certain appointments).

#### **To be notified immediately**

- An investment intermediary is required to notify the Central Bank of Ireland as soon as it becomes aware of any breach by it of the Investment Intermediaries Act, 1995 or any breach of the Central Bank of Ireland's requirements;
- Current or impending legal action taken either by or against the regulated firm;
- Where an investment intermediary receives a report on its operation prepared by a product producer, a copy of the report is required to be submitted to the Central Bank of Ireland;
- Where an internal audit function exists within an investment intermediary or within a group of which an investment intermediary is a member, the investment intermediary is required to submit to the Central Bank of Ireland without delay a copy of all internal audit reports that refer to the investment intermediary;

- Where a regulated entity intends to cease operating, merge with another, or to transfer all or part of its regulated activities to another regulated entity.

### **Fraud, errors and other irregularities**

- All frauds perpetrated on your brokerage must be reported to the Central Bank of Ireland.

All communication with the Central Bank should be directed via the email address [brokers@centralbank.ie](mailto:brokers@centralbank.ie) or at the following address:

Retail Intermediaries  
Consumer Protection: Insurance, Investments & Intermediaries  
Central Bank of Ireland  
PO Box 9138  
College Green  
Dublin 2

### **Firm Restructuring and Retirement of Sole Traders/Partners**

Many intermediaries will change their legal trading entity at some time in their career i.e. change from sole trader to limited company status, merge with another firm or form and dissolve partnerships. In the case of Insurance intermediaries, the firm must:

- apply to the Central Bank of Ireland for approval for the new legal entity (with shareholders, directors, principals or partners, and certain other key personnel individually approved as appropriate);
- obtain agencies for the new entity;
- transfer files to the new firm;
- write to clients giving appropriate notice;
- then discontinue old entity and terminate agencies; and
- confirm to the Central Bank of Ireland when all transactions have been completed and request a voluntary revocation of the firm's authorisation.

If you are changing a business name, this does not constitute a change of legal entity, but you should inform the Central Bank of Ireland in advance of this change.

### **Retirement**

In the event of you retiring and the book of business being passed to another insurance intermediary, all consumers must be informed in writing of the option to decline to have their details transferred.

### Discontinuing appointments in writing

This is important for investment intermediaries. When a firm discontinues an agency/appointment in writing, it must (under Section 31 of the Investment Intermediaries Act, 1995 as amended) put a notice in a national newspaper to that effect within 14 days of the date of discontinuance.

In default of the firm doing this, the insurer/product producer is obliged to do so within 28 days. It is essential that the firm takes control of this process.

National Newspapers include The Irish Times, The Irish Independent, The Irish Examiner and The Evening Herald.

An illustration is given below of the format you can use.

Investment Intermediaries Act, 1995

#### NOTICE OF DISCONTINUANCE

In compliance with Section 31 of the Investment Intermediaries Act 1995, as amended, Mr/MS XXX t/a XXX or name of limited company gives notice that his/her/its appointment(s) as an investment product intermediary with (insert name of insurer(s)/product producer(s)) is/are being discontinued as and from(date).

You can add reasons before or after the above text with examples as follows:  
In order to give a better service to our clients, Hook Finance Ltd. has combined operations with Lyon Consultant Ltd and Sinker Advisors Ltd. to form a new company, HLS Financial Services Ltd. This new company with a staff of over 20 will provide a comprehensive service to all our clients covering life assurance, pensions, investments, mortgages and non-life insurance.

Or

The principal of John Murphy Finance is retiring after 40 years in business. John would like to thank all his clients for their support and wishes to assure them they will receive ongoing service from Simon Doyle Consultants Ltd.

However, a Mortgage Intermediary is not regulated under the Investment Intermediaries Act, 1995 and does not have to publish a Notice of Discontinuance.

#### Note:

If the firm intends to cease operating, merge with another, or transfer all or part of its regulated activities to another regulated entity it must:

- Notify the Central Bank immediately;
- Provide at least 2 month's notice to affected consumers to enable them to make alternative arrangements;
- Ensure that all outstanding business is properly completed prior to the transfer,

merger or cessation of operations or, alternatively in the case of a transfer or merger, inform the consumer of how continuity of service will be provided following the transfer or merger; and

- In the case of a merger or transfer of regulated activities, inform the consumer that their details are being transferred to the other regulated entity if that is the case.
-



## Section 2 – Getting Organised

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### 2.1 Simple Steps

### 2.2 Knowing the Definitions

### 2.3 Files you must keep

- Client Files
- Procedures manual
- Insurer/Product Producer/Lender Files
- Central Bank of Ireland communications File
- Files for other Regulators/Bodies
- Complaints File
- Errors File
- Financial Records
- Legal action log
- Commission Information
- Client Premium Account files
- Receipts file
- Organisation file(s)
- Staff Competency File demonstrating compliance with Fitness & Probity requirements and the Minimum Competency Code.

## Section 2 – Getting Organised

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### 2.1 Simple Steps

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1. Read the applicable Central Bank of Ireland publications:
  - Consumer Protection Code 2012 – applies to Insurance Intermediaries, Investment Intermediaries and Mortgage Intermediaries.
  - Minimum Competency Code 2011 – applies to all firms.
  - Fit & Proper Requirements 2011 – applies to all firms.
  - Anti-Money Laundering Guidance Notes.
  - Handbook of Prudential Requirements – applies to Authorised Advisors and Multi Agency Intermediaries.
  - European Communities (Insurance Mediation) Directive Regulations 2005 – applies to Insurance Intermediaries.
  - Handbook for Investment and Stock broking Firms, Client Money Requirements for Investment and Stock broking Firms, Rules of Irish Stock Exchange – applies to Investment firms who will provide MIFID services.

Although not issued by the Central Bank of Ireland you should also understand your obligations under Data Protection legislation and where applicable the Life Assurance Disclosure and Non-Life Renewal requirements.

2. Laminate/frame and display in a prominent place in your office your:
  - Certificate of Registration, if registered under the IMD.
  - Statement of Authorised Status, if authorised under the IIA.
  - Mortgage Intermediary Authorisation, if applicable. Mortgage Intermediaries should also display original letter(s) of appointment prominently on their wall.
3. Make sure the correct Disclosure is clearly shown on all business stationery including:
  - Company Letterhead,
  - Compliment Slips,
  - Business Cards,
  - Receipts,
  - Advertising,
  - Website relating to regulated activities,
  - On electronic communications with *consumers* (excluding SMS messages) where such communications are in connection with its *regulated activities*, and
  - Any other publications produced by your firm.

For established firms any reference made to “IFSRA” or the “Financial Regulator” should now appear as “The Central Bank of Ireland”.

The correct disclosure wording is as follows:

- MAI – “Full legal name of firm (trading as, if applicable) is regulated by the Central Bank of Ireland”.
- AA – “Full legal name of firm (trading as, if applicable) is regulated by the Central Bank of Ireland”.
- Mortgage Intermediary-“Full legal name of firm (trading as, if applicable) is regulated by the Central Bank of Ireland”.
- Insurance Intermediary -“Full legal name of firm (trading as, if applicable) is regulated by the Central Bank of Ireland”.

A regulated entity must ensure that its regulatory disclosure statement is not presented in such a way as to appear to be an endorsement by the Central Bank.

A regulated entity must not insert additional text into the wording of the regulatory disclosure statements as set out above. If you have a different Legal Name and Trading Name make sure that both appear on your stationery.

4. For your stationery, you must have:
  - Your contact details i.e. Company name, address, telephone number, fax etc.;
  - Company law disclosure requirements i.e. “Registered Address: 14 Lough Dunloo, Co. Meath”, “Registered in Ireland No. 123456” etc.;
  - Regulatory disclosure statement i.e. “Supreme Service is regulated by the Central Bank of Ireland”; and
  - Directors’ names: Joe Bloggs, Mary Bloggs.

For your emails and any other electronic communications e.g. fax, you must have:

- The name of the company and its legal form e.g. ABC Finance Ltd.
- The place of registration of the company, the company registration number, and the address of its registered office.
- Regulatory disclosure statement.

(This is a summary of the key Companies Act requirements, please note some additional requirements apply in certain circumstances. Please see [Appendix 4](#) for the ODCE Circular of February 2007.)

5. Non-regulated activities
  - A regulated entity may only use the regulatory disclosure statement in communications with a consumer where such communications relate solely to a regulated activity.
  - A regulated entity must have separate sections on any website it operates for regulated activities and any other activities which it carries out.



The following disclaimer should be included on all stationary/websites where authorised firms are providing non-regulated products and services to clients or potential clients.

**Please Note:** that the provision of this product or service does not require licensing, authorisation, or registration with the Central Bank of Ireland and, as a result, it is not covered by the Central Bank of Ireland's requirements designed to protect consumers or by a statutory scheme.

6. If you handle client cash in the circumstances permitted make sure the correct name appears on your bank account and client premium account cheque books, as follows:
  - Client Premium Account – Life
  - Client Premium Account – Non-Life

Therefore, you must maintain separate accounts in respect of Life and Non-Life business.

Make sure you have these accounts reconciled on a monthly basis.

**Note** - if you do not handle client monies under any circumstances, then you do not need to maintain a client premium account.

7. If you are authorised under the Investment Intermediaries Act you are required to have your annual accounts audited and available for inspection on the request of the Central Bank of Ireland.

The Central Bank of Ireland has agreed with the accountancy bodies the format of a report which must now be provided with your annual audited accounts. There are two types of report, one for Limited Companies and another for Sole Traders/Partnerships.

In July 2011, the Central Bank rolled out a web-based electronic reporting system for intermediaries. It is no longer a requirement for intermediaries under the IIA to automatically submit their audited accounts on an annual basis; however it is still a requirement under the act to prepare audited accounts on an annual basis.

The Central Bank may request a copy of the annual audited accounts at any stage.

Appendix 5 – Format of web-based electronic reporting system.

**Please note** that the Central Bank of Ireland's inspectors look for an up-to-the-minute record of primary entry (e.g. invoices received, receipts, cheques lodged). Therefore, they expect all Brokers to have some form of ongoing financial record-keeping, even though there is no obligation to produce management accounts.

8. Draft your own compliance documentation. Sample formats for most of these documents are provided separately within this manual. Please be advised that the Central Bank of Ireland does not permit generic Statements of Suitability. Please refer to [Section 6](#) in order to help you develop your approach to personalised Statements of Suitability.
9. Draw up procedures relating to all aspects of business including: making contact with clients, complaints, business referrals, client premium handling, training and competency etc.
10. A key issue, applicable to all firms, is how product research is conducted. You must decide if you will place business with preferred providers for specific product lines, or if you will conduct specific research for each piece of advice provided.

The PIBA Research Guidelines ([Section 5.6](#)) provides an overview of the research requirements depending on the product sought.

11. You must keep a list of all of your “customers” who are “consumers” or “personal consumers”. This is required to help the Central Bank of Ireland identify ‘consumer’ or “personal consumer” files for review during a regulatory inspection.

See [Section 7](#) of this manual to check out the list of items the Central Bank of Ireland will require when conducting a site visit. You should make sure that you can access these items easily and that you set up your systems e.g. logging commission payments to meet the Central Bank of Ireland’s requirements. By doing this at the beginning of operation, you will have the background work completed.

With these steps complete you are ready for the next stage, which is to start organising your files. There are thirteen sets of files you must keep, which are outlined on the next page.

## 2.2 Knowing the definitions

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The Consumer Protection Code 2012 introduced a number of new definitions which intermediaries should become familiar with. These are outlined below:

A customer is:

*“Any person to whom a regulated entity provides, or offers to provide a service (which is) the subject of this Code, and any person who requests such a service”.*

A consumer is:

- a person or group of persons, but not an incorporated body with an annual turnover in excess of €3 million in the previous financial year (for the avoidance of doubt a

group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate); or

- incorporated bodies having an annual turnover of €3 million or less in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said €3 million); and includes where appropriate, a potential 'consumer' (within the meaning above).

A 'personal consumer' is:

- a consumer who is a natural person acting outside his or her business, trade or profession.

A 'vulnerable consumer' means a natural person who:

a) has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so (for example, hearing impaired or visually impaired persons); and/or

b) has limited capacity to make his or her own decisions and who requires assistance to do so (for example, persons with intellectual disabilities or mental health difficulties).

A "fair analysis of the market" means:

Providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable the intermediary to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet the consumer's needs.

A "limited analysis of the market" means:

Providing services on the basis of a limited number of contracts and product producers available on the market i.e. while not tied to one product producer the services are not provided on the basis of a fair analysis of the market.

## 2.3 Files you must keep

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### Client files

- Client contact – you must note on file how contact was made with the client. Where telephone contact is made on foot of a referral for which the consumer has provided express consent, you must retain a record of the referral.
- \*Terms of Business letter - if you use a generic terms of business letter, store data given and cross reference it to a folder of standard Terms of Business letters. You may update these at regular intervals. It is important to note that you must be able

to know which particular letter was issued to each client. A note to this effect must be kept in the client file. A client must be provided with a terms of business letter as a stand-alone document.

- Signed Factfind (Knowing The Consumer) – you must endeavour to have your client certify the accuracy of the information provided. This can be done by getting them to sign the Factfind Document or sending a confirmation return e-mail. Where the client declines to do so, it must be noted in the client’s file.
- Evidence of research – see PIBA Research Guidelines Section 5.6.
- \*Statement of Suitability - A written Statement of Suitability must be given to the client and a copy must be retained in the client file.
- Transaction details – including policy documents, proposals etc.
- Copy of completed application forms.
- Client’s contact details; all correspondence with the client; details of any other information provided to the client in relation to the product or service and copies of all original documents submitted in support of an application.
- Copies of all documents required for client identification and profile to satisfy Anti-Money laundering requirements.
- All other relevant information concerning the client.

\*Although there is no requirement to get either the Terms of Business or the Statements of suitability signed, PIBA would recommend that you do so.

### Procedures

- Draft a Procedure Manual to cover the activities of all aspects of your business. Sample procedures are set out in Section 4 of this manual.
- Draft any other specific formal procedures which apply to your business.
- Make sure members of staff are familiar with the procedures and what is expected of them.

### Insurer/Product Producer/Lender files

Create a file for each insurer/product producer/lender with whom you hold an agency. Include the following:

- Letter of Appointment and Terms and Conditions/Agency Agreement.
- Commission terms for the products available.
- Details of any special incentives, commission overrides or soft commissions.
- Correspondence with the providers (not relating to individual customers).

### Central Bank of Ireland file

This file should contain:

- All correspondence and working papers with the Central Bank of Ireland, previously the Financial Regulator.
- Correspondence with any other Regulatory Authorities e.g. FSA.
- A copy of the IMD registration cert on file.
- A copy of your Investment Intermediary Authorisation on file.
- A copy of your Mortgage Intermediary Authorisation on file, if applicable.



- (It is recommended that you keep IMD, IIA, and CCA correspondence separate within the file to avoid confusion).

### Files for other Regulators/Bodies

- IICB or IBA pre-April 2001.
- Director of Consumer Affairs for Mortgage Intermediaries (pre May 2003).
- Financial Services Ombudsman.
- Pensions Ombudsman.
- Data Protection Commissioner.
- Pensions Board.

### Complaints file

- Complaints procedure.
- A log of all complaints and how you dealt with them.
- Correspondence pertaining to the complaint.
- Clear records on where additional client information is located.

### Errors file

- Errors handling procedure.
- A log of all errors and how you dealt with them.
- Record of steps taken to resolve the error.
- Records of all correspondence relating to the error.

### Financial records

You should have files for each financial year recording the following:

- Income and expenses/assets and liabilities of the firm.
- Copy of your accounts/management accounts.
- Bank records and statements.
- Commission statement records.
- Books of primary entry i.e. ledger, journal, receipts, income, revenue payments and receipts for tax and VAT (if registered for VAT).
- Annual return documentation for CRO & Central Bank of Ireland.

### Legal action log

If you are involved in any legal action, remember to advise the Central Bank of Ireland and keep comprehensive records.

If you receive notification of an impending legal action, you should contact PIBA and your PI provider for guidance.





### Commission information

Latest Central Bank of Ireland inspections request a breakdown of commissions by insurer/lender based on:

- Insurance - New Business Annual Premium;
- Insurance - New Business Single Premium;
- Insurance - Renewals Override/Bonus;
- Mortgage – a breakdown of commission by lender, but a split between new mortgage and re-mortgage business and a percentage of mortgage business type.

The Central Bank of Ireland also requires records of inducements and soft commissions (holidays, equipment, etc.)

### Client Premium Account files *(Life and non-life only)*

Refer also to [Section 4.5](#) for more information. Remember to complete a monthly reconciliation on Client Premium Accounts.

### Receipts file

- You must issue a Section30 receipt for all insurance/investment payments (including cheques made out to Insurers) and keep a file of these receipts (paper or electronic).
- You must keep copies for six years.

### Organisation file(s)

#### Limited Company

- a. Certificate of Incorporation;
- b. Memorandum & Articles of Association;
- c. If applicable, Certificate of Registration of Business Name;
- d. Company office updates;
- e. List of directors and Share Register;
- f. Associated/subsidiary or group company details;
- g. Minutes of AGMs/EGMs, board meetings & senior management meetings.

#### Partners/Sole Traders

- a. Partnership agreement, where appropriate;
- b. Contingency plan in the event of death/serious illness of a sole trader;
- c. Minutes of any key meeting held.

### Staff Competency File

- Evidence of compliance with the Minimum Competency Requirements.
- A Register of Accredited Persons.
- Statement of Grandfathered Status for all Grandfathered staff members.
- A CPD Register.
- Procedures in relation to supervision of New Entrants.



- Evidence of professional qualifications.
- Details of staff training programmes on file.
- Records confirming fitness and probity of individuals in certain roles.
- References.
- Records of interview & application (including CV)
- A written statement of terms and conditions of employment, Record of working hours and leave (this is a not a central bank requirement)

**Note:** Files must be kept for six years after last dealing with a client.  
The client is entitled to a copy of their records.  
You can store records electronically, but you must be able to provide a hard copy.  
You must have procedures to ensure the safety and privacy of records.

Following these steps and setting up files listed will assist towards achieving compliance and preparing you if the Central Bank of Ireland inspects your firm.

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## Section 3 - Business Organisation Records

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### Introduction

The purpose of this section is to identify the key items covering the organisation of the firm. It is envisaged that the records held here are to be held in a secure place, whereas the 'Procedures' of the firm should be available for all staff to access easily.

#### 3.1 Organisation Details

- Organisation Chart
- Company Details
- Partnership Details
- Sole Trader Details
- Certificate of Incorporation
- Partnership Agreement
- Changes in Directors/Partners/Senior Personnel
- Bank Accounts of Firms
- Business Continuity

#### 3.2 Other Supervisory Type Organisations

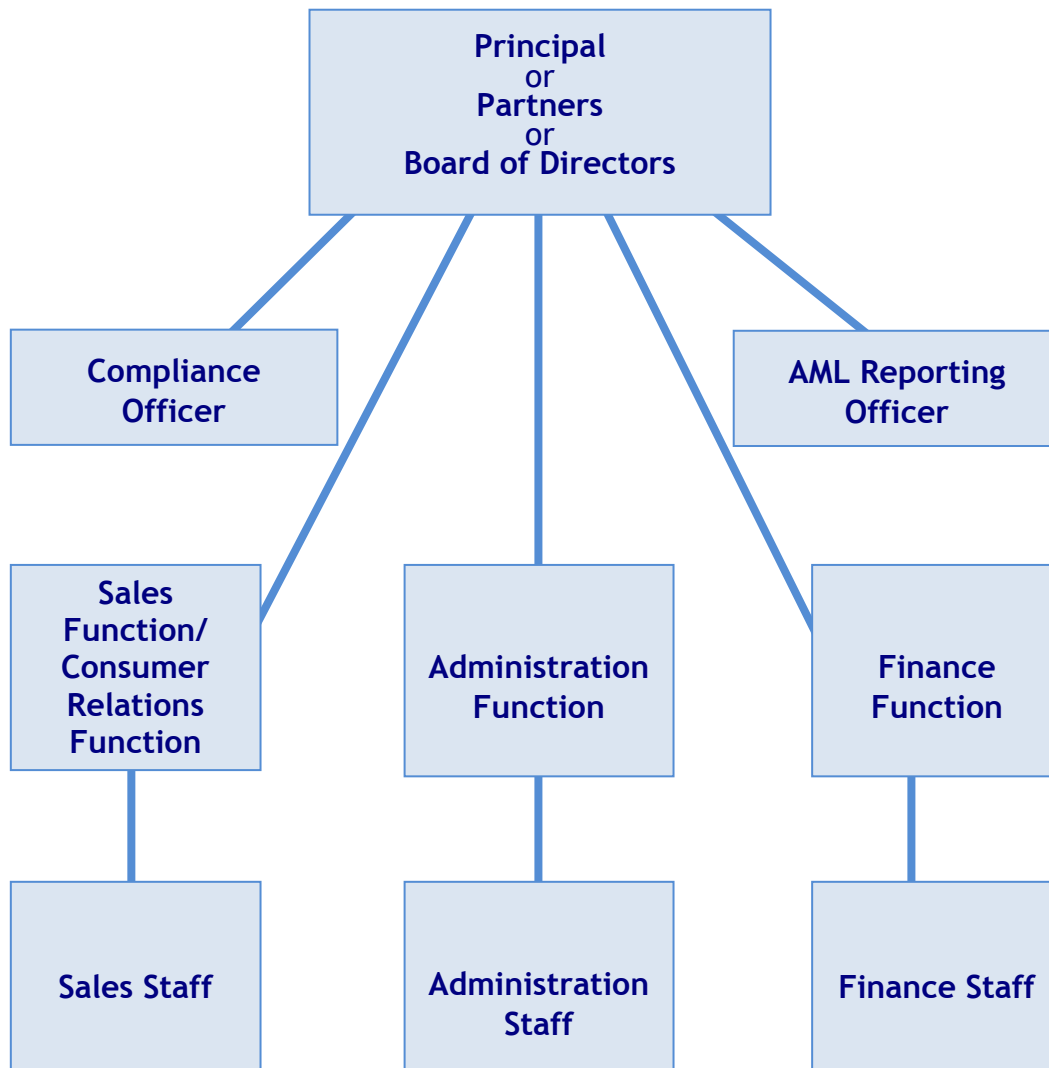
#### 3.3 Product Producer/Lender Records

- List of Agency Appointments held by Firm
- Letters of Appointment & agency agreements
- Correspondence with Product Producers
- Special Remuneration Arrangements
- Reports of the Firm by Product Producers
- List of Agencies granted by Firm
- Letters of Appointment granted & Agency Agreements

### 3.1 Organisation Details

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#### Organisation Chart - Sample



#### Notes:

- Although this structure would generally apply to larger firms, the key areas identified apply to all Brokerages and are set out as a checklist to ensure that responsibilities are not overlooked.
- The Function box should show the person responsible for the respective function.
- There may be an overlap in responsibilities for senior members of staff – if this occurs, a person's name may appear in more than one box.
- Names of staff in each category should be inserted into the boxes.

## Company Details

### Firm

Full Legal Name of the Company	
Trading Name(s)	
Is the Firm part of a group of companies? If so, give details of the parent company	
Country of Incorporation	
Date of Incorporation	
Company Registration No.	

### Directors

Name	Area of Responsibility	Date Appointed

#### Note:

- The firm should check that all directors are registered with the Companies Office and have been pre-approved by the Central Bank of Ireland.

### Shareholders

Name	% of Capital Held	Date Acquired

### Other people with influence over the firm (excluding employees)

Name	Reason



### Address details

Registered address	
Principal business address	
Branch addresses, if applicable	

### Partnership Details

#### Firm

Full Legal Name of the Firm	
Trading Name(s)	
Is the Firm part of a group of trading entities? If so, please give details	
Country of Registration	
Date formed	

#### Partners

Name	Area of Responsibility	% of Partnership Capital Held	Date Appointed

#### Other people with influence over the firm (excluding employees)

Name	Reason

### Address details

Registered address	
Principal business address	
Branch addresses, if applicable	

### Sole Trader Details

#### Firm

Full Name of Sole Trader	
Trading Name(s)	
Is the Firm part of a group of trading entities? If so, please give details	
Country of Registration of Trading Name, if applicable	
Date formed	

### Other people with influence over the firm (excluding employees)

Name	Reason

### Address details

Registered address	
Principal business address	
Branch addresses, if applicable	



## Certificate of Incorporation – Limited Company

The firm should include a copy of the Certificate of Incorporation of the company here, to demonstrate that the company is a formal legal entity.

## Partnership Agreement

The firm should have a formal written partnership agreement in place. A copy of this agreement should be included here.

### *Changes in Directors/Partners/Senior Personnel*

#### Directors

Name	Appointed/Resigned/ Dismissed/Not Reappointed	Date of Change

#### Manager/Compliance Personnel

Name	Appointed/Resigned/ Dismissed	Date of Change

#### Shareholders

Name	% of Share Capital - state if allocated/sold	Date of Change



### Important Notes:

- It is important to note that there are regulatory requirements in relation to the appointment of key personnel and in the event of key staff leaving the organisation. Firms must be familiar with the relevant obligations.
- The firm should check that all changes of directors are registered with the Companies Office.

## Bank Accounts of Firm

### Client Premium Account – Life

Bank name & address	
Bank sort code	
Bank account no.	

### Client Premium Account – Non-Life

Bank name & address	
Bank sort code	
Bank account no.	

### Main Trading Account

Bank name & address	
Bank sort code	
Bank account no.	

### Other Accounts

Bank name & address	
Bank sort code	
Bank account no.	
Purpose of account	

Bank name & address	
Bank sort code	
Bank account no.	
Purpose of account	

Bank name & address	
Bank sort code	
Bank account no.	
Purpose of account	

**Note:**

- All bank accounts of the firm must be listed.

## Business Continuity

In the event that the Managing Director, Principal Partner or Sole Trader (or nominated Compliance Officer) is unable to conduct the business of the firm, please nominate the person with whom the Central Bank of Ireland will communicate.

Name	
Address	
Position	
Does the person take an active role in firm?	
Phone no.	
Fax no.	
E-mail address	

### 3.2 Other Supervisory Type Organisations

List here any key organisations with which you are likely to have contact with as a result of statutory or regulatory requirements.

Organisation	Reason
Investor Compensation Company Ltd.	<ul style="list-style-type: none"> <li>Investor Compensation Scheme</li> </ul>
Central Bank of Ireland	<ul style="list-style-type: none"> <li>IMD authorisation</li> <li>IIA authorisation</li> <li>Mortgage Intermediary authorisation</li> </ul>
Director of Consumer Affairs	<ul style="list-style-type: none"> <li>Credit Intermediary authorisation</li> </ul>
Data Protection Commissioner	<ul style="list-style-type: none"> <li>Registration as:               <ul style="list-style-type: none"> <li>- Data Controller</li> <li>- Data Processor, where required</li> </ul> </li> </ul>
Criminal Assets Bureau	<ul style="list-style-type: none"> <li>Reports in respect of Money Laundering</li> </ul>
Pensions Board	<ul style="list-style-type: none"> <li>Issues in relation to requirements for pensions business</li> </ul>
Financial Services Ombudsman	<ul style="list-style-type: none"> <li>Complaint handling</li> </ul>
Pensions Ombudsman	<ul style="list-style-type: none"> <li>Complaint handling</li> </ul>

**Note:**

- If you have dealings with any other similar body, details should also be included here.

### 3.3 Product Producer/Lender Records

#### List of Agency Appointments held by the Firm

The firm is deemed to act as an intermediary for Product Producers with whom the firm holds written Letters of Appointment.

Name of Product Provider	Nature of the products
ABC Life Assurance plc	<ul style="list-style-type: none"> <li>▪ Life Assurance cover, specified serious illness cover, hospital cash cover and accident cover, income protection and other protection policies.</li> <li>▪ Lump sum investments in various types of non-linked, unit-linked and other investment funds.</li> <li>▪ Regular contribution savings plans in various types of non-linked, unit-linked and other investment funds.</li> <li>▪ Pension planning and retirement income plans.</li> </ul>
A Deposit House plc	<ul style="list-style-type: none"> <li>▪ Deposit taking facilities</li> </ul>

#### Letters of Appointment & Agency Agreements

Letters of Appointment along with Agency Agreements should be included here or be maintained in a separate file of agency appointments.

#### Correspondence with Product Producers

Copies of agency related correspondence and communications with Product Producers should be included here or be maintained in the Product Producer files.

#### Special Remuneration Arrangements

##### Commissions

Does the firm have any special commission arrangements with any Product Provider?	Yes/No
---	--------

If so, please give details

Product provider	Details

### Incentives

Does the firm have any special incentive arrangements with any Product Provider?	Yes/No
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If so, please give details

Product Provider	Details

### Soft Commission or Inducement Arrangements

Does the firm have any Soft Commission arrangements with Product Providers?	Yes/No
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If so, please give details

Product Provider	Details

**Note:**

- It is a Central Bank of Ireland requirement that any 'Soft Commission' arrangement must be in writing. Soft commissions are where goods or services are given for example, by an Insurer to an intermediary in return for business submitted.

### Reports on the Firm by Product Producers

Date of Report	Product Producer	Circumstances

## List of Agency appointments held by the Firm

This is where an intermediary acts as a “Wholesale” Broker and appoints “Sub-Brokers”. This also applies to Mortgage Intermediaries who appoint other Intermediaries for business arrangements or introductions.

### Firms to whom Letters of Appointment are issued

Name of firm	Nature of the products
ABC Financial Services Ltd.	<ul style="list-style-type: none"> <li>Placement of lump sum investments which will be managed by XYZ Ltd. and which will be underwritten by DEF Life Assurance plc.</li> </ul>
DEF Mortgages Ltd.	<ul style="list-style-type: none"> <li>Mortgage Protection life cover in respect of block policy taken out by XYZ Ltd. and underwritten by DEF Life Assurance plc.</li> </ul>
XYZ Mortgages Ltd.	<ul style="list-style-type: none"> <li>Mortgage client introductions and referrals.</li> </ul>

## Letters of Appointment granted & Agency Agreements

Letters of Appointment granted along with Agency Agreements should be included here or be maintained in a separate file of agencies granted.

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## Section 4 - Procedures

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## Section 4 - Procedures

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### 4.1 Generating Business

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A fully compliant procedure for generating business can provide a streamlined and efficient method of obtaining new business for a limited distribution cost.

However, the methods in which you promote your business can also be the source of a significant proportion of consumer complaints. It is therefore vital to ensure the information is accurate and will not be used as a reason to complain.

#### Personal visits and making contact with consumers

Each customer file should demonstrate clearly how customer contact was made. Therefore, if a customer initiates contact, a file note should be made to record the phone call or visit.

#### Personal Visits

You must not make an unsolicited personal visit, at any time, to a consumer who is an individual.

You may only make a personal visit to a consumer, who is an individual, if that consumer has given informed consent to being contacted by you, by means of a personal visit. You must obtain informed consent separately for each individual personal visit and must maintain a record of this consent.

In order to comply with the above, you must have obtained the informed consent of a consumer, who is an individual, in relation to:

- a) the purpose(s) for which a personal visit is to be made including, in the case of sales and marketing, the types of product to be discussed during the personal visit; and
- b) the time and date for the personal visit.

#### Telephone Contact

- You may make telephone contact with a consumer who is an existing customer, **only if**:
  - a) you have within the previous twelve months, provided that consumer with a product or service similar to the purpose of the telephone contact;

b) the consumer holds a product which requires you to maintain contact with the consumer in relation to that product and that the contact is in relation to that product;

c) the purpose of the telephone contact is limited to offering protection policies only;  
or

d) the consumer has given his or her consent to being contacted in this way by you.

- You may make telephone contact with a consumer other than an existing customer, **only if:**

a) the consumer has signed a statement, within the previous twelve months, giving the regulated entity permission to make telephone calls to him or her for specified purposes and the contact is in respect of such specified purposes;

b) the consumer has a listing in the business listing section of the current telephone directory, classified telephone directory or in trade/professional directories circulating in the State and contact is made via the business telephone number;

c) the consumer is a director of a company, or a partner in a firm with an entry in one of the directories listed in b) above and contact is made via the business telephone number of the company or firm in question and is in connection with their role as director of the company or partner in the firm;

d) the consumer is the subject of a referral, for which the consumer has provided express consent received from an entity authorised to provide financial services in Ireland, another entity within the same group, a solicitor or a certified person; or

e) the purpose of the contact is limited to offering protection policies.

In relation to d) above, such a referral must be followed up by an indication to the consumer, by the regulated entity, that the referral has been made and asking for consent to proceed.

- You must ensure that, where you make telephone contact on foot of a referral, you retain a record of the referral.
- Telephone contact, made in accordance with this Code, may be made only between 9.00 a.m. and 9.00 p.m. Monday to Saturday (excluding bank holidays and public holidays), unless otherwise agreed with the consumer.

### **Personal Visits and Telephone Contact**

- When making a personal visit or telephone contact in accordance with this Code, you must immediately and in the following order:

- a) identify yourself by name, and the name of the regulated entity on whose behalf he or she is being contacted and the commercial purpose of the contact;
  - b) inform the consumer that the telephone contact is being recorded, if this is the case;
  - c) where relevant, disclose to the consumer, the source of the business lead or referral supporting the telephone contact; and
  - d) establish if the consumer wishes the personal visit or telephone contact to proceed and, if not, end the contact immediately.
- You must abide by a request from a consumer not to make a personal visit or telephone contact to him or her again for sales and marketing purposes and this request must be recorded by the regulated entity.

### Communication by Electronic Media

You must ensure that, where you communicate with a consumer using electronic media, you have in place appropriate arrangements to ensure the security of information received from the consumer and the secure transmission of information to the consumer.

It is important to note that you may not reach a binding agreement on the basis of an unsolicited contact alone, except in circumstances permitted under the European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004.

**Note:** Data Protection Legislation also contains specific requirements in relation to direct marketing and thus you should view these requirements as complementary and not in isolation. These are outlined below in Section 4.10.

### Advertising

The Central Bank of Ireland defines an advertisement in the Consumer Protection Code as:

*“Any commercial communication in respect of a regulated entity, which is addressed to the consumer public or a section of it, the purpose being to advertise a regulated activity or a regulated entity, excluding name plaques, sponsorship material and a prospectus drawn up in accordance with the prospectus Directive (2003/71/EC)”*

If conducting advertising, you should be aware of some of the specific requirements which apply. These include:

- Consumer Protection Code – Chapter 3, Section 3.9 which states that warning statements must be in a box, in bold type, and of a font size that is at least equal to the predominant font used throughout the document or advertisement. (Appendix 6),

- Consumer Protection Code – Chapter 9 – covers the specific issues in relation to advertising requirements ([Appendix 6](#)),
- Financial Regulator ‘Directions’ in relation to Loan Consolidation advertisements, effective January 2007 ([Appendix 7](#)),
- Financial Regulator letter of the 12<sup>th</sup> of June 2007, which identified areas which require particular attention ([Appendix 8](#)),
- Financial Regulator, Review of Advertising Issues letter of the 23<sup>rd</sup> of July 2008 ([Appendix 9](#)),
- Central Bank, Review of Advertising Issues and related Disclosure Issues letter of the 22<sup>nd</sup> of August 2011 ([Appendix 10](#)),
- Consumer Credit Act, 1995 – certain requirements and warnings which must be included.

### Warning statements

Under the Consumer Protection Code 2012, the Central Bank of Ireland has revised some of its risk warnings which must be included in advertisements.

You do not have to display the required warning statements if the advertisement does not refer to the benefits of a product or service but only names the product or service and/or only invites a consumer to discuss the product or service in more detail.

Therefore, advertisements promoting a firm and providing a general summary of the product lines the firm offers is generally straightforward. However, if an advertisement is promoting a specific product, i.e. a tracker bond, the rules are very specific. In the Consumer Protection Code ([Appendix 6](#)) of this manual you will find specific warning statements to be included in relevant advertisements.

The Advertising warning statements fall into the following categories:

- Credit: Advertising to personal consumers – specific wordings where promoting lending, including mortgages,
- Saving– specific wordings depending on the type of products being advertised.
- Investment Products – specific wordings depending on the type of products being advertised.

#### Note:

- The Consumer Credit Act 1995 imposes various obligations on mortgage intermediaries who advertise loans.

### Specific versus Generic Advertising

If you are promoting a product type i.e. investments or a specific branded product i.e. a specific tracker bond, then you must ensure that the advertisement complies with the following key areas:

- Guarantees,

- Taxation,
- Fluctuations in value,
- High Volatility investments,
- Foreign currency,
- Investments which are not readily realisable,
- Front-end and redemption charges,
- Cancellation terms,
- Forecasts and projections,
- Risk warnings.

### Websites

Outlined below is a general guide as to what should be contained on your firm's website.

- General information about the business including business name, geographic address, email address and details of the relevant industry body of which the firm is a member. You may wish to do this via an online version of current Terms of Business and regulatory authorisations.
- Schedule of fees and charges.
- Regulatory disclosure statement.
- An overview of services and/or products offered.
- Warning statements, where appropriate, if promoting specific products (remember to crosscheck advertisements with the requirements under the Consumer Protection Code and the Consumer Credit Act 1995).
- Terms and conditions for use of website.
- Copyright statement.
- Companies Act/Office of the Director of Corporate Enforcement requirements.

### IMPORTANT:

For intermediaries who also provide unregulated services and activities, the following disclaimer must be displayed on the relevant section of the website

**Please Note:** that the provision of this product or service does not require licensing, authorisation, or registration with the Central Bank of Ireland and, as a result, it is not covered by the Central Bank's requirements designed to protect consumers or by a statutory compensation scheme.

It is also important, where the above disclaimer is displayed on a webpage of a website that your regulatory disclosure line does not also appear, as this would be misleading to consumers.

## 4.2 Terms of Business

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The Terms of Business is a document which outlines the basis on which you operate your business. It can also be seen as an effective marketing tool.

The Consumer Protection Code outlines the minimum level of information you must provide to the client in the Terms of Business letter.

- Legal name, trading name(if any), address & contact details;
  - The identity of the group to which the regulated entity belongs, if any;
  - Confirmation that the regulated entity is authorised and the name of the competent authority that has authorised, licensed or registered it;
  - A statement that the regulated entity is subject to the [insert names of the Central Bank's Code(s) of Conduct which the firm must comply with] which offers protection to consumers and that the Code(s) can be found on the Central Bank's website [www.centralbank.ie](http://www.centralbank.ie);
  - A description of the regulated services that the regulated entity provides;
  - A description of the level of service the firm provides for each product type i.e. whether fair analysis of the market or limited analysis of the market and an explanation of that type of service in a way that seeks to inform the consumer;
  - If the regulated entity is tied for any of the services outlined in point 5) above, the name of the regulated entity to which it is tied and details of the service for which it is tied;
  - A general statement of the charges imposed directly by the regulated entity;
  - A summary of the regulated entity's policy in relation to conflicts of interest;
  - An outline of the action and remedies which the regulated entity may take in the event of default by the consumer;
  - A summary of the complaints procedure operated by the regulated entity;
  - If the regulated entity is a member of a compensation scheme, the name of the scheme and the nature and level of protection available from the scheme; and
  - The effective date of the terms of business.
- 
- **Before** providing your first service to a consumer, you must provide the consumer with a copy of the firm's Terms of Business.
  - The Terms of Business letter must be issued as a stand alone document.
  - You should log evidence of having provided your Terms of Business. If you are using different versions of your Terms of Business, it is recommended that, you should keep note of the version provided to the client on the client file.
  - Please be sure to give reasonable notice to all clients affected where there has been a change/amendment.
  - It is best practice to have a Terms of Business Acknowledgement letter signed by the client, including consent for future contact. This should be logged in the client file.

Please refer to [Section 6.1](#) for a sample Terms of Business Letter.

### 4.3 Knowing the Consumer (Factfind)

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The term 'Factfind' is not specifically mentioned in the Consumer Protection Code. Instead, the Code refers to the "*Knowing the Consumer*" requirement. Under this requirement, "*a regulated entity must gather and record sufficient information from the consumer prior to offering, recommending, arranging or providing a product or service appropriate to that consumer*" The information collated should be appropriate to the nature and complexity of the product or service being sought by the consumer but must be of a level that allows you to provide a "*professional service*" to the consumer.

#### Key elements of the Knowing the Consumer (KYC) requirement

- Needs and objectives including, where relevant:
  - i) the length of time for which the *consumer* wishes to hold a product,
  - ii) need for access to funds (including emergency funds),
  - iii) need for accumulation of funds.
  
- Personal circumstances including, where relevant:
  - i) age,
  - ii) health,
  - iii) knowledge and experience of financial products,
  - iv) dependents,
  - v) employment status,
  - vi) known future changes to his/her circumstances.
  
- Financial situation including, where relevant:
  - i) income,
  - ii) savings,
  - iii) financial products and other assets,
  - iv) debts and financial commitments.
  
- Where relevant, the consumer's attitude to risk, in particular, the importance of capital security should be captured.
  
- The regulated entity is only required to seek information where it is relevant to the assessment of suitability. The level of information sought should be appropriate to the nature and complexity of the product.
  
- Certification by client of information provided during factfinding process and note where client has refused to sign.

- Requirement to gather and maintain a record of any material changes to a consumer's circumstances prior to offering, recommending, arranging or providing a subsequent product or service to the consumer. Where there is no material change, this must be noted on a consumer's records.
- Explaining to your client why you may be seeking specific items of information, particularly where the client may consider these to be private and may be reluctant to disclose them.
- The requirement to undertake the Knowing the Consumer requirement does not apply to execution only transactions.
- Where a consumer refuses to provide information sought in compliance with the knowing the consumer requirements, you must inform the consumer that, as you do not have the relevant information necessary to assess suitability, you cannot offer the consumer the product or service sought.

**Note:** The crucial factor here is whether the information sought is relevant to the product which is sought and whether you can recommend a product in the absence of that information.

### Focused Factfinding

Some clients may approach you requiring advice in relation to a particular product or service. In this case you have two possible options:

1. Complete a full factfind, while at the same time giving the client the opportunity to opt-out in writing from sections that are not relevant to the product or service being sought.
2. Use a shorter factfind, tailored to the particular product/service being sought by the client, while ensuring that you obtain all relevant information about the client's circumstances and objectives.

### Updating Factfind information

You are required to gather a record of any material changes to a consumer's circumstances prior to offering, recommending, arranging or providing a subsequent product to the consumer. Changes should be noted on the client file. Time is of the essence: you should be able to clearly identify when new information was given (date) and which information is classified as original as opposed to additional information. If any changes are considered significant, you should reassess the recommendations to establish whether they remain appropriate.

Where there has being no material change, this also must be noted on the Factfind. Template Factfinds are contained in [Section 6.2](#).



### Execution only

The expression 'Execution only' is not specifically mentioned in the Consumer Protection Code, although the concept remains. The transaction of execution only business is an area which regularly requires clarification.

There are three conditions to be fulfilled in order for business to qualify as execution only business:

- The client has clearly specified both the product and provider by name;
- The intermediary must not have provided any assistance to the client in the choice of any product and product producer; and
- The consumer is seeking a term deposit of less than one year & you have alerted the consumer to any restrictions on the account.

The above exemption (execution only) does not apply where a *personal consumer* is seeking:

- i) a credit amount above €75,000;
- ii) a mortgage;
- iii) a home reversion agreement.

### Important:

Prior to providing an investment product to a consumer, a regulated entity must warn the consumer, on paper or on another durable medium, that the regulated entity does not have the information necessary to determine the suitability of that product for the consumer.

In order to avoid the pitfalls, here are some tips:

- Understand the principles of execution only. Clients must know the products they want and the insurer, investment house or lender they wish to provide the product. A client who only wants you to review life cover and quote the cheapest price *is not an 'execution only' client*. In this scenario, you should record all relevant information in order to provide advice.
- Do not issue a Statement of Suitability to the client – you do not give an execution only client any reasons why a particular product is suitable because you have not given any advice!
- Get confirmation from the client that they wish to proceed with the transaction on an execution only basis. A sample letter appears in [Section 6.4](#)

### Specific KYC Tips

#### Standard PRSA's

In the case of a standard PRSA, where the employer has chosen a provider and you make presentations to the employees, the minimum relevant information you may seek to establish is that the consumer

- is an employee of the firm,

- has no other form of pension provision, and
- intends to select the default strategy of the provider.

In this instance, you are not required to complete a full factfind, although you should record the relevant details/circumstances.

### General Insurance

In relation to Personal Lines products, many Brokers record information on computer systems which often link into quotation engines. Therefore, all relevant information is generally recorded and retained on these systems. While this applies to Motor and Household policies, client specific information may need to be recorded for other products e.g. travel insurance where a client may have other healthcare cover. Mortgage Brokers arranging Household cover may not have access to quotation engines and must record client KYC information on file.

In relation to Commercial risks, Brokers generally know where markets exist and where to place risk. Often, data surrounding client circumstances and requirements are recorded on submissions which are sent to a number of insurers for quotation purposes.

Notwithstanding the above, the principle is the same – record all relevant information about your client’s circumstances and objectives.

### Mortgages

Prior to offering, recommending, arranging or providing a credit product to a personal consumer, a lender must carry out an assessment of affordability to ascertain the personal consumer’s likely ability to repay the debt, over the duration of the agreement. An affordability assessment must include consideration of:

a) the information gathered under parts b) and c) of Provision 5.1 (Knowing the customer requirements) of the code; and

b) in the case of all mortgage products provided to personal consumers, the results of a test on the personal consumer’s ability to repay the instalments, over the duration of the agreement, on the basis of a 2% interest rate increase, at a minimum, above the interest rate offered to the personal consumer.

- This test does not apply to mortgages where the interest rate is fixed for a period of five years or more.
- Where the lender offers an introductory interest rate, it must carry out the 2% interest rate test on the variable interest rate to be applied after the introductory period has ended if known at the time of the offer of the introductory interest rate or on the current variable interest rate, if the variable interest rate to be applied after the introductory period has ended is not yet known.

- The lender must notify the relevant intermediary, if any, of the results of the assessment of affordability.
- A mortgage intermediary must submit the information obtained from a personal consumer under the knowing the consumer to the relevant lender to enable the affordability assessment(s) to be carried out.
- In the case of an interest only mortgage, in addition to Provision 5.9 b), the lender must carry out an assessment to ascertain the personal consumer's likely ability to repay the principal at the end of the mortgage term.
- Where a mortgage is provided on an interest-only basis for a duration less than the term of the mortgage, in addition to Provision 5.9 b), a lender must carry out an assessment to ascertain the personal consumer's likely ability to repay the capital and interest instalment amount that will apply at the end of the interest-only period. This assessment must be on the basis of a 2% interest rate increase, at a minimum, above the interest rate that will apply at the end of the interest-only period, if known at the time of the offer of the interest-only mortgage or on the current variable interest rate if the variable interest rate to be applied after the ending of the interest-only period is not yet known.
- You must take account of the result of the affordability assessment when deciding whether a personal consumer is likely to be able to repay the debt for that amount and duration in the manner required under the credit agreement.
- When offering or recommending a variable interest rate mortgage a regulated entity must provide a personal consumer, on paper or on another durable medium, with figures reflecting the revised instalment amount following a 2% interest rate increase above the variable interest rate offered.
- Where the lender is offering an introductory interest rate, the revised instalment amounts must reflect an increase of 2% on the variable interest rate to be applied after the introductory period has ended, if known at the time of the offer of the introductory interest rate or the current variable interest rate, if the variable interest rate to be applied after the introductory period has ended is not yet known.
- A lender must carry out a further affordability and suitability assessment prior to advancing additional credit to a personal consumer, whether by way of a top-up on an existing loan or by a new agreement to provide credit.
- You should record the result of the lenders assessment of affordability on file.

## 4.4 Assessing Suitability

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- When assessing the suitability of a product or service for a consumer you must, at a minimum, consider and document whether on the basis of the information gathered under the Knowing the Consumer requirements:
  - a) the product or service meets that consumer's needs and objectives;
  - b) the consumer:
    - i) is likely to be able to meet the financial commitment associated with the product on an ongoing basis,
    - ii) is financially able to bear any risks attaching to the product or service;
  - c) in the case of credit products, a personal consumer has the ability to repay the debt in the manner required under the credit agreement on the basis of the outcome of the assessment of affordability; and
  - d) the product or service is consistent with the consumer's attitude to risk.
- You must ensure that any product or service offered to a consumer is suitable to that consumer, having regard to the facts disclosed by the consumer and other relevant facts about that consumer of which you are aware.
- The following additional requirements apply:
  - a) where you offer a selection of product options to the consumer, the product options contained in the selection must represent the most suitable from the range available; and
  - b) where you recommend a product to a consumer, the recommended product must be the most suitable product for that consumer.
- You must not advise a consumer to carry out an investment product transaction or a series of investment product transactions, with a frequency or in amounts that, when taken together, are deemed to be excessive and/or detrimental to the consumer's best interests.
- If a consumer instructs you to carry out an investment product transaction or series of investment product transactions, with a frequency or in amounts that, when taken together, are deemed to be excessive and/or detrimental to the consumer's best interests; you must make a contemporaneous record that you advised the consumer that in your opinion the transaction(s) is/are excessive and/or detrimental to the consumer's best interests, if the consumer wishes to proceed with the transaction(s).

## 4.5 Statement of Suitability

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Having conducted the factfind, you are now in a position to analyse a client's needs and identify suitable recommendations.

### Product Selection Criteria

There are endless reasons why an intermediary would consider a variety of providers and products.

Listed below are some of these reasons:

- service levels including turnaround time;
- level of flexibility in provider's attitude;
- access to insurance/lending underwriters;
- claims payment experience;
- competitive pricing/charging structures;
- interest rates and loan type/terms for mortgages;
- company performance, size, strength (AA ratings);
- investment performance;
- availability of optional benefits;
- product features such as switching facilities, reversion options;
- access to funds.

When assessing whether the product/policy matches the client's needs you should consider the following:

### Investments and Pensions

- Does the product provider and product match the client's objectives?
- What are the risks (currency, geographical location, liquidity, etc.)?
- How secure is the investment/investment growth?
- Is the product suitable for the client's attitude to risk?
- What is the recommended minimum term to maximise potential growth?
- Are there penalties for early encashment?

### Life products

- What options are available for the term of the policy (i.e. years)?
- How necessary is the specified product/level of term?
- Are there any claim restrictions?

### General insurance

- What is the scope of cover?
- Are there any particular benefits, limitations, or exclusions?
- Do any step back provisions apply?

### Mortgages

- What are the monthly repayments over the different loan terms?
- How will the monthly repayments be affected by a rise in interest rates?

- What are the product features and in the event of a discounted rate applying, what happens at the end of the term?
- What other fees are involved?
- Are there any penalties for early repayment?
- If a specialist lender is being used, what features need to be brought to the attention of clients e.g. extra fees, higher interest rates?

### Statement of Suitability (Reasons Why)

Following your research, you must prepare a Statement of Suitability. Key items to include are:

- the following notice must be included at the beginning of the statement of suitability,

#### **Important Notice** – Statement of Suitability

**This is an important document which sets out the reasons why the product(s) or service(s) offered or recommended is/are considered suitable, or the most suitable, for your particular needs, objectives and circumstances.**

- the reasons why a product or service offered to a consumer is considered to be suitable to that consumer,
- the reasons why the product options contained in a selection of product options offered to a consumer are considered to be the most suitable to that consumer,
- the reasons why a recommended product is considered to be the most suitable product for that consumer.

The reasons set out in the statement must reflect the information gathered in the factfind and should assist the consumer in understanding how the product(s) or service(s) offered or recommended meet the consumer's:

- i) needs and objectives;
- ii) personal circumstances; and
- iii) financial situation.

The written statement must also include an outline of the following, where relevant:

- iv) how the risk profile of the product is aligned with the consumer's attitude to risk; and
- v) how the nature, extent and limitations of any guarantee attached to the product is aligned with the consumer's attitude to risk.

You must sign the statement of Suitability and provide a copy to the client dated on the day on which it is completed prior to providing or arranging a product or service. You should retain a copy of the statement of Suitability on file.

- Where you have provided an oral explanation to the consumer in relation to the product(s) or service(s) offered or recommended you must include a record of such explanation in or with the statement of suitability.
- In the case of travel, motor and home insurance provided to a personal consumer, the statement of suitability may be in a standard format.
- In the case of insurance policies where immediate cover is required, a statement of suitability may be issued to the consumer immediately after the product has been provided.

The Statement of Suitability can also **protect you** against a client selecting an inappropriate option and claiming bad advice in the future, for e.g. 'I recommended that you take life cover/PHI to protect against death / illness, but you have stated that you wish to focus on your pension only at this time'.

For general guidance the Suitability Statements should be:

- Personalised to each consumer,
- Simple, concise and clear but to a level which provides the client with sufficient information in relation to your recommendations. Clearly, more complex products require the provision of more technical information.

Content should include:

- warning statement as outlined above;
- reference to why the Consumer's needs, objectives and other relevant information combine to match the product recommended;
- reason for choosing that provider in preference to others;
- affordability and reason for investment amount/premium/cover/term;
- available options which may have been accepted or rejected;
- how the product works in combination with any other products recommended or in force;
- standard risk warnings appropriate for that product/policy; and
- whether the client provided/disclosed all information in the factfinding process.

### Product Recommendation

Your research will lead you to recommend particular products to clients. (See PIBA Research Guidelines [Section 6.6](#)) Therefore, you should include the following in your Statement of Suitability:

- A brief summary of the research you conducted (e.g. I surveyed all Life Offices I hold agencies with or I researched the top five Life Offices I hold agencies with or I researched the top five Life Offices that are most competitive in this area). It is not necessary to put the details of the research in your Statement of Suitability; however, this information must be held on the client file.

- The criteria you used in selecting the provider.
- The criteria you used in selecting the product.
- You know why you selected the provider and the product- do not forget to tell the client!

## 4.6 Client Premium Handling Procedures

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### Overview

A key responsibility of the Central Bank of Ireland is consumer protection. Protection of client funds is therefore of paramount importance. There are strict responsibilities imposed on intermediaries from three sources:

- The Investment Intermediaries Act,
- The Central Bank of Ireland's Handbooks,
- The Insurance Mediation Directive.

### Detailed Requirements of the Consumer Protection Code

- Note: If you do not handle client premiums for lodgement to your firm account in any circumstances, you do not have to maintain a client premium account.
- The Intermediary must lodge money it receives in respect of a premium or premium rebate to a segregated bank account. Each account must be designated 'client premium account'.
- The Intermediary must operate separate client premium accounts in respect of life and non-life business.
- All payment instruments used to make payments from a client premium account must clearly state that the payment came from a client premium account.
- A client premium account must never be overdrawn.

The following are the only transactions permitted in the client premium account:

### Credits

- Money received from consumers in respect of the renewal of a policy which has been invited by an insurance undertaking or a proposal which has already been accepted by an insurance undertaking.
- Money received from an insurer in respect of a premium rebate to be passed to a client – this generally is more applicable to the non-life market than the life market.



- Transfers from another client premium account operated by the intermediary for the same form of insurance.
- Bank interest.
- Transfers from the intermediary's office account to allow a 'buffer' amount to be maintained in the client premium account (any such transfers must be clearly identifiable).
- Proceeds received from a regulated entity in respect of the settlement of a claim for onward transmission to the claimant.
- Where mixed remittances are received, the total amount must first be lodged to the appropriate client premium account.

### Debits

- Money paid to an insurance undertaking for a renewal premium or an accepted proposal.
- Money paid to a client in respect of a premium rebate received from an insurance undertaking.
- Commissions and fees received from the client for which there is clearly documented back up to show that the amounts are properly due.
- Payments of claim settlement amounts to a consumer.
- Transfers to another client premium account operated by the intermediary for the same form of insurance.
- Bank interest.
- The portion of mixed remittances that does not relate to a premium payment e.g. administration fees charged to clients. Such remittances should be transferred to, or to the order of the consumer without delay.
- Payments in respect of charitable donations.

### Bank Reconciliation

- It is a requirement of the Central Bank of Ireland that a client premium account is reconciled on a monthly basis, irrespective of the volume of transactions going through the account. This reconciliation should be completed before the end of the month in which the bank statement arrives, for e.g. if your bank statement arrives on the 10th of January, ensure the reconciliation is completed for that month by the 10th of February.
- A sample form for the account reconciliation is outlined in [Section 6.10](#). General insurance intermediaries who are operating computer systems to record premiums, receipts, commissions and fees will have alternative and more complex methods of reconciling their client premium accounts.

## 4.7 Premium Rebates

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Rebates generally arise in the non-life sector e.g. the client cancels or adjusts his motor cover mid term and is due a refund for the balance of the requirement. Most non-life intermediaries receive this by means of a credit on their statement which they then refund to the client.

### Premium Rebates more than €10

- You must issue a premium rebate to a consumer within five business days of the rebate becoming due where the value of the premium rebate is more than €10.
  
- As an insurance intermediary, the premium rebate becomes due when:
  - i) You have received the premium rebate from the relevant insurance undertaking; or
  - ii) The insurance undertaking has notified you that such rebate is due and permits you to issue the rebate from the funds held by you which are due to the insurance undertaking.

### Premium Rebates less than €10

- Where a premium rebate is due to a consumer and the value of the rebate is €10 or less you must issue the premium rebate to the consumer within five business days of the rebate becoming due. Alternatively, you may offer the consumer the choice of:
  - a) receiving the premium rebate; or
  - b) receiving a reduction from a renewal premium or other premium currently due to that regulated entity; or
  - c) making a donation of the rebate amount to a registered charity.

In respect of options b) and c) above, you must seek the consumer's consent on each occasion and must maintain a record of the consumer's decision.

Where the consumer has agreed under option c) that a charitable donation can be made, you must document the donation and retain a receipt from the relevant charity.

- You may handle premium rebates due to consumers only where an express agreement exists, whereby you act as an agent of a regulated entity in passing rebates to consumers so that in handling the rebated premium you do not become a debtor of the consumer.
  
- You must transfer the rebate amount to the consumer in full. Any charges that the consumer may owe you must **not** be recovered from the rebate amount due to the consumer, without the prior written agreement of the consumer in each instance. A record of such an agreement must be maintained by you on the client file.

- Where the consumer has agreed to the deduction of any charges these must be clearly outlined on the accompanying notification of the rebate to the consumer.
- Where you have issued a rebate cheque to a consumer and the rebate cheque has not been presented for payment within six months from the date of issue, you must return the rebate to the insurance undertaking. Should the consumer seek the rebate in the future, it must be issued in accordance with the provisions above.

## 4.8 Complaints

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### Key points when handling complaints

- You must seek to resolve all complaints with clients.
- You must have a written procedure in place for the proper handling of complaints. If the complaint has been resolved to the complainant's satisfaction within 5 business days, the complaints procedure need not apply - a record should be kept of this.
- All complaints must be acknowledged on paper or on another durable medium within five business days of receipt.
- You should nominate a point of contact for complaints – usually the principal.
- While you are investigating a complaint, you must send regular updates to the complainant, at intervals of no greater than 20 business days.
- You 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 remains unresolved you must inform the complainant of the anticipated time frame within which you hope to resolve the complaint and of the consumer's right to refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman, where relevant, and provide the consumer with the contact details of such Ombudsman.
- When your investigation has been completed, you must write to the complainant within 5 business days to advise of your conclusions. Details of the terms of any offer or settlement must be included in this letter.
- Where you are aware that the complainant is dissatisfied with the outcome of your investigation, you must advise the complainant of their right to refer the complaint to the Financial Services Ombudsman or Pensions Ombudsman, where relevant, and provide the consumer with the contact details of such Ombudsman.

- If you receive an oral complaint, you must offer the consumer the opportunity to have the complaint handled in accordance your complaints procedure.
- Make sure that everyone in the firm understands the importance of correctly dealing with complaints and is aware of the person in the firm who is responsible for reviewing complaints once they are received.
- You 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.
- A regulated entity must maintain up to date and comprehensive records for each complaint received from a consumer.
- A sample Complaints procedure is outlined at [Section 6.11](#).

### Handling Complaints - the designated person

The person who undertakes the role of handling and investigating consumer complaints must be of sufficient seniority and competence within the firm. This ensures that the necessary requirements are closely adhered to in following the Central Bank of Ireland's complaints procedure.

The person responsible for handling complaints should ensure that:

- He/she has the authority to settle complaints (including, where appropriate, the offering of redress);
- Any correspondence issued to a client is clear and in plain language;
- All staff are aware of the complaints procedure;
- All branches and offices of the firm highlight the existence of the Financial and Pension Ombudsman Service;
- All complaints are treated under the terms of the complaints procedure.

### Complaint Analysis

- You must undertake an appropriate analysis of the patterns of complaints on a regular basis including investigating whether complaints indicate an isolated issue or a more widespread issue.

- This analysis of consumer complaints must be escalated to your compliance function and senior management.

## 4.9 Errors Handling

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- You must have a written procedure in place for the effective handling of errors which affect consumers.
- These procedures must provide for the following:
  - a) the identification of the cause of the error;
  - b) the identification of all affected *consumers*;
  - c) the appropriate analysis of the patterns of the errors, including investigation as to whether or not it was an isolated error;
  - d) proper control of the correction process; and
  - e) escalation of errors to compliance/risk functions and senior management.
- You must resolve all errors speedily and no later than six months after the date the error was first discovered, including:
  - a) correcting any systems failures;
  - b) ensuring effective controls are implemented to prevent any recurrence of the identified error;
  - c) effecting a refund (with appropriate interest) to all consumers who have been affected by the error, where possible; and
  - d) notifying all affected consumers, both current and former, in a timely manner of any error that has impacted or may impact negatively on the cost of the service or the value of the product provided, where possible.
- Where an error which affects consumers has not been fully resolved (as outlined above) within 40 business days of the date the error was first discovered, you must inform the Central Bank of Ireland, on paper or on another durable medium, within five business days of that deadline.
- You must not benefit from any balance arising out of a refund, which cannot be repaid, in respect of an error.
- You must maintain a log of all errors which affect consumers. This log must contain:
  - a) details of the error;
  - b) the date the error was discovered;
  - c) an explanation of how the error was discovered;
  - d) the period over which the error occurred;
  - e) the number of consumers affected;
  - f) the monetary amounts involved;

- g) the status of the error;
  - h) the date the error was resolved;
  - i) the number of consumers refunded; and
  - j) the total amount refunded.
- You must maintain a record of all steps taken to resolve an error which affects consumers, including details of the steps taken where:
    - a) any affected consumers were dissatisfied with the outcome;
    - b) there were difficulties contacting affected consumers; and
    - c) a refund could not be repaid.

## 4.10 Data Protection

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### What is Data Protection?

Data protection is the safeguarding of the privacy rights of individuals in relation to the processing of personal data. The Data Protection Acts 1988 and 2003 give rights to individuals, as well as placing responsibilities on those persons processing data. The 1988 Act relates primarily to information held in electronic format i.e. stored on computers. The 2003 Act has extended responsibilities to include manual data i.e. paper files.

### Types of Data

*Personal Data* means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or likely to come into, the possession of the data controller. A *Data Subject* is an individual who is the subject of personal data.

As an intermediary, you should be particularly conscious of your responsibilities in respect of the processing of *Sensitive Personal Data*.

### Sensitive Personal Data includes:

- racial origin,
- political opinions,
- religious or other beliefs,
- physical or mental health,
- sexual life,
- criminal convictions or the alleged commission of an offence,
- trade union membership.

Data controllers who hold such sensitive personal data on file owe a greater duty of care to the data subjects concerned, with regards to fair processing and security of information.

It is advised that a transparent, balanced approach is taken in collecting and using personal data. There should be a clearly assigned data protection compliance function

within your firm and clearly defined rules about the use of personal data and disclosure of information, of which all staff should be made aware.

### Data Controllers

A data controller is an organisation or individual that collects, stores and processes any data about living people on any type of computer or in a structured filing system.

In practice, to establish whether or not you are a data controller, you should ask yourself a series of questions. Do you decide what information is to be collected, stored, to what use it is put and when it should be deleted or altered? In reality the vast majority of Intermediaries are data controllers.

### Your responsibilities as a Data Controller

As a data controller you have certain key responsibilities in relation to the information which you process. These responsibilities may be summarised as eight fundamental rules which you must follow. These rules apply to all data controllers.

- 1. Obtain and process information fairly.**  
At the time of collecting data, the data subject must be made aware of the identity of the data controller, the purpose of collecting the data and the categories of persons to whom data may be disclosed. To fairly process data, the data subject must have given consent to the processing or processing must be necessary for one of a number of reasons including the performance of a contract.
- 2. Keep data only for one or more specified, explicit and lawful purpose.**  
The persons whose data you collect should know the reason/s why you collect and keep it. These reasons should be lawful and as a data controller you should be aware of the different sets of data which you keep and the specific purpose of each.
- 3. Use and disclose information only in ways compatible with these purposes.**  
Any use or disclosure must be necessary for the purpose/s for which it was obtained. You should always ask the question, "would the data subject be surprised to learn that a particular use or disclosure is taking place?"  
A policy should be in place to determine how to handle requests for data from third parties.
- 4. Keep data safe and secure.**  
Appropriate security measures must be taken against unauthorised access to or alteration, disclosure or destruction of the data and against its accidental loss or destruction. Such minimum standards of security would include access to the information being restricted to authorised staff on a "need-to-know" basis; password protected computers and back-up procedures for computer held data. Systems can also be set up to track activity on files and ensure appropriate anti-virus software is in place. Training is also of utmost importance as human error is the biggest risk.
- 5. Keep data accurate, complete and up-to-date.**

Your clerical and computer procedures should be adequate to ensure high levels of data accuracy and appropriate measures should be put in place including periodic reviews and audits, to ensure that data is kept up-to-date.

6. Ensure that data is adequate, relevant and not excessive.  
You should ensure you are keeping only the minimum amount of personal data which you require to achieve your specified purpose.
7. Retain data for no longer than is necessary for the purpose or purposes.  
A defined policy should be in place on retention periods for all items of personal data retained. Management, clerical and computer procedures should be put in place to implement such a policy. Information should be retained and disposed of in line with this policy.
8. Give a copy of his/her personal data to that individual, on request.  
On making an access request any individual, about whom you keep personal data, is entitled to:
  - a copy of the data you are keeping about him/her;
  - know your purpose/s in processing his/her data;
  - know the identity of those to whom you disclose data;
  - know the source of the data, unless contrary to public interest;
  - know the logic involved in automated decisions;
  - a copy of any data held in the form of opinions, except where such opinions were given in confidence.

To make an access request the data subject **must**:

- apply to you in writing,
- give details which might be needed to help you identify him/her and locate information you need,
- pay you an access fee if you wish to charge one. You need not do so, but if you do you cannot exceed the prescribed amount of €6.35.

In response to an access request you **must**:

- supply the information to the individual promptly and within 40 days of receiving the request,
- provide the information in a form which will be clear to the ordinary person, for e.g. any codes must be explained.

## Registration

Every data controller is bound by the data protection responsibilities set out above and in the Data Protection Acts 1988 and 2003. In addition, **certain categories** of data controller are required to register with the Data Protection Commissioner. Those who have to register are public bodies and persons referred to in the Third Schedule of the Data Protection Act 1988. Insurance Companies and Tied Agents are also required to register. Holding sensitive data is no longer solely a requirement to register with the Data



Protection Commission. Intermediaries are not required to register when processing client data for the following reasons:

- Keeping accounts for their normal business purpose;
- Deciding whether to accept a person as a customer for tracking sales;
- For making financial/management forecasts for their business;
- Performing a contract with the data subject/client.

Although intermediaries do not have to register, this does not remove the requirement to adhere to Data Protection legislation in all other respects.

### Data Processors

If you hold or process personal data, but do not exercise responsibility for or control over the personal data, then you are a "data processor". Examples of data processors include payroll companies, accountants and market research companies, which are contracted by the data controller to hold or process personal information on their behalf.

### Marketing by phone, e-mail or facsimile

The basic rule that applies to direct marketing is that you need the consent of the individual to use their personal data for direct marketing purposes. As a minimum, an individual must be given a right to refuse such use of their personal data both at the time the data is collected (an "opt-out") and, in the case of direct marketing by electronic means, on every subsequent marketing message. The "opt-out" right must be free of charge.

### Residential Subscribers

A phone call for the purpose of direct marketing may not be made to an individual's phone number if their preference not to receive such calls is noted in the National Directory Database, unless the caller has consent from an existing business customer relationship or the individual has subscribed through entering competitions or promotions. A phone call may also not be made if the individual has previously instructed the caller that he/she does not wish to receive such calls.

A fax for the purpose of direct marketing may not be made to a business phone number if that business has its preference not to receive marketing calls noted in the National Directory Data or the business has previously instructed the caller that it does not wish to receive such calls.

### Commercial Subscribers

A phone call for the purpose of direct marketing may not be made to a business phone number if that business has its preference not to receive such phone calls noted in the National Directory Database, unless the caller has consent to make such a call from an

existing business relationship. A phone call may also not be made if the individual has previously instructed the caller that he/she does not wish to receive such calls.

A fax for the purpose of direct marketing may not be made to a business phone number if the business has previously instructed the caller that it does not wish to receive such calls.

When a person issues a specific instruction not to be contacted in the future a timeframe exists that gives the other party time to record that instruction and update calling lists accordingly. This time period is likely to differ from organisation to organisation depending on its size, structure, database size, resources etc. Where a preference is recorded in the National Directory Database, it is binding 28 days after it has been recorded on the NDD.

E-mail for the purpose of direct marketing cannot be sent to an individual without prior consent unless it is to someone with whom you have a current customer relationship. The Data Protection Commissioner considers a 'current customer relationship' to exist only where a business and a customer have engaged in a business transaction within the previous twelve months.

Thus, the rules for using direct marketing in these circumstances are as follows:

- An individual has given explicit consent within the last twelve months;  
or
- An individual's details have been obtained in the course of the sale of a product or service within the last twelve months. In this case the direct marketer must:
  - inform the individual of their identity,
  - inform the individual of the purpose of collecting their contact details,
  - inform the individual to whom their personal data may be enclosed,
  - ensure the direct marketing correspondence they are sending is in respect of similar products and services only,
  - ensure that a simple cost-free means of refusing the use of contact details for these purposes is given.

### Postal Marketing

For mail received through a letter box to be considered to be direct marketing it must be addressed to a named person and must be promoting a product or service. Unaddressed generic mail put in your letter box or mail addressed to "the occupant", "the householder" or "the resident" does not involve the use of personal data and consequently data protection legislation does not apply.

If a consumer does not want to receive direct marketing in this manner, he/she has the right to notify the sender that he/she objects to receiving such material. This request must be made in writing.

Again where you have not obtained the recipient's details directly from them, you are required to inform them of the original source of their details.

It is clear that there is some duplication as to the rules pertaining to unsolicited contact by the Central Bank of Ireland and the legislation set down by the Data Protection Commissioner. However, what is clear and should by no means be underestimated is that the key component in remaining compliant with applicable law is consumer consent and transparency.

### Data Security Breach

All incidents in which personal data has been put at risk should be reported to the Office of the Data Protection Commissioner as soon as the data controller becomes aware of the incident, except when the full extent and consequences of the incident have been reported without delay directly to the affected data subject(s) **and** it affects no more than 100 data subjects **and** it does not include sensitive personal data or personal data of a financial nature. In case of doubt the data controller should report the incident to the Office of the Data Protection Commissioner.

### Frequently Asked Questions

#### ***Do I need consent before contacting someone via direct postal and electronic marketing?***

As a rule of thumb, people should not receive unsolicited direct marketing unless they have indicated that they consent or at least do not object to such use of personal data.

At a minimum, a customer must be given a right to refuse such use of their personal data both at the time the data is collected (an “opt-out”) and in the case of direct marketing by electronic means (phone, sms, email, fax), on every subsequent marketing message. The “opt-out” right must be free of charge. You must also make it clear who you are and where you obtained the individual’s personal data (where this is not obvious).

This general rule does not apply to unaddressed flyers and generic letters to the occupant or resident and may not apply if the information is sourced from a public register such as an edited electoral register. Individuals on the Edited Register are those who, when registering to vote, did not object to their personal data being used for marketing or other non-statutory purposes.

#### ***Does consent have to be written?***

Consent can be implied in certain circumstances. Where a person gives a clear verbal agreement that their personal data can be used for direct marketing purposes you are entitled to rely on that as an indication of consent. A record is required of when the consent was given for electronic communications. In the event that the Data Protection office receives a complaint, we would seek either a copy of the information that was supplied to the individual when their data was collected, the signed consent or tick boxes or, in the case of telephone consent, the script that staff are required to use to outline marketing preferences.

### ***Opt-out or Opt-in?***

When you use personal data for direct marketing purposes you are obliged to offer a cost free opt-out facility.

An “opt-out box” invites a person to indicate (usually by ticking a box) if they object to receiving direct marketing material. Failure to tick the box may be an indication of passive consent to receive direct marketing material. Provided an “opt-out box” is clearly visible and explicit in its wording, the Data Protection Commissioner is prepared to accept this option provided the personal data and the uses to which it is to be put are not of a sensitive nature.

An “opt-in box” invites a person to indicate if they would like to receive such material and unless they demonstrate active consent by ticking the box, their personal data cannot be used for direct marketing purposes. The Data Protection Commissioner advocates the use of “opt-in boxes” as a matter of good practice.

It is important to note that if an individual fails to unsubscribe using the cost-free means provided they are deemed to have remained opted-in to the receipt of such electronic mail for a twelve month period from the date of the issue of the most recent marketing correspondence received which contained the ability to opt-out.

### ***If a client gave their consent at inception of policy to being contacted for direct marketing purposes by electronic means, how long can an Intermediary use this consent?***

A client can be contacted if either the sale of a product or service to the recipient took place in the previous 12 months or where a marketing email using the email address in question was sent during that period.

### ***If an Intermediary has collected the relevant marketing consents and wishes to market clients by text message, is it sufficient to offer an opt-out option of replying to the text – the person may incur the cost of a text for availing of this opt-out facility?***

Where an intermediary has collected an appropriate consent to send marketing text messages to customers, in line with data protection requirements in this area, providing the facility to the recipient to reply to the text message with “Stop” would meet the additional requirement of a means of opt-out if included in every message.

### ***What is an Intermediary’s obligation where a client refers the name of an individual who has expressed an interest in taking out a policy and has asked the intermediary to contact these individuals?***

Given the nature of how the intermediary has obtained the individual’s name, there would need to be a specific consent obtained by the client from the individual in question for the sharing of their contact details with the named intermediary. There should be no room for doubt on this issue. Additionally “Refer-a-friend” type schemes are not generally compatible with the provisions of the Data Protection Acts, unless the consent of the individual concerned has been secured before their details are provided by another individual to the Intermediary.

### ***What are the obligations in relation to Mortgage Leads/Referrals and Client Consent?***

In the case where financial information is given by an individual to a mortgage intermediary for the sole purpose of obtaining a mortgage the obligation falls on the intermediary to ensure that such personal information remains confidential and is not disclosed to unauthorised individuals.

You should:

- Ensure that any information received from an introducer has been obtained fairly and is passed to you with the client's agreement.
- Include a client consent statement in your terms of business for future contact which meets both Data Protection requirements and unsolicited contact rules under the Consumer Protection Code.
- Formalise a Data Protection agreement with any introducers.
- Obtain consent to pass relevant information back to introducers.

### **How to ensure Compliance?**

As an Intermediary you should ensure at all times that a balanced and transparent approach to collecting and using personal data is integrated into your procedures as a form of best practice. There should be a clearly assigned Data Protection compliance function in each firm. This can be implemented through procedures that are put in place within your firm and should infiltrate right through to your customers. These procedures incorporate record management, retention policy and disclosure policy and security procedures.

### **Basic Data Protection Checklist**

The following data protection checklist can be used as an audit check in drafting specific procedures for your firm:

- Are individuals whose data you collect aware of your identity?
- Have you told the data subject what use you make of his/her data?
- Are the disclosures you make of that data legitimate ones?
- Do you have appropriate security measures in place?
- Do you have appropriate procedures in place to ensure that each data item is kept up-to-date?
- Do you have a defined policy on retention periods of all items of personal data?
- Do you have a data protection policy in place?
- Do you have procedures for handling access requests from individuals?
- Are you clear on whether or not you should be registered?
- Are your staff appropriately trained in data protection?
- Do you regularly review and audit the data which you hold and the manner in which it is processed?

## 4.11 Anti-Money Laundering & Counter Terrorist Financing

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### Overview

This summary is intended as a guide to the key elements of Anti-Money Laundering and Terrorist Financing. All Intermediaries and their staff should be fully conversant with the Guidance Notes issued by the Central Bank of Ireland and ensure that annual training takes place. To locate these notes on the web:

- Go to [www.Centralbank.ie](http://www.Centralbank.ie)
- Click on the Financial Regulation Section
- On the right hand side, select Anti-Money Laundering.
- Access the appropriate Guidance Notes (there are separate guidance notes for credit institutions and insurance intermediaries).

### What is Money Laundering?

It is the process by which criminals conceal the true origin and ownership of the proceeds of drug trafficking or other criminal activity.

### Stages of Money Laundering

There are three stages in the money laundering process:

1. Placement – this is the physical disposal of cash,
2. Layering – the creation of complex layers which make tracking transactions difficult,
3. Integration – absorbing the money back into the economy as legitimate money.

### The Offences

- Money laundering – the actual process of laundering money;
- Assisting a money launderer – assisting somebody who is trying to launder money;
- Failure to identify a client – take reasonable steps to identify the client;
- Failure to keep records – records must be retained for five years after the client's last transaction, or the relationship with the client has ended;
- Failure to report – reports must be made to the firm's Money Laundering Reporting Officer, who in return makes a report to the Criminal Assets Bureau, if appropriate;
- Tipping off – this refers to tipping-off a potential money launderer that his/her activity has been spotted.

### Maximum Penalties

Individuals and Corporate bodies can have sanctions imposed if they fail to comply with the law. This extends to insurance, investment, mortgage Brokers and their employees. The maximum penalties are an 'Unlimited Fine' plus:

- fourteen years in jail for money laundering or assisting a money launderer.
- five years in jail for failure to identify, failure to keep records, failure to report or tipping-off.

### Why do Intermediaries have responsibilities?

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 applies to Mortgage and Life Intermediaries. Non-Life intermediaries are outside the scope of the

requirements. Intermediaries who fall under the scope of the Legislation are deemed to be “Designated persons”.

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 introduced the concept of a risk based approach to managing and mitigating money laundering and terrorist financing risks faced by the designated person. Designated persons are required to have the necessary procedures and record keeping processes in place to comply with the legislation.

Intermediaries are required to carry out Customer Due Diligence:

- Prior to establishing a business relationship with the customer.
- Prior to carrying out for/with the customer any transaction which appears linked to another transaction or prior to assisting the customer in carrying out a single transaction if:
  - (i) You do not have a business relationship with the customer; and
  - (ii) The total amount of money paid by the customer in the single transaction or series of transactions is greater than €15,000.
- Prior to carrying out any service for the customer, if you have reasonable grounds to believe that there is a real risk that the customer is involved in money laundering or terrorist financing.
- If you have grounds to doubt the veracity of documents provided by the client.

Legislation allows designated persons to apply aspects of the customer due diligence requirements on a risk-sensitive basis depending on:

- a) The nature of the product being sold;
- b) The delivery mechanism or distribution channel used to sell the product;
- c) The profile of the customer; and
- d) The customer’s geographical location and source of funds.

The majority of focus is on risks from a product led perspective; however, there are situations where the delivery mechanism may add to the product risk. This is particularly the case with regard to non face to face sales.

#### **(A) Product risk**

The nature of the product being sold is usually the primary driver of the risk assessment. Characteristics such as where product features are defined and restricted; where the policy will only pay out on a verifiable event such as death or illness or where the policy is only accessible after years of contributions would mean that generally these types of products are standard. A small number of products such as single premium investment bonds do feature increased flexibility. This should be acknowledged in the application of the risk-based approach.



## **(B) Distribution Risk** (which may alter the risk profile)

### **“Face to Face” with no facility to take copies of ID**

Where the interaction with the customer is on a face to face basis, you should have sight of the original document(s) and appropriate details should be recorded. Where you visit the customer at his/her home address, you should make a detailed record of the visit. This would include, for example, taking details of passport or driving license numbers.

PIBA recommends that in such scenarios, you request the customer forwards you a copy of the relevant ID and that you cross reference it with the details which were recorded at the point of sale.

### **“Non face to face”**

The extent of the Customer Due Diligence in respect of non face-to-face customers will depend on the type of product or service requested and the assessed money laundering risk presented by the customer. Where the customer is not physically present (eg. by post, telephone or over the internet) for identification purposes, additional measures should be undertaken to establish the customer’s identity. Examples of additional measures include:

- Telephone contact with the customer prior to the commencement of the business relationship on a home or business number which has been verified (electronically or otherwise) or a welcome call to the customer before the business relationship starts, using it to verify additional aspects of personal identity information that have been previously provided during the setting up of the account;
- Communicating with the customer at an address that has been verified (such communication may take the form of a direct mailing of account opening documentation to him which, in full or in part, may be required to be returned, completed or acknowledged without alteration);
- Verify information on documents received, for e.g. in relation to a utility bill forwarded; cross check against a bank statement narrative relating to entries from the utility bill provided or cross check salary details appearing on a recent bank or building society statement verifying the individual’s employer as previously notified;

### **Third Party Reliance**

The primary responsibility for supervising intermediaries lies with the Central Bank of Ireland; however Product Providers, as a third party, retain responsibility for ensuring that Customer Due Diligence obligations have been met by the Intermediary. Product Providers are legally obliged, where an intermediary fails to meet the Customer Due Diligence requirements, to report this to the Central Bank of Ireland.

In order to comply with the Third Party Reliance requirements, Product Providers depending on their internal processes may require either:



1. Copies of all underlying documentary evidence from the intermediary for applicable products.
- or**
2. Confirmation of Verification of Identity where the Product Provider has the right of audit to ensure that the intermediary has the necessary documented evidence.

### Customer Due Diligence (CDD)

CDD should comprise of the following:

- a) Identifying the customer & verifying the customer's identity on the basis of documentation received.
- b) Identifying, where applicable, the beneficial owner\* and taking adequate and risk based measures to verify his identity so that the designated person is satisfied as to the identity of the beneficial owner.
- c) Obtaining information on the purpose and intended nature of the business relationship.
- d) Conducting ongoing monitoring of the business relationship.

\*(Beneficial Owner is defined as any individual who ultimately owns or controls the customer and/or on whose behalf a transaction or activity is conducted.)

There are three categories of Customer Due Diligence (CDD)

- Simplified Customer Due Diligence applies to low risk customers and product.
- Enhanced Due Diligence applies to non-resident Politically Exposed Persons who are deemed to be high risk.
- Standard Due Diligence must be applied to all remaining customers and products.

#### **1. Simplified Customer Due Diligence (SCDD)**

Simplified Customer Due Diligence (SCDD) means that a designated person does not need to comply with the CDD obligations as listed in the previous paragraph a-c. The designated person must obtain sufficient information about the customer to satisfy that the customer meets the criteria for Simplified Due Diligence. Simplified due diligence applies to the following insurance "specified products":

- Life assurance policy having an annual premium of no more than €1,000 or a single premium of no more than €2,500.
- Pension, superannuation or similar schemes which provide retirement benefits to employees, where contributions are made by an employer or by way of deduction from an employee's wages, and the scheme rules do not permit the assignment of a member's interest under the scheme.
- Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral (e.g. Pension Term Assurance).

**Important:** There is no exemption from the obligation to verify identity where you suspect that a transaction involves money laundering or terrorist financing or where there is doubt about the veracity or accuracy of documents previously obtained from the client.

## 2. Enhanced Due Diligence (EDD)

Enhanced Due Diligence applies in respect of a business relationship or transaction with a non resident Politically Exposed Person (PEP's). A "PEP" is an individual who has been entrusted with prominent public functions or an immediate family member or a known close associate of such a person, who is not resident in Ireland.

The domestic insurance sector has a very low exposure to non-resident Politically Exposed Persons. Also, the majority of products sold by insurers do not lend themselves to moving the proceeds of corruption. Therefore, it is likely that the number of customers meeting the high-risk criteria is very low and those that are identified as non-resident PEPs is lower still.

Designated persons must have processes in place **prior** to establishing a business relationship with a customer to determine whether the person may be deemed a "PEP". In practice, Intermediaries should establish and record whether the client is resident or non-resident. Where the client indicates that they are non-resident, steps should be taken to establish whether the person is deemed to be politically exposed. The identification of a customer as a non-resident PEP is not in itself cause for suspicion, but does requires an enhanced level of due diligence.

## 3. Standard Due Diligence (SDD)

There are 3 overall levels of risk for insurance products, these are:

- Low Risk
- Intermediate Risk
- Increased Risk

### Low risk

Products due to their inherent features are unlikely to be used as a vehicle for money laundering purposes. The following table shows the type of product and the product features which would qualify them as a low risk level.

Protection/Pension	Typical Features
1 Term life assurance	<ul style="list-style-type: none"> <li>■ Only pays out on death of policy holder</li> <li>■ No surrender value</li> <li>■ Small, regular premiums: additional payments by customer not possible</li> <li>■ Large premiums will normally require medical evidence</li> <li>■ No investment element</li> <li>■ Once the term of policy is finished there is no payout and policy ceases</li> </ul>
2 Income protection products related to long-term illness	<ul style="list-style-type: none"> <li>■ Only pays out on medical evidence and proof required as to loss of income</li> <li>■ No surrender value</li> <li>■ Small, regular premiums: additional payments by customer are not possible</li> </ul>
3 Critical illness products relating to diagnosis of a specific critical illness	<ul style="list-style-type: none"> <li>■ Only pays out on medical evidence</li> <li>■ No surrender value</li> <li>■ Small, regular premiums: additional payments by customer are not possible</li> </ul>
4 Whole of Life	<ul style="list-style-type: none"> <li>■ May accrue some small surrender value</li> <li>■ Benefits usually payable on death or diagnosis of terminal illness or in some cases, critical illness of the policyholder</li> <li>■ Partial surrenders are normally allowed within specified limits</li> </ul>

- For reduced risk level products, designated persons may accept personal cheques and other payment instruments drawn on a customer's account (i.e. Direct Debits/Standing Orders) to satisfy the standard evidence requirement.
- If payment is made by bankdraft for the products above PIBA would recommend that you get confirmation from the client from the bank confirming where the money is coming from.

### Medium Risk

The medium risk level is given to products whose inherent features pose some risk for the purposes of money laundering or terrorist financing. These may be products which have a facility for "top up" payments.

Savings	Typical features
Life assurance savings plan (unless premium is less than €1,000 or €2,500, then Simplified Customer Due Diligence can apply).	<ul style="list-style-type: none"> <li>■ Long term savings plan often for retirement</li> <li>■ Requires at least 5 years to gain positive return on investment</li> <li>■ Often unable to be surrendered in first or second year, with penalties in years three to five</li> <li>■ Additional 'top up' payments may be permitted</li> </ul>
<b>Endowments</b>	<ul style="list-style-type: none"> <li>■ Long term savings plan for a set term (were often linked to mortgages)</li> <li>■ Usually long term, 10-25 years</li> </ul>

The recommended standard for intermediate risk is as follows (subject to exemptions): Verify the identity of the customer and/or the relevant parties at the outset of the business relationship.

- For medium risk products, designated persons may accept personal cheques and other payment instruments drawn on a customer's account (i.e. Direct Debits/Standing Orders) to satisfy the standard evidence requirement.
- If payment is made by bankdraft for the products above PIBA would recommend that you get confirmation from the client from the bank confirming where the money is coming from.

### High Risk

This level of risk has been given to products whose inherent features allow for the possibility of being used for money laundering purposes. These products have the facility for third party and/or "top up" payments and therefore an enhanced level of due diligence (by asking for more information) is appropriate. It is to this risk level that the majority of a designated person's AML resource will normally be directed. The majority of products in this range are found in the investment category which reflects the higher value premium that can be paid into them.

Protection	
None	
Savings and Investments	Typical features
Single premium investment bonds, including: <ul style="list-style-type: none"> <li>■ With profits</li> <li>■ Guaranteed</li> <li>■ Income</li> <li>■ Investment</li> <li>■ Offshore international bonds</li> </ul>	<ul style="list-style-type: none"> <li>■ Open ended investment</li> <li>■ Usually a 5 year recommended</li> <li>■ minimum investment term but can be surrendered earlier</li> <li>■ Additional 'top up' payments permitted by the policy holder and by third parties</li> <li>■ May be segmented and individual segments may be assignable</li> </ul>

The recommended industry standard for increased risk products is as follows:

### Customer Due Diligence

1. Verify the identity of the customer and/or the relevant parties

Sources which can be used to verify identity are:

- Passport
- Driving licence
- In the absence of the above documents, written or otherwise documented assurances from persons or organisations that have dealt with the customer for some time will suffice.

Some Product Providers have indicated that they will require proof of address so we recommend that members request proof of residency as part of their CDD procedures. Documents which can be used as evidence of address include:

- Current documentation/cards issued by the Revenue Commissioners showing the name and address of the person and their PPSN;
- Current documentation/cards issued by the Department of Social and Family Affairs showing the name and the address of the person and their PPSN;
- Instrument of a court appointment (such as liquidator or grant of probate);
- Current local authority document e.g. refuse collection bill, water charges bill (including those printed from the internet);
- Current bank statements or credit/debit card statements issued by a regulated financial sector designated person in Ireland, the EU or comparable jurisdiction (including those printed from the internet);
- Current utility bills;
- Current household/motor insurance certificate and renewal notice; and
- Medical card for over 18s with intellectual disability.

Proof of identity and address should be marked original sighted, dated and signed.

2. Acquire prescribed information at the outset of the business relationship to satisfy the additional suggested information requirements:
  - a) Source of funds for the transaction e.g. a Irish bank account in own name.
  - b) Employment and salary details - this information could be captured in the Factfind.
  - c) Source of wealth (e.g. inheritance, divorce settlement, property sale). This information should be captured on the source of wealth form ([Appendix 11](#))

### Monitoring

You should undertake monitoring on a ongoing basis for patterns of unusual or suspicious activity to ensure that higher risk activity is scrutinised. In practice, for intermediaries this might occur where there is an early surrender of a policy or where the payer of the policy changes.

### Procedures/Policies

Intermediaries are obliged to ensure that they comply with the requirements of the Criminal Justice (Money Laundering and Terrorist Financing) Act. Procedures should be compliant with the Central Bank's core and sectoral guidance notes and the PIBA guidance notes. ([Appendix 11](#))

### Record Keeping

You are required to keep records evidencing the procedures applied and the information obtained, when carrying out CDD on customers for a period of at least 6 years after the business relationship with their customer has ended. Record keeping is an essential part of the evidence trail and sufficient processes must be put in place to ensure that records are adequately kept.

Records that must be kept:

- Customer information collected to comply with the requirements of Legislation; and
- Information regarding transactions undertaken by customers.
- Possible formats in which records can be retained include one or more of the following:
  - Original documents
  - Photocopies of original documents
  - On microfiche
  - In scanned form
  - In computerised or electronic form

You may keep such records wholly or partly in electronic form only if they are capable of being reproduced in a written form. All records should be capable of being reproduced in the State as per Legislation for a period not less than 6 years.

### Staff Training

You must ensure that all staff receive regular training in relation to their AML and combating of terrorist financing obligations. If you, the employer has failed to provide training this is an offence under the requirements.

It is recommended that annual anti-money laundering training be provided to staff on an annual basis. Details in relation to staff training should be retained for a period of 5 years.

### Reporting

A report must be made when you know or suspect or have reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted.

You should put in place an internal reporting process. All reports submitted via the internal reporting process should be recorded. This report should include appropriate details of the customer who is the subject of concern and a statement containing as much of the information giving rise to the knowledge or suspicion, as possible. If the designated person decides not to make an external report the reasons for not doing so should be recorded and retained.

External reports must be made to the Garda Bureau of Fraud Investigation and the Revenue Commissioners. The following information should be contained in the report:

- a) The information on which the designated person's knowledge, suspicion or reasonable grounds are based;
- b) The identity of the suspected person;
- c) The whereabouts of the property that is the subject of the money laundering or the funds that are the subject of the terrorist financing;
- d) Any other relevant information.

Under the Legislation, you must not disclose to the customer concerned or other third persons that a report has been made to the Gardai in relation to suspicions of money laundering or terrorist financing.

### Central Bank

The Central Bank of Ireland is deemed to be the competent authority responsible for monitoring compliance of designated persons with the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. The Central Bank has the power under the Administrative Sanctions Regime to sanction for failure to comply with the necessary obligations.

## 4.12 Competency and Training procedures

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### Initial Training Goals

- Individual to be fully trained in all areas relevant to their job criteria;
- Individual to be fully briefed with regards to his/her responsibilities;
- Individual to know and understand the main features, benefits, limitations and risks of the different types of products they advise on;
- Individual to know the main requirements and correct order of the Sales Process i.e. terms of business, KYC and reasons why documentation;
- Individual to be able to accurately identify the consumer's attitude to risk;
- Individual to understand the statutory, legislative and regulatory frameworks applicable to them including money laundering, data protection etc.;
- At the conclusion of initial training, there will be an assessment of the individual's understanding of all key requirements, skills and knowledge levels.

### Ongoing Supervision

All individuals working under a firm's authorisation should be monitored and supervised appropriately to evaluate work that is being done and not being done and also to identify potential problems. Evaluation of work undertaken will help to identify any training or support needs.

### Who will need to be supervised by an accredited individual?

The following individuals will be subject to the supervision of an accredited individual (Also see [Section 1](#)):

- New entrants who wish to undertake the role of a financial advisor;
- Individuals who are upgrading competence i.e. grandfathered or qualified individuals wishing to move to engage in activities for which their qualification/grandfathered status does not deem them competent post January 2007 (e.g. someone who is grandfathered for life policies but wishes to move into the area of general insurance for the first time);
- Administration staff -You should make sure that individuals who are not deemed competent to provide advice do not under any circumstances provide advice. If advice is requested by a consumer, you should make sure that this request is referred to an accredited individual.

Regular and periodic use of observation records and file review sheets can aid in the monitoring and supervision process, helping you to identify what level of supervision is appropriate to the individual's aptitude and level of knowledge.

### Continuous Professional Development (CPD)

- The holders of recognised qualifications (e.g. QFA, CIP) must complete 15 formal hours of CPD in each calendar year;
- A grandfathered person must complete 15 formal hours of CPD in each calendar year;



- A grandfathered person in respect of specific functions and who holds a recognised qualification in respect of other functions must complete 15 formal hours of CPD each calendar year (e.g. individual holding the QFA and Grandfathered in respect of General Insurance). The content of CPD must be relevant to both sets of functions for which the person is qualified and grandfathered;
- The holder of a recognised qualification with a professional designation e.g. a solicitor, the retention of which is dependant upon the completion of CPD, will be acknowledged to have complied with this section where he or she has completed the CPD requirements of that recognised qualification.

In addition individuals:

- must complete at least one hour of CPD each calendar year for each function undertaken;
- must complete at least one hour of CPD each calendar year which relates to ethics;
- who fail to complete 15 formal hours in any calendar year may make up the shortfall by the end of the following year provided they did not incur a shortfall in the previous five years. Any breaches of CPD requirements must be held on the regulated firm's records. Further breaches may result in the removal of the professional designation or grandfather status;
- may not carry over surplus CPD hours into the following year;
- must ensure the content of the CPD hours undertaken is directly relevant to their functions;
- must participate in a CPD scheme operated by a relevant professional body or retain a written log where they arrange their own CPD to show that they have satisfied the requirement; or
- may apply for a pro-rata adjustment of CPD for Statutory leave or Long term sick leave (two months or more) but NOT for a Career break, Unemployment, Part-time work, Retirement or Holidays.
- CPD records are subject to checks by educational bodies (where CPD has been attached to an individual's qualification) or by the Central Bank of Ireland.
- Each individual is responsible for his/her compliance with CPD requirements. However, it is the responsibility of the firm to ensure that individuals covered by the requirements satisfy the requirements and you should ensure that all relevant persons record all CPD activity undertaken on his/her CPD plan promptly. See below.
- You should establish an annual CPD plan to provide all relevant staff with a relevant CPD programme over the next 12 months. [Appendix 1 \(C\)](#) shows a sample CPD record sheet for staff. This must be monitored by the firm on an ongoing basis to ensure that appropriate CPD hours are being attained.

## Definitions

**Formal CPD:** Seminars, lectures, conferences, certified e-learning, tutorials, workshops and relevant courses.

## Streamlining a competent workforce

As the firm is responsible for complying with the Minimum Competency Code, the firm should be very prudent with all staff working under or on behalf of the firm's authorisation.

All present/newly appointed staff should be informed of their responsibilities under the Minimum Competency Requirements. Staff members who are required to obtain full qualification within 4 years of their appointment date should be informed of this.

It should be clear at the outset that staff working in the capacity of financial advisors must retain accredited status (via complying with annual CPD requirements) or, in the case of individuals who are not grandfathered or who do not have a qualification, that they are working towards acquiring a qualification. In the case of grandfathered or qualified individuals, a good way of ensuring that this is accomplished is by inserting a clause into the individual's contract of employment requiring them to comply with ongoing CPD requirements and requiring them to submit CPD hours for the firm's CPD records.

For new staff, the initial recruitment stage should clearly state that the Minimum Competency Requirements apply. The job specification for financial advisors should clearly state that the achievement of a qualification within the required time-frame and the compliance with the CPD requirements are key requirements of the job.

## Anti-Money Laundering-Annual Refresher Training

In order to ensure that statutory obligations are met, you must take appropriate measures to make employees aware of:

- policies and procedures to prevent money laundering and identification, record keeping and internal reporting,
- the legal requirements, and
- provide relevant employees with training in the recognition and handling of suspicious transactions.

It will also be necessary to make arrangements for refresher training courses at regular intervals i.e. at least annually, to ensure that staff do not forget their responsibilities. See Template AML training presentation.

## 4.13 Conflicts of Interest

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- You must have in place and operate in accordance with a written conflicts of interest policy appropriate to the nature, scale and complexity of the regulated activities carried out by the regulated entity. The conflicts of interest policy must:
  - a) identify, with reference to the regulated activities carried out by you, the circumstances which constitute or may give rise to a conflict of interest entailing a risk of damage to the interests of its customers who are consumers; and
  - b) specify procedures to be followed and measures to be adopted, in order to manage such conflicts.
- Where conflicts of interest arise and cannot be reasonably avoided, you must:
  - a) disclose the general nature and/or source of the conflicts of interest to the consumer. You may only undertake business with or on behalf of a consumer where there is directly or indirectly a conflicting interest, if that consumer has acknowledged, on paper or on another durable medium, that he or she is aware of the conflict of interest and still wants to proceed; and
  - b) ensure that the conflict does not result in damage to the interests of the consumer.
- You must ensure that your remuneration arrangements with employees in respect of providing, arranging or recommending a product or service to a consumer are not structured in such a way that they have the potential to impair the firms obligations:
  - a) to act in the best interests of consumers; and
  - b) to satisfy the suitability requirements set out in the Consumer Protection Code.
- You must ensure that there are effective Chinese walls in place between the different business areas of the regulated entity and between the regulated entity and its connected parties, in relation to information which could potentially give rise to a conflict of interest or be open to abuse.
- You must ensure you have written procedures in place relating to the maintenance of Chinese walls and the consequences of breaches of Chinese walls. These procedures must be notified to all relevant officers and employees of the regulated entity.
- You must take reasonable steps to ensure that you or any of your staff do not offer, give, solicit or accept any gifts or rewards (monetary or otherwise) likely to conflict with any duties of the recipient in relation to his or her activities.
- You must not enter into a soft commission agreement unless such an agreement is on paper or on another durable medium. Where a soft commission agreement is in place, the following conditions apply:

- a) any business transacted under a soft commission agreement must not conflict with the best interests of consumers;
- b) where a regulated entity considers that a consumer may be affected by the soft commission agreement, the consumer must be made aware of the soft commission agreement and of how the soft commission agreement may affect them;
- c) a copy of the soft commission agreement must be made available to the consumer on request;
- d) goods or services received by a regulated entity under a soft commission agreement must be used to assist in the provision of services to consumers; and
- e) a regulated entity must provide to any affected consumer details of any changes in its policy on soft commission agreements promptly after implementation of any such changes.

## 4.14 Business Referrals

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### Insurance Intermediaries

A regulated entity may pay a referral fee, commission or other reward to the following:

1. another regulated entity;
2. a certified person;
3. an individual for whom a regulated entity has taken full and unconditional responsibility under the Investment Intermediaries Act 1995 e.g. a Tied Agent;
4. an agent, branch or entity to which activities are outsourced in accordance with the European Communities (Payment Services) Regulations 2009; where the regulated entity remains fully liable for the acts of that agent, branch or entity to which activities are outsourced;
5. a distributor, agent, branch or entity to which activities are outsourced in accordance with the European Communities (Electronic Money) Regulations 2011; where the regulated entity remains fully liable for the acts of that distributor, agent, branch or entity to which activities are outsourced;
6. an entity specifically exempted by law from requiring an authorisation, licence or registration to carry out the regulated activity in respect of which the fee, commission, other reward or remuneration is to be paid e.g. a Solicitor;
7. a credit intermediary;

8. a person no longer providing a regulated activity where the fee, commission, other reward or remuneration is in respect of a regulated activity that the person provided when the person fell within any of the descriptions above.

### Approved Professional Bodies

The Central Bank of Ireland has supervisory responsibility for three professional accountancy bodies that have been approved to regulate their own members in respect of the provision of investment business services by their members. The provision of such services is on the basis that these services are incidental to the main professional services provided by the member.

The following institutes fall into this category:

- Institute of Chartered Accountants in Ireland [ICAI],
- Association of Chartered Certified Accountants [ACCA],
- Institute of Certified Public Accountants [CPA].

A certified person authorised for investment business services can refer business to and receive commission from another regulated entity.

### Mortgage Intermediaries

An important change that was made to the definition of a Mortgage Intermediary was made in the Central Bank & Financial Services Authority of Ireland Act, 2004 (CBFSAI Act) to amend the Consumer Credit Act, 1995. The new definition of a 'Mortgage Intermediary' is now as follows:

*“A person (other than a mortgage lender or credit institution) who, in return for commission or some other form of consideration-*

- a. arranges, or offers to arrange, for a mortgage lender to provide a consumer with a housing loan, or*
- b. introduces a consumer to an intermediary who arranges or offers to arrange, for a mortgage lender to provide the consumer with such a loan.”*

This change came into effect on January 1<sup>st</sup> 2005 and means that mortgage introducers i.e. people or firms who introduce clients to mortgage intermediaries in return for a payment, are themselves classified as Mortgage Intermediaries.

This means that if you remunerate a third party for the introduction of mortgage business, the third party must now be authorised as a mortgage intermediary. In addition, if you receive remuneration for the referral of mortgage business you must be authorised as a Mortgage Intermediary.

## Commission Sharing

Where an arrangement is being drafted between authorised intermediaries for introducing business, some items to consider and include are:

- Set an agreed time period for which the agreement will be in place and when it will be subject to review.
- Ensure you can get out of the agreement at short notice.
- All introductions must be on the basis that the introducer remains authorised and meets regulatory and competency requirements.
- The relevant commission sharing percentages or amounts must be stipulated. For mortgage Brokers, consider what might happen if you receive retrospective commissions based on achieving certain business levels with particular lenders.
- What will happen with override, renewal, top-up, and indexation commissions?
- Who owns the client for future contact – you or the introducer?
- Clarify if the introducer will get commission for all future new business placed with you or if this might apply for say the first two years.
- Ensure both parties cover their respective Data Protection obligations and confirm that they will also obtain client consent for the sharing of information.

## 4.15 Distance Marketing

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- EU Directive – effective since the 15<sup>th</sup> of February 2005.
- Covers banking, insurance and personal pensions contracts.
- Applies if you **do not** physically meet the client.

If the Directive applies to you, you are considered a “supplier”. It **only** applies if:

1. a product or service is supplied exclusively by means of distance communication (in other words, you don’t meet the client at any time from initial contact to conclusion of contract), and
2. you possess the ability to make distance sales i.e. operate “an organised distance sales/marketing scheme” that is systematically used.

### Distance Communication

- Phone
  - Post
  - Fax
  - E-mail
  - Internet
- ◆ Do not assume that anyone who sells insurance/banking products by telephone or electronic means is covered by the directive.

### Restrictions on use of distance communication techniques

1. A supplier cannot use automatic telephone calling systems or fax machines to communicate with consumers unless the consumer has given prior consent to be contacted by such means.
2. In relation to other means of distance communication you cannot contact a consumer unless:
  - they have consented to it,
  - they have not expressed objection to the use of that means.

In [Appendix 12](#), you will find details on information to be given by the supplier before entering into a distance marketing contract for the supply of a financial service.

### Information to be given by supplier before entering into a distance marketing contract by telephone:

- The identity of the caller and their relationship to the supplier;
- A description of the main characteristics of the service;
- Total price to be paid to the supplier for the service/basis of calculating price (including all taxes paid through the supplier);
- Taxes or charges payable in respect of the contract.
- Right to cancel contract, if applicable, and conditions of exercise.

## 4.16 Passporting under the Insurance Mediation Directive

The Insurance Mediation Directive provides for a single European Passport for insurance intermediaries allowing them to operate freely throughout Europe on a freedom of establishment basis.

Once registered under the IMD, intermediaries are entitled to passport into other EU member states subject to completing the notification procedure and complying with the sales and marketing rules of the host state.

This freedom enables you to increase your customer base. On the other hand, the Irish market is now open to greater competition as other EU based intermediaries may target the Irish market.

### Notification Procedure

An Irish intermediary who wishes to commence mediation services in another EU member state will need to go through the following steps:

1. Fill out the Central Bank of Ireland's notification form along with confirmation that you have Professional Indemnity Insurance in place and send it to the Central Bank of Ireland.
2. The Central Bank of Ireland will notify your intention to the supervisory authority of the host state. The Central Bank of Ireland will then send an acknowledgment to you

that your request has been forwarded to the host state's supervisory authority within 1 month after being notified by you.

3. You may begin to undertake insurance mediation in the host state after the expiry of 1 month from the date of the letter you receive from the Central Bank of Ireland.

**Remember:** An Irish registered intermediary who passports into another EU member state must comply with the sales and marketing rules (consumer protection regulation) of the Host Member State and regulations applicable to insurance intermediaries acting in that Member State, while the Central Bank of Ireland maintains the supervision of the intermediary's authorisation and prudential regulation.

So, for example, an Irish Intermediary who passports into the UK will be subject to the UK's conduct of business rules and regulations and likewise a UK intermediary will be bound to the Irish conduct of business rules, such as, the Consumer Protection Code.

#### 4.17 Accounting Procedures & submission of online accounts:

The Handbook of Prudential Requirements for Authorised Advisors and Restricted Intermediaries contains a number of requirements that apply to the investment business activities of all Authorised Advisors and Restricted Intermediaries, including Multi-agency Intermediaries. See [Appendix 13](#) for the whole document.

- An investment intermediary must be solvent at all times (i.e. have positive shareholder's funds or a positive capital account).
- An investment intermediary that is authorised to provide investment advice on a fair analysis basis or which is not authorised as a restricted intermediary must maintain a minimum level of shareholders funds or capital account of €10,000 at all times (in effect, this currently applies to Authorised Advisors or Multi Agency Intermediaries dealing with Lloyd's Brokers).
- An investment intermediary that acts as a product producer (i.e. appoints sub-brokers) must have minimum shareholders funds (or in the case of a sole trader or partnership a positive capital account) of €50,000 at all times.
- In the case of a sole trader or partnership the audited accounts may be in respect of:
  - an investment intermediary's overall financial position; or
  - may be confined to an investment intermediary's investment business activities. The accounts must clearly identify that this is the case.
- In the case of a sole trader or partnership the audited accounts should include:
  - A profit and loss account or an income and expenditure account,
  - A balance sheet or capital account.



- On an annual basis, intermediaries are required to make annual returns to the Central Bank of Ireland via their online reporting system. It is important to note that even though it is no longer a requirement to submit annual audited accounts to the Central Bank of Ireland, intermediaries authorised under the Investment Intermediaries Act should still have their audited accounts prepared on an annual basis.

## 4.18 Bundling & Contingent Selling

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- You must not make the sale of a product or service contingent on the consumer purchasing another product or service from the regulated entity. This provision does not prevent you from offering additional products or services to consumers who are existing customers which are not available to potential consumers.
- You are prohibited from bundling except where it can be shown that there is a cost saving for the consumer.
- Prior to offering, recommending, arranging or providing a bundled product a regulated entity must provide the consumer with the following information on paper or on another durable medium:
  - a) the overall cost to the consumer of the bundle;
  - b) the cost to the consumer of each product separately;
  - c) how to switch products within the bundle;
  - d) the cost to the consumer of switching products within the bundle;
  - e) how to exit the bundle; and
  - f) the cost to the consumer of exiting the bundle.
- Where a consumer wishes to switch one or more products in a bundle or exit a bundle you must:
  - a) provide the consumer with the information set out in c) and d) above as appropriate, on paper or on another durable medium, and
  - b) allow the consumer to retain any product(s) in the bundle that the consumer wishes to keep, without penalty or additional charge, apart from the loss of any discount.
- Where you offer an optional extra to a consumer in conjunction with a product or service, the regulated entity:
  - a) must inform the consumer on paper or on another durable medium:
    - i) that the consumer does not have to purchase the optional extra in order to buy the main product or service;
    - ii) of the cost of the basic product or service (excluding the optional extra); and
    - iii) of cost of the optional extra; and

- iv) must not charge the consumer a fee for any optional extra offered in conjunction with a product or service unless the consumer has confirmed that he or she wishes to purchase the optional extra.
- If the means of communication between you and the consumer is by way of telephone only, you must:
    - a) provide this information orally at the time of offering, recommending, arranging or providing a bundled product; and
    - b) provide this information to the consumer, on paper or on another durable medium, immediately after arranging or providing a bundled product.
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## Section 5 - Sales Process

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- 5.1 Sales Process in Brief
- 5.2 Enhancing the Sales Process
- 5.3 Vulnerable Consumers
- 5.4 Disclosure Obligations under the Consumer Protection Code
- 5.5 Provision of Information
  - Life Disclosure Obligations
  - Non-life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007 (S.I. 74)
  - PRSAs
- 5.6 PIBA Research Guidelines
- 5.7 Sales Compliance requirements for Group pensions

## Section 5 - Sales Process

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### Introduction

Apart from meeting the necessary Central Bank of Ireland requirements, there is an obvious commercial benefit to adopting a robust and well documented approach to the Sales Process.

### New Business Procedures

An effective sales process, covering all classes of business, ensures that:

- the necessary information is gathered to evidence '*Knowing the Consumer*',
- sufficient information is available to be used to research the market and make a '*Suitable*' recommendation,
- the consumer is provided with adequate material upon which to make an informed decision.

In addition to reducing the number of future complaints and improving facilities for defending the firm's position, there are other immediate benefits. The process will ensure that all areas are considered and as such, increase the commercial opportunities available to an advisor.

## 5.1 Sales Process in Brief

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### Prospecting

- Make sure you are aware of the advertising rules, rules surrounding making contact with clients and referral rules.

### First Point of Contact

- If you made a personal visit to the client, you should retain on file evidence that informed consent was obtained from the client prior to the visit.
- Record on file how the first contact was made e.g. client phoned you, called to your office or responded to an advertisement.
- If you received a referral, you must keep a note of the source of referral.
- Present your Terms of Business and investor compensation information.

### Know Your Client

- Complete a factfind or record on file sufficient information about the client's circumstances paying particular attention to the client's financial objectives and



where appropriate; investment experience, attitude to risk and other 'relevant' information in order to recommend a suitable product.

- If your client wishes to transact business on an execution only basis, be familiar with the rules and the pitfalls.

### Product Research

- Refer to PIBA Research Guidelines.
- Carry out research which you consider to be appropriate to your status.
- Irrespective of the type of product required (life, general, or mortgage) you must make sure you retain evidence of your research.

### Assessing Suitability

- Ensure that any product or service offered to a consumer is suitable to that consumer, having regard to the facts disclosed by the consumer.
- The recommended product must be the most suitable product out of the range of products considered.

### Statement of Suitability

- Provide this to the client before or immediately after the proposal is completed. While getting the client to sign is no longer a requirement, we believe it to be good practice to do so. Retain on your client file.
- Remember: do not issue a Statement of Suitability statement to an execution only client.

### Anti-Money Laundering

- Where the product/service has generated an Anti-money laundering requirement, obtain required information to evidence client's identification and the source of wealth and funds. These should be certified and retained on file.

### Before signing the Proposal

- Be aware of your obligations imposed by the Provision of Information requirements under the Consumer Protection Code and Life Disclosure Regulations 2001.
- If arranging general insurance products for your client, which entails the offer of a renewal from one insurer and which is being re-brokered with another insurer make sure you have complied with the requirements of the Non-life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007 (commonly referred to as S.I. 74).

### Receipts

- Make sure you do not take a premium for lodgement to your client premium account until the proposal has been accepted (or the renewal has been invited) by the insurer.
- Issue a Section 30 receipt for any payment received, irrespective of to whom it is payable to.



## Post Sale

- Ensure that the client has received all relevant policy documents.
- Check your client file checklist to ensure that all necessary actions have been taken.

## Research

### Fair Analysis

A “fair analysis of the market” means providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable the intermediary to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet the consumer’s needs.

The concept of fair analysis is derived from the Insurance Mediation Directive. It describes the extent of the choice of products and providers offered by an intermediary within a particular category of life assurance, general insurance, mortgages and/or specialist area. The number of contracts and providers considered must be sufficiently large to enable you to recommend a product that would be adequate to meet the consumer’s needs.

The term ‘sufficiently large’ must be considered in the context of the product or service provided and the extent of the relevant market. The number of providers that constitutes ‘sufficiently large’ will vary depending on the number of providers operating in the market for a particular product or service and their relative importance in and share of that market. Firms must consider the extent of the market and select an appropriate amount of providers that would constitute a fair analysis of that market.

The extent of fair analysis must be such that could be reasonably expected of a professional conducting business, taking into account the accessibility of information and product placement to intermediaries and the cost of the product search.

It is expected that fair analysis will evolve as a concept over time. However, in order to ensure that the number of contracts and providers is sufficiently large to constitute a fair analysis of the market, you should consider the following criteria:

- the needs of the customer,
- the size of the customer order,
- the number of providers in the market that deal with intermediaries,
- the market share of each of those providers,
- the number of relevant products available from each provider,
- the availability of information about the products,
- the quality of the product and service provided by the provider,
- cost, and
- any other relevant consideration.

Fair analysis refers to a reasonable amount of choice given the product and the market circumstances. It does not oblige you to deal with all firms and you retain the commercial freedom not to engage with certain firms should you so wish for valid commercial reasons. However, to achieve fair analysis an intermediary should ordinarily take into account the products of a reasonable majority of the product providers accessible to it in the relevant market (specialist providers with a small market share may be disregarded for this purpose).

Where you exclude one or more product providers with a significant market share in the relevant market from the analysis you must explain this clearly to the consumer.

### Limited Analysis

A “limited analysis of the market” means providing services on the basis of a limited number of contracts and product producers available on the market i.e. while not tied to one product producer the services are not provided on the basis of a fair analysis of the market.

Where you provide limited analysis you should outline in your Terms of Business what product providers you are providing advice on.

### Receipts

#### Intermediaries authorised under the Investment Intermediaries Act 1995

Section 30 of the Investment Intermediaries Act 1995 places an obligation on intermediaries to receipt “each negotiable or non-negotiable instrument or other payment received for the purposes of transmitting an order or a deposit to a product producer”.

You should note:

- This type of receipt specifically applies to intermediaries authorised under the Investment Intermediaries Act 1995 (i.e. Authorised Advisors and Multi-Agency Intermediaries),
- A receipt must be issued for all monies received (i.e. cash, cheques etc.) for investment products from clients, both where the payment is issued to the firm and where it is payable to the product producer/insurer.
- This requirement applies to retail, corporate and other group business and includes new business, renewals, top-ups and bank deposits etc.
- Records of receipts **must** be kept for 6 years after they were issued.
- It is recommended a receipt book be pre-printed, numbered and in triplicate format allowing the original to be given to the consumer, a copy to go to the client file and a copy to remain in the receipt book. General Intermediaries often keep receipts within a CRM system and this is appropriate provided a file of receipts can be extracted from the computer system.
- The Act requires specific information to be included on the receipt. A sample Section 30 receipt is contained in Section 6 of this manual.

### Insurance Intermediary

If you are in direct receipt of a negotiable or non-negotiable instrument from a consumer as payment for a financial product or service must provide that consumer with a receipt. This receipt must include the following information:

- a) the name and address of the regulated entity;
- b) the name of the consumer, who furnished the instrument or payment or on whose behalf the instrument or payment is furnished;
- c) the value of the instrument or payment received and the date on which it was received;
- d) the purpose of the payment; and
- e) that the acceptance by you of a completed insurance proposal does not itself constitute the effecting of a policy of insurance, where relevant.

## 5.2 Enhancing the Sales Process

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Effective administration, follow-up and back-up measures are key to the sales process. You should be sure to have appropriate security and tracking measures in place to ensure that you carry out your business in a timely, effective and efficient manner.

### Useful tips

- On completion and receipt of supporting documentation from the client, you should forward the proposal/ application form to the relevant Insurer/ Lender.
- Log new business into your New Business Book (manually or on PC).
- Log any correspondence with the client and Insurer/ Lender in the client file.
- Explain to the client any underwriting process which the particular Lender/ Insurer may apply, including GP reports and the possible need for a medical examination or additional medical questionnaires.
- Outline the Insurer/ Lender's administration process with an approximate timescale for the delivery of the policy documents/ loan offer/contract notes etc. to the client.
- Ensure that the client has received the policy documents.
- If applicable, explain to the client their cancellation rights.
- You are **not allowed** to hold any original policy documents on behalf of clients - on receipt of policy documentation forward these to the client and keep a copy for the client file.
- Keep records safe and secure.
- All records must be stored for 6 years.
- Ensure all virtual and paper files are readily accessible.

**Important: Remember to keep contemporaneous notes of all contact with clients in the client file.**



### 5.3 Vulnerable Consumers

The Consumer Protection Code has introduced the concept of “Vulnerable consumer”. The identification of a client as vulnerable will require common sense and should be based on your opinion of the consumer’s ability to make a particular decision at a certain point in time. Where you feel that someone may fall into this category, you need to take additional measures during the Knowing the Consumer/Factfinding process.

The definition of a vulnerable consumer under the Consumer Protection Code is as follows:

A natural person who:

- a) has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so (for example, hearing impaired or visually impaired persons); and/or
- b) has limited capacity to make his or her own decisions and requires assistance to do so (for example, persons with intellectual disabilities or mental health difficulties).

The Central Bank’s feedback document provides guidance on the types of consumers who may fall under this category, but ultimately it will be up to you the advisor as to whether you feel that the consumer you deal with falls into this category.

	<b>Categories of Vulnerable Consumers</b>	<b>Examples of Vulnerabilities</b>
<b>1</b>	Capable of making decisions but their particular life stage or circumstances should be taken into account when assessing suitability.	Age, poor credit history, low income, serious illness, bereaved, etc.
<b>2</b>	Capable of making decisions but require reasonable accommodation in doing so.	Hearing-impaired, vision-impaired, English not first language, poor literacy.
<b>3</b>	Limited capacity to make decisions (temporary/permanent)	Mental illness/intellectual disability.

Where you feel an individual falls into any of the above categories you should note on file the additional measures you took during the sales process to facilitate the consumer. Please see PIBA checklist for vulnerable consumers in [Section 6.8](#).

## 5.4 Certain Disclosure obligations under the Consumer Protection Code

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Under the Consumer Protection Code, if you are providing a serious illness policy to a client, you must explain clearly to the consumer the restrictions, conditions and general exclusions attached to such policies before the client completes the proposal form.

A similar requirement exists in relation to PHI, where the Code provides that *“a regulated entity must, before completing a proposal form for permanent health insurance policy, explain to the consumer:*

- *the meaning of disability*
- *the benefit available under the policy*
- *the general exclusions that apply to the policy*
- *the reductions applied to the benefit where there are disability payments from other sources.”*

The intention of the provisions is to ensure that the consumer understands exactly what the policy covers them for. As a financial advisor, you are not required to have medical expertise but you are required to understand the level of cover the policy provides, in order to ensure that the policy is suitable to the particular client.

As definitions and risks are highlighted within the illustration and supporting documents, you may use these as a reference source.

Furthermore, when explaining risks use terminology that the consumer will understand.

**Tip:** Be careful when advising clients on specific elements of Serious Illness and PHI policy terms and conditions – it is easy to mis-state something technical. Therefore, draw the client’s attention to the specific brochures/documents issued by the insurer with which the business will be placed.

### Policy documents

The insurer must issue policy documents, within five business days of all relevant information being provided by the consumer and cover being underwritten, to any insurance intermediary that has sold its insurance policy.

You must within five business days of receiving the policy documents from an insurer provide them to the consumer.

This provision also applies in the case where the consumer renews an existing policy.

## 5.5 Provision of Information

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### Life Disclosure Obligations

The Life Assurance (Provision of Information) Regulations 2001 apply to individual life policies and individual pension policies proposed on or after February 1<sup>st</sup> 2001 and to any further increases on those policies.

### Implications at point of sale:

- Provide either a “Client specific” quote (one based on actual premium and cover etc.) or a “Generic” quote (pre-printed based on assumed premium, cover etc.).
- Advise the client of the financial consequences of replacing an existing policy and of the possible financial loss where the policy being sold to the client replaces all or part of another policy.
- Both you and the client must sign the declaration on the insurer’s proposal form, verifying receipt of the relevant disclosure documentation.

### Post Sale-Policy Issue:

- Client Specific quote - if you give the client a “Generic” quote at the point of sale, you or the insurer will need to issue the client with a “Client Specific” quote at policy issue.
- Cooling-off letter - this letter draws the client’s particular attention to the consequences of having taken out a new policy to replace an existing policy.

### Insurer/Intermediary responsibility

The regulations impose obligations on both the intermediary and the insurer. In practice, the intermediary will receive the information from the insurer who will then forward it on to the client.

### Non-life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007 (S.I. 74)

- These rules apply to most general insurance policies.
- Came into force on July 1<sup>st</sup> 2007.
- Replaced Motor Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2002.
- Insurers are required to issue renewal notices in respect of all classes of non-life insurance policies.

- Renewal Notice Timeline -15 Working days. The insurer shall, not less than 15 working days, before the expiry of the insurance policy:
  - a. issue to the client in writing notification of renewal where the insurer wishes to invite a renewal,
  - b. issue to the client notification that it does not wish to invite a renewal unless the insurer has reason to believe the client would not wish to renew the policy (in such a case the insurer must be able to prove they had a valid reason to believe the client would not be wishing to renew).
- Information contained in these notifications is presumed to be correct on the date of the issue (of notification) on the basis that the insurer has been informed by the client or on behalf of the client.
- In respect of motor insurance policies, the insurer must notify the client, not less than 15 working days, prior to the expiry of the policy of certain information about the policy cover and fees applied other than premiums etc.
- The Insurer is deemed to have complied with paragraphs 5 and 6 of the regulations (notification of renewals (5) and providing certain policy information (6)) when such information has been provided to the intermediary in sufficient time to be forwarded to the client, not less than 15 working days, prior to the expiry of the policy.
- The Intermediary is to forward any original renewal notification (including any original No Claims Bonus statement) to the client without delay and is deemed to have complied with this where such notification is issued to the client in not less than 15 working days.
- The Central Bank of Ireland may request such information from the insurer and intermediary as it may reasonably need to ensure compliance with these regulations.

**Note:** General insurance Intermediaries (including mortgage Intermediaries who deal with renewals of household policies) must be familiar with the full requirements of S.I. 74.

### Personal Retirement Savings Accounts (PRSAs)

Please find a summary of the disclosure obligations for Standard and Non-Standard PRSAs below.

- Application form - must be completed, signed and returned by the individual.
- Contract - terms and conditions of the PRSA contract must be provided to the client.
- PRSA information document - Appendix B of the Consumer Protection Code.



- A Non-Standard PRSA Declaration, where applicable, should be completed – this is available from the provider. This document must be signed by both the intermediary and the individual.
- Disclosure Certificate - where the PRSA contract is replacing an existing PRSA contract or Retirement Annuity Contract (RAC), this document is to be provided to the individual before the initial Statement of Reasonable Projection is issued.
- Preliminary disclosure certificate - must be given to the client **before** signing the PRSA application form. It outlines benefits on a sample or personalised basis that can be reasonably expected from a certain period, based on a number of assumptions.
- Cancellation notice - to be signed by individuals if he/she wants to cancel within the cooling-off period. Client has a 30 day cooling-off period.
- Statement of Reasonable projection - to be given initially **within 7 days and annually** thereafter. This will give an indication of the benefits that can reasonably be expected at specified dates in the future.
- PRSA Certificate - outlines the contributions the client has agreed to pay and the method of contribution to be used. The client will need this to obtain any benefits rightly due to them.
- Statement of Account - to be supplied **half yearly, by the product producer**. This outlines the contributions credited to the individual's PRSA in the last period.
- Investment report - to be supplied **half-yearly, by the product producer**, together with reports on the investment performance of the unit funds in which the individual's PRSA contributions are invested.
- Certificate of Comparison - for use by those individuals who are members of an occupational pension scheme and transferring benefits into a PRSA.

In practice, the product provider will usually forward this information on to the intermediary who then forwards it to the client. At the new business stage, the information is available from the provider's quotation systems.

## 5.6 PIBA Research Guidelines

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The purposes of these Guidelines are to identify and set out best practices in relation to conducting research leading up the provision of advice to consumers. These are general guidelines and it is up to individual firms to consider their own research methods and tailor them to the specific needs of the firm. Remember also that advice can be subjective and it is you who will make your ultimate decision as to what constitutes best advice – just make sure you have your rationale for the selection of your preferred product provider and/or product recorded.

### Overriding Principles

Although advice is personal, there are some overriding principles which are involved and to which you must adhere. The key points are as follows:

1. Act in consumers best interests.



2. Demonstrate how you have acted in a consumer's best interest – retain evidence of the research you conducted and the products you considered.
3. Your judgement as a professional advisor is very important – therefore, your advice must be able to stand up to scrutiny by your clients, your peers, The Central Bank of Ireland and Financial Services Ombudsman.
4. As an advisor, you must understand the products you sell at an in-depth level. If you do not understand a product fully, do not sell it!
5. Authorised Advisors are obliged to provide 'broad based advice' on product providers and products available across the market – have you sufficient evidence of research to show this?
6. Quotation engines – if you use the various quotation engines or product provider website, make sure you record the different options identified or print the output for your file.
7. Transparency with clients – you must be upfront with the findings of your research.
8. Business replacement – when replacing an existing product, make sure you have sufficient data recorded to show why it is in the clients best interest to replace the existing product.
9. Older and vulnerable consumers – be particularly careful to ensure that products selected are suitable to the age and risk profile of your clients. Please refer to the PIBA guidance notes for dealings with such consumers.

## Life & Mortgages

### Protection – Life Assurance

In theory, Mortgage Protection and Term Assurance should be the easier products on which to obtain comparable quotes. Clearly, a price sensitive approach is important. Some points to consider are:

- Price, including price matching.
- Underwriting considerations – non-medical limits, recent medical with an insurer, smoker rates, medical conditions, etc.
- Policy conditions.
- Long term costs.

The main focus is likely to be on price but if you are recommending a more expensive product for underwriting or other considerations, then you should note the reason for the product selected. Where a product has indexed cover and indexed premiums, the long term cost of cover should be considered. If comparisons are being made between products with different indexation rates, what might appear to be the cheapest premium initially might not turn out to be the cheapest long term cost.

### Protection – Serious Illness

Clearly the points mentioned above will have an impact on product selection. However, you will also need to consider:

- The medical conditions covered and/or excluded.
- Definitions of illnesses.

The comparison of illnesses and definitions can be complex and most insurance intermediaries are not medically qualified to understand the technical detail of all illnesses. Use your best analysis and judgment to decide what you think is, on balance, the most suitable product for the consumer. Do not be too technical in relation to the various illnesses covered but before completing a proposal form, refer the client to the 'restrictions, conditions, and exclusions that attach to the policy'. This is a requirement of the Consumer Protection Code.

### Protection – Permanent Health Insurance

PHI is also an area which requires a detailed understanding of the product terms and conditions. Selection of particular products will depend on a number of factors:

- Occupation and classes – make sure you understand fully the consumer's occupation and that it is classified correctly according to insurers' occupation classes.
- Deferred period – what deferred periods are available from different insurers, perhaps linked to occupation. If not restricted by occupation, which options are available, how does this tie in with salary/income during the initial period of illness and what are the cost differentials of alternative deferred periods. There is no point in providing a 13 week deferred period product to a consumer if his employer pays his salary for the first six months of illness.
- Definitions – watch for definitions of total and partial disability. Check to see if terms are based on inability to engage in 'own occupation' or the more restrictive 'own or any occupation'. Again, the Consumer Code requires that you bring the definitions to the attention of the client before completing a proposal.

- Guaranteed versus reviewable premiums – many intermediaries take the view that recommending ‘guaranteed’ premiums is the preferred route as the insurer cannot review the premium rates. However, ‘guaranteed’ premiums are more expensive than ‘reviewable’ premiums so consider the cost difference – again explaining the cost difference to the client is the key here.

### **Pensions**

With the various pension products and complex product structures on the market, there are many different ways to analyse which specific product is considered to be the most suitable for a particular client. The key points, in no particular order, are:

- Allocation rates – which vary by product and indeed by size of premium.
- Management charges.
- Historical fund performance.
- Estimated maturity values.
- Estimated values at the end of say a 10 year period – given that many policies do not run to retirement age.
- Bonuses – maturity, loyalty.
- Early encashment or transfer value penalties.
- Fund choices available and asset class mixes e.g. Consensus, Core/satellite, self directed.
- Intermediary and customer service
- Risk profiling.
- Age of the client.

In long term retirement planning, it might at first glance appear that the product with the highest maturity value is the most appropriate for the client. However, this is not necessarily the case. You must record your rationale for the particular strategy which you propose.

### **Investments**

Selecting investment products suited to a client’s needs requires very careful consideration. In times when markets are surging ahead, clients perceive themselves to require a higher risk strategy than they may actually have the appetite for.

Consideration should also be given to the tax status of the client and whether an income is required from the investment. The main considerations from the client's perspective are covered under ARTIC.



A - ACCESS  
R - RISK AND RETURN  
T - TAX  
I - INCOME  
C - CAPITAL GUARANTEE

Key points to consider when selecting specific investment products to match these needs include:

- Emergency funds – does the consumer have access to cash funds at short notice.
- Term of the investment – is the client looking for a short, medium or long term investment? Is access to cash required in a matter of months or over say a 3, 6, or 10 year term?
- What will the impact be on the client's capital if a regular income is taken? Is the income level sustainable?
- Matching fund selection to client risk profile – identifying a range of products in the market e.g. Guaranteed, Consensus or a mix of funds.
- Guarantees - how much is the investor prepared to lose or can afford to lose? Is the consumer looking for a 100% capital guarantee and if so over what period e.g. 100% over 3 yrs or are they prepared to take a 90% capital guarantee over the same period for a potentially higher return. If a product is guaranteed, you should know who actually provides the legal guarantee.
- Pricing – allocation rates and charges.
- Single or multiple products/providers – should investments be spread across different providers to ensure 'all of the eggs are not in the one basket'. Clearly, the consumer's total portfolio of assets and mix of assets and the amount available for investment may dictate how much diversification is possible or appropriate.
- Early encashment penalties – are these effectively built in to allocation rates or are they on a spread basis reducing over say a 5 year period? Clearly, the consumer's potential need to access funds will have a bearing on this.
- Insurer/product provider information – there is a need for Intermediaries to be able to analyse information provided and consider if sufficient focus is provided on the product negatives as well as positives.
- Complex products – if these are being considered, even with tracker bonds, does the advisor understand the complexities (structure, risks, charges, currency implications, guarantees, counterparty arrangements, etc.)? What often appears as a straightforward product may have a very complex structure beneath, thereby increasing risk.
- When considering older and vulnerable consumers, greater care must be taken in devising an investment strategy.

## Deposits

Clearly, bank deposits or savings bonds are investments designed to protect an investor's capital, even though the effect of inflation may actually erode the real value of the capital in inflationary times. In the current climate, considerations must be given to:

- Rates – which are the best rates available?
- Guarantees – which regulatory regime is the provider covered under and what are the levels/terms of the guarantees?
- Term required – demand, 30 day, 6 months, 18 months etc. Consider also if the period of investment will run beyond the expiry date of any guarantee.
- Internet providers – is the client computer literate and how comfortable is he/she in dealing with internet banking transactions. Would they prefer to deal with a bank which has a high street presence?

Remember that the Consumer Protection Code does not require a statement of suitability to be issued for deposit products of less than 12 months duration. However, it is recommended that a **Statement of Suitability** is issued irrespective of duration of the investment.

## Mortgages

When considering mortgage research, it is often a matter of reviewing lender policy and criteria to see which products are available. It may become evident very quickly that a consumer will not be in a position to get a mortgage from a particular lender. Mortgage intermediaries are very skilled at identifying potential lenders. However, it is important to record why particular lenders may consider an application and why particular lenders will not consider the application.

Research engines are available which compare a range of providers, terms, rates etc. Likewise, lenders provide quotation facilities based on their own lending policy. Some intermediaries run a system whereby they conduct a 'Run-by' exercise; contacting each lender to see if, in principle, there is a possibility of placing a mortgage. Keep a 'Mortgage Research Summary Sheet' to show potential clients the positives and negatives of each lender, which lenders were approached and the outcome of your research.

In looking at potential markets, the following are the key elements to be considered:

- Client needs – first time buyer, switcher, trading up, re-mortgage.
- Loan to value ratio – each lender then to be reviewed for availability.
- Affordability – how much can the client afford to pay per month, now and in the longer term?

- Term of the loan and how this will impact on a consumer's repayment ability. Consider also the client's age profile and how this may be impacted by a long mortgage term.
- Product type – fixed, variable, interest only, etc.
- Interest rates for different products.
- Lender criteria and availability.
- Lender choice – if a client is taking a mortgage with a view to topping-up the mortgage in the short term, how will a particular Lender view this?

A mortgage is a long term investment commitment. Therefore, a consumer must understand fully the implications of the mortgage and the rationale for the particular product suitability must be well recorded.

## General Insurance

### Personal Lines – Motor/Household

Personal lines insurance products, such as Private Motor and Household, tend to be very price sensitive. As they are renewed on an annual basis, the paperwork tends to be quite significant. Notwithstanding this, evidence of research must be recorded on file.

Quotation engines are available for Private Motor, Household and certain Commercial risks via integrated systems with the intermediary's main client system or standalone quotation systems. Generally, these show the range of premiums, covers, conditions etc. depending on the type of cover required.

The key considerations to be taken into account when looking at Motor and Household products include:

- Price.
- Policy conditions – loadings, endorsements, warranties, discounts, excesses, step-back, additional drivers, etc.

Given that most quotations are provided on a summary list, it is important that this list is printed and placed on the client file or saved electronically to the intermediary's main system or scanning facilities. Intermediaries should identify which product is being recommended and if the cheapest product is not recommended there must be a clear record on file indicating why this is the case.

If optional extras are being provided, the product offered must be regarded as a separate product with research recorded to show why, for example, one legal expenses provider is selected over another. A firm may have a preferred provider of optional extras and if this is the case the rationale may be recorded centrally.

## Commercial

General Insurance commercial business is very specific to the particular needs of business and markets in which they operate. Without going into too much detail here, commercial risks are usually brokered by way of submissions and negotiations with underwriters rather than by way of referral to quotation engines.

The key principles remain the same in terms of recording evidence of research:

- Record client objectives – initially at new business stage and at renewal with significant changes which have taken place since inception.
- Price.
- Submissions to a selected group of underwriters who have indicated an interest in the specific market. Some research engines are also available.
- How to record research – a summary ‘Market Research Sheet’ is recommended to record the outcome of research and submissions made.
- Policy conditions – loadings, endorsements, warranties, discounts, excesses, step back, additional drivers, minimum and deposit premiums etc.
- Security of the insurer.
- If using a Statement of Fact (for any risk), it is critical that you ensure the client understands fully the implications of not having to sign a proposal form.

## Summary

These Guidelines show that the business of conducting research is complex, with individual advisors having to ensure a great deal of discretion in analysing products and providing recommendations to clients. The fundamental principles are that:

- An appropriate level of research must be conducted, depending on the client’s circumstances and products required.
- Evidence of research must be retained on file.
- There is a sound rationale for selecting a particular product, which must be recorded on file.

If you cannot follow the recorded trails and rationale for product selection, then your research can not be considered sound.

PIBA Research checklists are in Section 6.6.

## 5.7 Sales Compliance Group Pensions

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The sales compliance requirements for group pensions can vary depending on to whom advice is being provided to and who is making the contribution to the pension.

### Group Schemes (Non-PRSA):

(a) Where the policyholder is a company and the company is paying the premium (i.e. there is no contribution from the employee and no advice has been provided to the employee) there is only a requirement to do the Factfind with the policyholder. Therefore, the following must be issued to/completed with the company:

1. Provide a Terms of Business letter.
2. Complete a Factfind in full.
3. Produce a statement of suitability.
4. Complete an application form.
5. Issue a receipt (if applicable).

(b) Where the policyholder is a company and the company is paying the premium (i.e. there is no contribution from the employee) but advice has been provided to the employee you must, in addition to (a) above, issue to/complete the following with each individual employee:

1. Provide a Terms of Business letter.
2. Complete a Factfind in full.
3. Produce statement of suitability.
4. Complete an application form.
5. Issue a receipt (if applicable).

(c) Where the policyholder is a company and both the company and the employees are paying the premium (i.e. the employees are paying AVCs) you must, in addition to (a) above, issue/complete the following with each individual employee:

1. Provide a Terms of Business letter.
2. Complete a Factfind in full.
3. Produce statement of suitability.
4. Complete an application form.
5. Issue a receipt (if applicable).

(d) If the employees are all individual policyowners (i.e. no contribution from the employers) you will need to issue/complete the following with each individual employee:

1. Provide a Terms of Business letter.
2. Complete a Factfind in full.
3. Produce statement of suitability.



4. Complete an application form.
5. Issue a receipt (if applicable).

#### **Individual/Group Schemes Standard PRSA sales:**

(a) For the sale of Standard PRSAs, through an employer nominated scheme, there is no requirement to issue the employer with the Terms of Business letter, complete a full Factfind or produce the statement of suitability letter.

(b) If you are dealing with an individual, you will need to issue/complete the following for each individual:

1. Provide a Terms of Business letter.
2. Complete a Factfind in full.
3. Produce statement of suitability.
4. Complete an application form.
5. Issue a receipt (if applicable).
6. Issue the Central Bank's explanatory leaflet on PRSAs.

#### **Individual/Group Schemes Non-Standard PRSA sales:**

(a) For the sale of Non-Standard PRSAs through an employer nominated scheme, you will need to issue the employer with: the Terms of Business letter, complete a full Factfind, produce the statement of suitability letter, complete an application form and issue a receipt (if applicable).

(b) If you are dealing with an individual, whether through an employer nominated scheme or directly, you will need to issue/complete the following for each individual:

1. Provide a Terms of Business letter.
  2. Complete a Factfind in full.
  3. Produce statement of suitability.
  4. Complete an application form.
  5. Issue a receipt (if applicable).
  6. Issue the Central Bank's explanatory leaflet on PRSAs and arrange for the client to sign the Central Bank's Non-Standard PRSA declaration.
-

## Section 6 – Compliance Templates

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- 6.1 **Terms of Business**
  - Terms of Business
  - Terms of Business Covering Letter
  
- 6.2 **Knowing the Consumer**
  - Full financial planning review template (factfind)
  - Corporate pensions factfind template
  - Generic Mortgage Application form
  - Template Health Insurance factfind
  - Template Motor Insurance factfind
  - Template Property Insurance factfind
  
- 6.3 **Statement of Suitability**
  - Sample “Reasons Why”
  
- 6.4 **Execution Only Waiver**
  
- 6.5 **Receipts**
  - Section 30 Receipt Template (members authorised under the IIA)
  - Insurance intermediary receipt
  
- 6.6 **Research Guidelines Checklists**
  
- 6.7 **Client File Checklist**
  
- 6.8 **Vulnerable Client Sheet**
  
- 6.9 **Client Activity Sheet**
  
- 6.10 **Client Premium Account Reconciliation**
  
- 6.11 **Complaints Procedure**
  
- 6.12 **Errors Handling**
  
- 6.13 **Conflicts of Interest**

## Section 6 - Compliance Templates

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### 6.1 Terms of Business

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*Personalise to your business and include non-insurance products such as deposits where you hold written appointments for these. Delete Life/Non-life/Mortgages if not relevant and check to ensure that services are accurately described.*

*It is recommended that the first page of the Terms of Business is printed on the firm's letterhead (this avoids duplication of contact details).*

(Note: Sections can be deleted as applicable).

**Terms of Business – Version 10.0 Effective from December 2011.**

#### **ABC Ltd. t/a Alphabet Financial Services.**

These Terms of Business set out the general terms under which our firm will provide business services to you and the respective duties and responsibilities of both the firm and you in relation to such services. Please ensure that you read these terms thoroughly and if you have any queries we will be happy to clarify them. If any material changes are made to these terms we will notify you.

#### **Authorisation with the Central Bank of Ireland**

ABC Ltd. t/a Alphabet Financial Services is regulated by the Central Bank of Ireland as an insurance intermediary registered under the European Communities (Insurance Mediation) Regulations, 2005; as a Multi-Agency Intermediary/Authorised Advisor authorised under the Investment Intermediaries Act, 1995 and as a Mortgage Intermediary authorised under the Consumer Credit Act, 1995. Copies of our regulatory authorisations are available on request. The Central Bank of Ireland holds registers of regulated firms. You may contact the Central Bank of Ireland on 1890 777 777 or alternatively visit their website at [www.centralbank.ie](http://www.centralbank.ie) to verify our credentials.

#### **Codes of Conduct**

ABC Ltd. is subject to the Consumer Protection Code, Minimum Competency Code and Fitness & Probity Standards which offer protection to consumers. These Codes can be found on the Central Bank's website [www.centralbank.ie](http://www.centralbank.ie)

#### **Our Services**

ABC Ltd. is a member of the Professional Insurance Brokers Association (PIBA). As a member of PIBA we must be in a position to place insurance with at least five insurers of the relevant form (life/non-life) and therefore can generally give consumers greater choice than agents and tied agents.



Our principal business is to provide advice and arrange transactions on behalf of clients in relation to life & pensions/mortgages/general insurance products. A full list of insurers, product producers and lending agencies with which we deal is available on request.

ABC Ltd. acts as an **Independent Broker** which means that:

- a) the principal regulated activities of the firm are provided on the basis of a fair analysis of the market; and
- b) you have the option to pay in full for our services by means of a fee.

### Fair Analysis

The concept of fair analysis is derived from the Insurance Mediation Directive. It describes the extent of the choice of products and providers offered by an intermediary within a particular category of life assurance, general insurance, mortgages, and/ or a specialist area. The number of contracts and providers considered must be sufficiently large to enable an intermediary to recommend a product that would be adequate to meet a client's needs.

The number of providers that constitutes 'sufficiently large' will vary depending on the number of providers operating in the market for a particular product or service and their relative importance in and share of that market. The extent of fair analysis must be such that could be reasonably expected of a professional conducting business, taking into account the accessibility of information and product placement to intermediaries and the cost of the search.

In order to ensure that the number of contracts and providers is sufficiently large to constitute a fair analysis of the market, we will consider the following criteria:

- the needs of the customer,
- the size of the customer order,
- the number of providers in the market that deal with brokers,
- the market share of each of those providers,
- the number of relevant products available from each provider,
- the availability of information about the products,
- the quality of the product and service provided by the provider,
- cost, and
- any other relevant consideration.

### Life & Pensions

ABC Ltd. provides life assurance and pensions on a fair analysis basis i.e. providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable us to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet the your needs.

OR

ABC Ltd. provides life assurance and pensions advice on a limited analysis basis (providing services on the basis of a limited number of contracts and product producers available on the market). We provide advice on the following product providers:

- XYZ Life & Pensions
- New Insurance Ltd.

We will provide assistance to you for any queries you may have in relation to the policies or in the event of a claim during the life of the policies and we will explain to you the various restrictions, conditions and exclusions attached to your policy. However, it is your responsibility to read the policy documents, literature and brochures to ensure that you understand the nature of the policy cover; particularly in relation to PHI and serious illness policies.

Specifically on the subject of permanent health insurance policies it is our policy to explain to you a) the meaning of disability as defined in the policy; b) the benefits available under the policy; c) the general exclusions that apply to the policy; and d) the reductions applied to the benefit where there are disability payments from other sources.

For a serious illness policy, we will explain clearly to you the restrictions, conditions and general exclusions that attach to that policy.

### Non-Life

ABC Ltd. can provide advice on and arrange products from the following range: household, motor, commercial, public liability, employer liability, and travel insurance. (*Intermediaries can tailor this to include any extra services offered.*) ABC Ltd. provides general insurance on a fair analysis basis (providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable the firm to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet your needs).

OR

ABC Ltd. provides general insurance on a limited analysis basis (providing services on the basis of a limited number of contracts and product producers available on the market).



We provide advice on the following product providers:

- AZZ Insurance
- FYI General Ltd.

OR

ABC Ltd. holds a tied agency in respect of home insurance with X Ltd.

We will also offer assistance to you in relation to processing claims on policies taken out with us and in seeking renewal terms on your cover.

To ensure continuity of cover, where you have an existing policy which is due to expire and where we have been unable to contact you, we may put continuing cover in force whilst awaiting your instruction. You will be liable for any premiums payable to the relevant insurer for the period of time between renewal and when we receive your instruction. You have the right not to avail of this service.

### Mortgages

Through the lenders or other undertakings with which we hold an agency, ABC Ltd. can provide advice on and arrange mortgage products from the following range: fixed-rate loans, variable rate mortgages, capital & interest mortgages, interest only mortgages, endowment mortgages, pension mortgages and residential investment property.

ABC Ltd. provides mortgage advice on a fair analysis basis (providing services on the basis of a sufficiently large number of contracts and product producers available on the market to enable the firm to make a recommendation, in accordance with professional criteria, regarding which contract would be adequate to meet your needs).

OR

ABC Ltd. provides mortgage advice on a limited analysis (providing services on the basis of a limited number of contracts and product producers available on the market).

We provide advice on the following product providers:

- XYZ Bank
- Bank of ABC

We will need to collect sufficient information from you before we can offer any advice on housing loans. This is due to the fact that a key issue in relation to mortgage advice is affordability. Such information should be produced promptly upon our request.

## Disclosure of Information

Any failure to disclose material information may invalidate your claim and render your policy void.

ABC Ltd. is remunerated by commission and other payments from product producers or lenders on the completion of business. You may choose to pay in full for our services by means of a fee. Where we receive recurring commission, this forms part of the remuneration for initial advice provided. We reserve the right to charge additional fees if the number of hours relating to on-going advice/assistance exceeds X hrs.

In certain circumstances, it will be necessary to charge a fee for services provided. These are listed below for life, non-life business and Standard PRSAs. In other circumstances where fees are chargeable or where you choose to pay in full for our service by fee, we will notify you in writing in advance and agree the scale of fees to be charged if different from fees outlined below.

If we receive commission from a product provider, this will be offset against the fee which we will charge you. Where the commission is greater than the fee due, the commission will become the amount payable to the firm unless an arrangement to the contrary is made.

## Life Fees

You may elect to deal with us on a fee basis. *(It is common to distinguish on the basis of the seniority of the person and between advisers and support staff.)*

e.g.:

Principles / Directors	€X
Senior Advisers	€x
Associates	€x
Support staff	€x

*(\*Note: Each intermediary must calculate his/her own rate based on the firm's individual circumstances. As a guideline to help you calculate your hourly rate, target fee income to include overhead – divide by 44 weeks/divide by 20 hours (there would be a maximum of 15-20 billable hours in a week, the rest would be "time overhead" – general administration of your business, research/education, compliance and marketing – which cannot be billed to individual clients. It is usual to charge travel time at half normal rate. For support staff an estimate is 3 x hourly rate – annual salary/46 weeks/35 hours x3).*

Additional fees may be payable for complex cases or to reflect value, specialist skills or urgency.

### Personal Retirement Savings Accounts (PRSAs) – Fees

Where advice is requested for PRSAs, the following hourly fees will apply:

Advisor fees: €x – €x per hour.

Support staff: €x – €x per hour.

Additional fees may be payable for complex cases or to reflect value, specialist skills or urgency. We will give an estimate of this rate in advance of providing you with services. If we receive commission from a product provider, this will be offset against the fee which we will charge you. Where the commission is greater than the fee due, the commission will become the amount payable to the intermediary unless an arrangement to the contrary is made.

### Non-Life Remuneration

ABC Ltd. is remunerated by commission from insurers on completion of business. Details of this remuneration are available on request.

(**Note:** Brokerage fees are more common on the general side of the market and we recommend that you list these in your terms of business.)

Brokerage fee: €x – €x

Cancellation or Mid Term Alteration fee: x% of the premium, with a minimum of €x.

Claims handling: Depending on case.

Include others depending on your business.

### Mortgages

We may receive up to 1% (or whatever maximum is applicable) of the loan for arranging mortgage finance. This commission is paid by the mortgage lender.

*(Note: Also include fees if you charge fees, e.g. you should outline a fee of X is charged for arranging your finance/application/advice and the overall cost of paying the charge over the term of the loan)*

Please note that lenders may charge specific fees in certain circumstances and if this applies, these fees will be specified in your Loan Offer. You have the right to pay a fee separately and not include it in the loan. Typically, this situation arises in relation to specialist lending.

If we provide mortgage advice and obtain a Loan Offer for you and you subsequently do not proceed with your mortgage application through our firm, we will charge you an arrangement fee of €x for our services.



### **Regular Reviews**

It is in your best interests that you review, on a regular basis, the products which we have arranged for you. As your circumstances change, your needs will change. You must advise us of those changes and request a review of the relevant policy so that we can ensure that you are provided with up to date advice and products best suited to your needs. Failure to contact us in relation to changes in your circumstances or failure to request a review, may result in you having insufficient insurance cover and/or inappropriate investments.

### **Conflicts of interest**

It is the policy of our firm to avoid conflicts of interest in providing services to you. However, where an unavoidable conflict of interest arises we will advise you of this in writing before providing you with any service.

### **Default on payments by clients**

Our firm will exercise its legal rights to receive payments due to it from clients (fees and insurance premiums) for services provided. In particular, without limitation of the generality of the foregoing, the firm will seek reimbursement for all payments made to insurers on behalf of clients where the firm has acted in good faith in renewing a policy of insurance for the client.

Product producers may withdraw benefits or cover in the event of default on payments due under policies of insurance or other products arranged for you. We would refer you to policy documents or product terms for the details of such provisions.

Mortgage lenders may seek early repayment of a loan and interest if you default on your repayments. Your home is at risk if you do not maintain your agreed repayments.

### **Complaints**

We ask that you make any complaint against our firm, relating to services provided by us, in writing. We will acknowledge your complaint within 5 business days and we will fully investigate it. On completion of our investigation, we will provide you with a written report of the outcome. In the event that you are still dissatisfied with our handling of or response to your complaint, you are entitled to refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman. A full copy of our complaints procedure is available on request.

### **Data Protection**

ABC Ltd. complies with the requirements of the Data Protection Acts, 1988 and 2003.

The data which you provide to us will be held on a computer database and paper files for the purpose of arranging transactions on your behalf. The data will be processed only in ways compatible with the purposes for which it was given. We would also like to keep you informed of mortgage, insurance, investment and any other services provided by us or associated companies with which we have a formal business arrangement; which we think may be of interest to you. We would like to contact you by way of letter, email or



telephone call. If you do not wish to receive such marketing information please tick the box in the Terms of Business acknowledgement letter.

We may receive referrals from such firms and may advise them of any transactions arranged for you.

### Compensation Scheme

We are members of the Investor Compensation Scheme operated by the Investor Compensation Company Ltd. See below for details.

### Investor Compensation Scheme

The Investor Compensation Act, 1998 provides for the establishment of a compensation scheme and the payment, in certain circumstances, of compensation to certain clients (known as eligible investors) of authorised investment firms, as defined in that Act.

The Investor Compensation Company Ltd. (ICCL) was established under the 1998 Act to operate such a compensation scheme and our firm is a member of this scheme.

Compensation may be payable where money or investment instruments owed or belonging to clients and held, administered or managed by the firm cannot be returned to those clients for the time being and where there is no reasonably foreseeable opportunity of the firm being able to do so.

A right to compensation will arise only:

- If the client is an eligible investor as defined in the Act; and
- If it transpires that the firm is not in a position to return client money or investment instruments owned or belonging to the clients of the firm; and
- To the extent that the client's loss is recognised for the purposes of the Act.

Where an entitlement to compensation is established, the compensation payable will be the lesser of:

- 90% of the amount of the client's loss which is recognised for the purposes of the Investor Compensation Act, 1998; or
- Compensation of up to €20,000.

For further information, contact the Investor Compensation Company Ltd. at (01) 224 4955.



## Terms of Business Covering Letter

Client Name: \_\_\_\_\_

**ABC Ltd. t/a Alphabet Financial Services**

### Status

ABC Ltd **t/a Alphabet Financial Services** ('the Company') is regulated by the Central Bank of Ireland.

### Terms of Business

Attached are the Company's Terms of Business, which outline the basis on which we provide services to our clients. Please ensure that you read this document. These Terms of Business apply to all business transactions undertaken for you or services provided to you and will remain in force until further notice. Should we make any material changes to our Terms, we will advise you in advance of providing any further services to you.

### Data Protection

ABC Ltd. complies with the Data Protection Acts 1988 and 2003. The data which you provide to us will be held on a computer database and paper files for the purpose of arranging transactions on your behalf. We would also like to keep you informed of various mortgage, insurance, investment, and any other services provided by us or associated companies with which we have a formal business arrangement, and which we think may be of interest to you. We may receive referrals from associated companies and may advise them of any transactions arranged for you. If you do not wish to receive such marketing information please tick the box below.

Yours Sincerely,

Joe Bloggs,  
Managing Director.

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## Client acknowledgement

### Terms of Business

I acknowledge that I have been provided with a copy of the Terms of Business of ABC Ltd. and confirm that I have read and understand them.

### Direct Marketing

I confirm having read the paragraphs in relation to Data Protection in the Terms of Business and above, - and consent to ABC Finance - making contact with me by letter, phone, email, or SMS text in relation to the range of services provided by ABC Finance or its associated or partnership companies and to the sharing of relevant information as indicated.

If you do not wish to avail of these services, please tick here

Signed: \_\_\_\_\_ Date: / /

Signed: \_\_\_\_\_ Date: / /



## 6.2 Knowing the Consumer

### Full financial planning review template (factfind)

#### Services Requested

The purpose of this questionnaire is to clarify your financial needs and to assist us to advise you in relation to certain financial products; including life assurance, serious illness cover, savings, investments and pensions. However, if you wish to focus on certain financial products, please tick the relevant area:

- Life cover
- Serious illness / income insurance
- Savings and investments
- Pensions / retirement planning
- Mortgage protection only – you may wish to complete sections 1 and 10 only

#### 1. About you

##### Self

##### Partner

Name \_\_\_\_\_

Marital status \_\_\_\_\_

Address \_\_\_\_\_

Tel \_\_\_\_\_ (H) \_\_\_\_\_ (W) \_\_\_\_\_ (H) \_\_\_\_\_ (W)

Mobile/email \_\_\_\_\_

Date of birth \_\_\_\_\_

Smoker Y / N \_\_\_\_\_ Smoker Y / N \_\_\_\_\_

Health/family health \_\_\_\_\_

#### 2. Your family

Children's Names	Date of Birth	Education Details & Plans
_____	____/____/____	_____
_____	____/____/____	_____
_____	____/____/____	_____
_____	____/____/____	_____

Other Dependents \_\_\_\_\_

### 3. Your Job and Income/Expenditure

**Self**

**Partner**

Occupation \_\_\_\_\_

Manual work/  
driving/heights \_\_\_\_\_

Income p.a./tax rate \_\_\_\_\_

BIK \_\_\_\_\_

Pension scheme in work \_\_\_\_\_

Net income per wk/mth \_\_\_\_\_

Employment status

S/E, E/E, Owner-Director

S/E, E/E, Owner-Director

Other income (rent, etc.) \_\_\_\_\_

Total income (net) \_\_\_\_\_

Regular outgoings (est.) \_\_\_\_\_

Disposable income \_\_\_\_\_

### 4. Assets & Liabilities

**Self**

**Partner**

Home \_\_\_\_\_

Other property \_\_\_\_\_

Business assets \_\_\_\_\_

Deposits/bank balances \_\_\_\_\_

Other investments \_\_\_\_\_

Mortgage \_\_\_\_\_

Other loans \_\_\_\_\_

Net assets \_\_\_\_\_

## 5. Existing Financial Provision

### Life Assurance cover

Self

Partner

--	--

### Serious Illness/Income Insurance

Self

Partner

--	--

### Savings & Investments

Self

Partner

--	--

### Pensions Provisions

Self

Partner

--	--

### Mortgage & Loan Details

Self

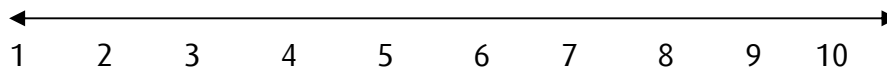
Partner

--	--

## 6. Investments

### Experience

Outline your experience of investment products on a scale of 1 to 10:



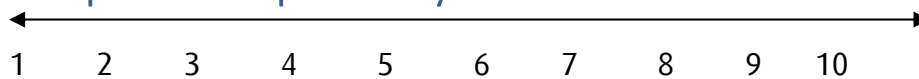
No experience

Moderate

Highly experienced

Give details \_\_\_\_\_  
 \_\_\_\_\_

### 7. Importance of capital security



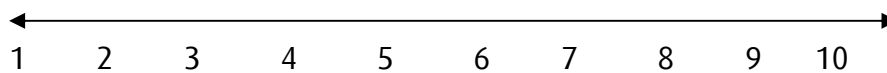
Low importance

Moderate

Highly important

### 8. Attitude to Risk

Outline your attitude to potential risk of loss of investment on a scale of 1 to 10:



Low risk

Medium

High risk

What length of time is the product required for? \_\_\_\_\_

Give details of your need for access to funds  
 \_\_\_\_\_

Have you emergency funds in place, please give details  
 \_\_\_\_\_

### Important Notes:

- **No Risk** indicates a guarantee of capital with the likelihood of a small gain.
- **Low Risk** indicates a guarantee of capital with potential for modest growth.
- **Medium Risk** indicates a possible loss of some capital in return for good potential growth in the medium term.

- **High Risk** indicates potential significant loss of capital in return for potential high growth.

### 9. Financial Needs & Objectives

	You have	You need	Short-fall	Priority
Mortgage & Loan protection				
Self	€	€	€	High/Medium/Low
Partner	€	€	€	High/Medium/Low
Life cover				
Self	€	€	€	High/Medium/Low
Partner	€	€	€	High/Medium/Low
Serious Illness Cover				
Self	€	€	€	High/Medium/Low
Partner	€	€	€	High/Medium/Low
Pension				
Self	€	€	€	High/Medium/Low
Partner	€	€	€	High/Medium/Low
Regular Savings				
Self	€	€	€	High/Medium/Low
Partner	€	€	€	High/Medium/Low
Investments				
Self	€			High/Medium/Low
Partner	€			High/Medium/Low

### 10. Agreed Financial Priorities for Immediate Action

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

### 11. Advice on Mortgage Protection only

Loan amount € \_\_\_\_\_ Term \_\_\_\_\_ Interest rate \_\_\_\_\_

Include SI € \_\_\_\_\_

### 12. Other areas (note if relevant)

Business protection insurance \_\_\_\_\_

Have wills been made? \_\_\_\_\_

Estate planning \_\_\_\_\_

### 13. Other Notes

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### 14. Next Review Date

It is recommended that an annual review take place to ensure that all of your needs are monitored for changing circumstances.

When would suit you for a future review?

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### 15. Completed by:

#### Clients' signatures

Self: \_\_\_\_\_ Date: \_\_\_\_\_

Partner \_\_\_\_\_ Date: \_\_\_\_\_

#### Advisors' signature

Advisor: \_\_\_\_\_ Date: \_\_\_\_\_



## Corporate pension's Factfind Template

# Corporate Pension Business

## Financial Planning Review

for

---

Completed by: \_\_\_\_\_ (Advisor)      Date: \_\_\_\_\_

## 1. Details of Firm

Firm Name	
Address	
Contact person & position	
Phone No.	
Fax	
Email	
How was contact made ?	

## 2. Profile

Type of Organisation (e.g. Large Irish firm, Small firm, Multinational)	
Legal status	<ul style="list-style-type: none"> <li>■ Limited Company</li> <li>■ Partnership</li> <li>■ Sole Trader</li> </ul>
Workforce numbers	<ul style="list-style-type: none"> <li>■ Executive:</li> <li>■ Managerial:</li> <li>■ Staff:</li> </ul>
Type of market in which firm operates, strategy, years in business, and future plans.	



### 3. Existing Benefits

#### 3.1 Executives

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs (Any facilities for AVCs)</b> <ul style="list-style-type: none"> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

### 3.2 Management

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs</b> Any facilities for AVCs <ul style="list-style-type: none"> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

### 3.3 Staff

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs</b> <ul style="list-style-type: none"> <li>■ Any facilities for AVCs</li> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

## 4. Firm's Current Financial Objectives

### 4.1 Executives

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs</b> <ul style="list-style-type: none"> <li>■ Any facilities for AVCs</li> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

## 4.2 Management

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs</b> <ul style="list-style-type: none"> <li>■ Any facilities for AVCs</li> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

### 4.3 Staff

<b>Company</b> <ul style="list-style-type: none"> <li>■ Part of Group of Companies?</li> <li>■ Consistent basis across group?</li> </ul>	
<b>Life Cover</b> <ul style="list-style-type: none"> <li>■ Keyman life cover in place</li> </ul>	
<b>Death in Service Benefits</b> <ul style="list-style-type: none"> <li>■ Lump sum death benefits</li> <li>■ Dependant's pension</li> <li>■ Escalation rates</li> </ul>	
<b>PHI</b> <ul style="list-style-type: none"> <li>■ Basis of calculation</li> <li>■ Deferred period</li> <li>■ Occupation class</li> </ul>	
<b>Funding Basis</b> (Defined Benefit or Contribution)	
<b>Pension Provision:</b> <ul style="list-style-type: none"> <li>■ Member's Pension</li> <li>■ Dependant's pension (DIR)</li> <li>■ Escalation rates</li> </ul>	
<b>Contribution rates:</b> <ul style="list-style-type: none"> <li>■ Employer</li> <li>■ Employee</li> </ul>	
<b>AVCs</b> <ul style="list-style-type: none"> <li>■ Any facilities for AVCs</li> <li>■ Main Scheme or Separate</li> <li>■ Contribution levels</li> </ul>	
<b>Salary Ranges</b>	

## 5. Investment Experience

<p><b>Key people</b> Level of investment experience of decision makers in firm.</p>	
<p><b>Strategy</b> How will investment strategy be decided and implemented ?</p>	

## 6. Investment Preferences

<p><b>Type of Fund</b></p>	<ul style="list-style-type: none"> <li>■ Self-Administered Fund</li> <li>■ Insured arrangement</li> </ul>
<p><b>Investment Strategy</b></p>	<ul style="list-style-type: none"> <li>■ Consensus</li> <li>■ Stabilised Profits</li> <li>■ Unit Linked Managed Fund</li> <li>■ Unitised With Profit</li> <li>■ With Profit</li> </ul>
<p><b>AVCs</b></p> <ul style="list-style-type: none"> <li>■ Group or Individual</li> <li>■ Will individuals elect fund strategy ?</li> </ul>	
<p><b>Any Preferred Insurer ?</b></p>	

## 7. Other Relevant Information

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## Generic Mortgage Application Form

# Application Form

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**DETAILS OF INTRODUCING INTERMEDIARY**

Brokerage Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_ Fax \_\_\_\_\_  
E-mail \_\_\_\_\_ Authorisation No. \_\_\_\_\_  
*Disclosure of intermediary Status (where applicable). (e.g. only acts on behalf of one lender or one insurance company)*

If this application has been introduced to you, by a third party (including an appointed introducer) please provide the introducers name and address.

**EXPLANATORY TEXT**

This application form is divided into two parts. The first part captures information about you, the applicant. The second part gives important information about mortgages offered by a given mortgage lender, including statutory warnings. In part two your signature is required in relation to your application for a mortgage loan and your consent is sought in relation to various matters.

*Please ensure that all applicants sign part one and two of the application.*

# PART ONE

**INFORMATION ABOUT APPLICANT**

Please indicate the reason for your application

First time buyer       Re-Mortgage       Purchase       Residential Investment Property   
Let to Buy       Top-up       Switcher       Other   
If 'Other' please specify \_\_\_\_\_  
\_\_\_\_\_

Failure to disclose the above information may result in the withdrawal of a lender appointment.  
Have you or any of your staff met the customer face-to-face? Yes  No



## Section A – Personal Details

### APPLICANT ONE

Forenames \_\_\_\_\_  
 Surname \_\_\_\_\_  
 Other/Previous Names \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date of Birth (dd/mm/yyyy) \_\_\_\_\_  
 Nationality \_\_\_\_\_  
 PPS Number \_\_\_\_\_  
 Marital Status  MARRIED  SINGLE  SEPARATED  DIVORCED  WIDOWED  CO-HABITANT  OTHER  
 No. of Children \_\_\_\_\_  
 Children's Ages \_\_\_\_\_

### APPLICANT TWO

Guarantor   
 Forenames \_\_\_\_\_  
 Surname \_\_\_\_\_  
 Other/Previous Names \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date of Birth (dd/mm/yyyy) \_\_\_\_\_  
 Nationality \_\_\_\_\_  
 PPS Number \_\_\_\_\_  
 Marital Status  MARRIED  SINGLE  SEPARATED  DIVORCED  WIDOWED  CO-HABITANT  OTHER  
 No. of Children \_\_\_\_\_  
 Children's Ages \_\_\_\_\_

#### CURRENT ADDRESS

Are you:  OWNER  TENANT  WITH SHARE/LEASE/CLERENDE Rent € \_\_\_\_\_ pm  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_  
 Time at address \_\_\_\_ years \_\_\_\_ months

#### CURRENT ADDRESS

Are You:  OWNER  TENANT  WITH SHARE/LEASE/CLERENDE Rent € \_\_\_\_\_ pm  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_  
 Time at address \_\_\_\_ years \_\_\_\_ months

#### CORRESPONDENCE ADDRESS

Same as above   
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_

#### CORRESPONDENCE ADDRESS

Same as above   
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_

#### PREVIOUS ADDRESS (if less than 3 years at existing address)

Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_  
 Time at address \_\_\_\_ years \_\_\_\_ months  
 Address description as per IIB HL form required for DCE House Price Survey

#### PREVIOUS ADDRESS (if less than 3 years at existing address)

Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_  
 Country \_\_\_\_\_  
 Time at address \_\_\_\_ years \_\_\_\_ months

#### CONTACT DETAILS

Home Telephone Number \_\_\_\_\_  
 Work Telephone Number \_\_\_\_\_  
 Mobile Telephone Number \_\_\_\_\_  
 Email \_\_\_\_\_

#### CONTACT DETAILS

Home Telephone Number \_\_\_\_\_  
 Work Telephone Number \_\_\_\_\_  
 Mobile Telephone Number \_\_\_\_\_  
 Email \_\_\_\_\_

## Section B – Income & Employment

### APPLICANT ONE

### APPLICANT TWO

#### SELF EMPLOYED DETAILS

Name of firm/company \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Nature of Business \_\_\_\_\_  
 How long has the business been established \_\_\_\_\_  
 Time Involved \_\_\_\_\_  
 Average profit over three years € \_\_\_\_\_  
 Percentage shareholding/partnership interest \_\_\_\_\_ %  
 Name of accountant \_\_\_\_\_  
 Name of accounting firm \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone number \_\_\_\_\_  
 Fax Number \_\_\_\_\_  
 3 years audited accounts available \_\_\_\_\_  
 Tax affairs up to date  |

#### SELF EMPLOYED DETAILS

Name of firm/company \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Nature of Business \_\_\_\_\_  
 How long has the business been established \_\_\_\_\_  
 Time Involved \_\_\_\_\_  
 Average profit over three years € \_\_\_\_\_  
 Percentage shareholding/partnership interest \_\_\_\_\_ %  
 Name of accountant \_\_\_\_\_  
 Name of accounting firm \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone number \_\_\_\_\_  
 Fax Number \_\_\_\_\_  
 3 years audited accounts available \_\_\_\_\_  
 Tax affairs up to date  |

## Section C – Financial & Credit History

Current Bank/Building Society \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Account Type \_\_\_\_\_  
 Account Number \_\_\_\_\_  
 Sort Code \_\_\_\_\_  
 I have held this account for \_\_\_\_\_ years \_\_\_\_\_ months

Current Bank/Building Society \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Account Type \_\_\_\_\_  
 Account Number \_\_\_\_\_  
 Sort Code \_\_\_\_\_  
 I have held this account for \_\_\_\_\_ years \_\_\_\_\_ months

#### SAVING ACCOUNT INFORMATION

Financial Institution	A/C Number	Monthly Savings	App1	App2	Balance
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____
_____	_____	€ _____	<input type="checkbox"/>	<input type="checkbox"/>	€ _____

## Section C – Financial & Credit History

### MORTGAGE 1

Inception Date \_\_\_\_\_  
 Mortgage Term \_\_\_\_\_  
 Est. Sale Price € \_\_\_\_\_  
 Are you selling this property  |   
 Name of Lender \_\_\_\_\_  
 Mortgage Acct. No. \_\_\_\_\_  
 Address of Lender \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Property Value € \_\_\_\_\_  
 Balance Due € \_\_\_\_\_  
 Year Purchased \_\_\_\_\_  
 If fixed, for how many years \_\_\_\_\_  
 Payments missed in last 6 months \_\_\_\_\_  
 Payments missed in last 12 months \_\_\_\_\_  
 Payments per month \_\_\_\_\_  
 Rental Income per month € \_\_\_\_\_  
 Address of Property \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of Mortgage  
       
 Type of Rate

Is property registered in any name other than that of the applicant

Details \_\_\_\_\_  
 \_\_\_\_\_

### MORTGAGE 2

Inception Date \_\_\_\_\_  
 Mortgage Term \_\_\_\_\_  
 Est. Sale Price € \_\_\_\_\_  
 Are you selling this property  |   
 Name of Lender \_\_\_\_\_  
 Mortgage Acct. No. \_\_\_\_\_  
 Address of Lender \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Property Value € \_\_\_\_\_  
 Balance Due € \_\_\_\_\_  
 Year Purchased \_\_\_\_\_  
 If fixed, for how many years \_\_\_\_\_  
 Payments missed in last 6 months \_\_\_\_\_  
 Payments missed in last 12 months \_\_\_\_\_  
 Payments per month \_\_\_\_\_  
 Rental Income per month € \_\_\_\_\_  
 Address of Property \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of Mortgage  
       
 Type of Rate

### MORTGAGE 3

Inception Date \_\_\_\_\_  
 Mortgage Term \_\_\_\_\_  
 Est. Sale Price € \_\_\_\_\_  
 Are you selling this property  |   
 Name of Lender \_\_\_\_\_  
 Mortgage Acct. No. \_\_\_\_\_  
 Address of Lender \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Property Value € \_\_\_\_\_  
 Balance Due € \_\_\_\_\_  
 Year Purchased \_\_\_\_\_  
 If fixed, for how many years \_\_\_\_\_  
 Payments missed in last 6 months \_\_\_\_\_  
 Payments missed in last 12 months \_\_\_\_\_  
 Payments per month \_\_\_\_\_  
 Rental Income per month € \_\_\_\_\_  
 Address of Property \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Type of Mortgage  
       
 Type of Rate

### FINANCIAL COMMITMENTS

How many existing loans do you have \_\_\_\_\_

Financial Institution	Account Number:	App1	App2	Amount Owning	Payment (Mly)	Purpose	Final Payment Date	Refinance?
_____	_____	<input type="radio"/>	<input type="radio"/>	€ _____	€ _____	_____	_____	<input type="radio"/>   <input type="radio"/>
_____	_____	<input type="radio"/>	<input type="radio"/>	€ _____	€ _____	_____	_____	<input type="radio"/>   <input type="radio"/>
_____	_____	<input type="radio"/>	<input type="radio"/>	€ _____	€ _____	_____	_____	<input type="radio"/>   <input type="radio"/>
_____	_____	<input type="radio"/>	<input type="radio"/>	€ _____	€ _____	_____	_____	<input type="radio"/>   <input type="radio"/>

Rent € \_\_\_\_\_ Maintenance Payments € \_\_\_\_\_ Total € \_\_\_\_\_

### CREDIT HISTORY

Have you ever:

Been refused a mortgage on this or any other property

App1 App2

Had a court order registered against you

Been insolvent, declared bankrupt or made any arrangements with creditors or any other action pending

Had arrears on your existing mortgage with the last 24 months

Details \_\_\_\_\_  
 \_\_\_\_\_

## PART TWO Section D – Mortgage Details

### CUSTOMER TYPE

First Time Buyer                       Max Approval Required                      Yes  No   
 Remortgage House                       First Applicant                      Yes  No   
 Second Property                       Second Applicant                      Yes  No   
 RP   
 If joint application, is title of property to be in joint names                      Yes  No

### SECTION ONE (PURCHASE ONLY)

Purchase price/cost of Building € \_\_\_\_\_ Savings\* € \_\_\_\_\_  
 Site Price (if applicable) € \_\_\_\_\_ Grant € \_\_\_\_\_  
 Legal & stamp duty (if applicable) € \_\_\_\_\_ Gifts € \_\_\_\_\_  
 Repairs/Renovations € \_\_\_\_\_ Other funds\* € \_\_\_\_\_  
 Other costs\* € \_\_\_\_\_  
 Total Expenditure € \_\_\_\_\_ Total Finance € \_\_\_\_\_  
 \*Please supply details of other cost and/or savings, or other funding sources \_\_\_\_\_  
 \_\_\_\_\_

Is purchase: Local Authority Housing Scheme  Affordable Housing  Shared Ownership  Affordable Housing  Local Authority Tenant Purchase

If affordable House, please provide: Purchase Price € \_\_\_\_\_ Market Value € \_\_\_\_\_

### SECTION TWO (RE-MORTGAGE ONLY)

Remortgage amount € \_\_\_\_\_  
 Property value € \_\_\_\_\_  
 Loan Value % \_\_\_\_\_  
 Year of original purchase \_\_\_\_\_  
 Current mortgage outstanding € \_\_\_\_\_  
 Age of property \_\_\_\_\_  
 New Mortgage required € \_\_\_\_\_  
 Purpose of additional borrowing \_\_\_\_\_

### MORTGAGE

What type of repayment method do you require \_\_\_\_\_ Other/Initial years \_\_\_\_\_  
 Mortgage term (Years) \_\_\_\_\_ ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT  
 Loan amount € \_\_\_\_\_ Commencement date \_\_\_\_\_  
 Type of rate required \_\_\_\_\_ Fixed for (years) \_\_\_\_\_  
ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT | ARMORMENT

### SOLICITOR

Solicitor Name \_\_\_\_\_  
 Address Line 1 \_\_\_\_\_  
 Address Line 2 \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Phone Number \_\_\_\_\_  
 Mobile Number \_\_\_\_\_  
 Fax Number \_\_\_\_\_  
 \_\_\_\_\_

## Section E – Property Details

### PROPERTY

Address Line 1 \_\_\_\_\_ Type of Property  NEW BUILD  ONE OF SEVERAL  LEASEHOLD  SECOND HAND PROPERTY  
 Address Line 2 \_\_\_\_\_ Estimated completion/closing date \_\_\_\_\_  
 Address Line 3 \_\_\_\_\_ New Property   
 County \_\_\_\_\_ Number of floors in block (if apartment) \_\_\_\_\_  
 Country \_\_\_\_\_ Estimated Value € \_\_\_\_\_  
 See page 2 for address requirements

### NUMBER OF ROOMS

Living rooms \_\_\_\_\_ Dining rooms \_\_\_\_\_  
 Bedrooms \_\_\_\_\_ Bathrooms \_\_\_\_\_  
 Kitchens \_\_\_\_\_ Utility rooms \_\_\_\_\_

### IF BUYING OR BUILDING A NEW PROPERTY

Homebuilders Bond  Direct labour construction  Employee Labour   
 Part of a development  Stage payment required   
 Premier Guarantee  Number of payments \_\_\_\_\_  
 Is fixed price contract in place  Architect's level of supervision   
 Tenure of property Freehold  Leasehold  Number of years remaining on lease \_\_\_\_\_  
 Vacant possession Yes  No  Age of property \_\_\_\_\_  
 HB47/architects certificate available   
 Type of construction \_\_\_\_\_  
 Private Owner Occupation Only Yes  No  Purpose \_\_\_\_\_

### PEOPLE OVER 18 LIVING AT THE ADDRESS

Full Name	Date of Birth	Relationship with applicant
_____	_____	_____
_____	_____	_____
_____	_____	_____

### SELLING AGENT DETAILS

First Name \_\_\_\_\_ Address Line 1 \_\_\_\_\_  
 Last Name \_\_\_\_\_ Address Line 2 \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_

### VALUER DETAILS

First Name \_\_\_\_\_ Address Line 1 \_\_\_\_\_  
 Last Name \_\_\_\_\_ Address Line 2 \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_  
 Company Name \_\_\_\_\_ PIBA To Pay

### CONTACT FOR ACCESS FOR VALUATION

First Name \_\_\_\_\_ Address Line 1 \_\_\_\_\_  
 Last Name \_\_\_\_\_ Address Line 2 \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ Address Line 3 \_\_\_\_\_  
 County \_\_\_\_\_ Country \_\_\_\_\_

## Section E – Property Details

### ARCHITECT DETAILS

Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

### BUILDER DETAILS

Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

## Section F – Alternative Lending

### PLEASE COMPLETE THIS SECTION IF ALTERNATIVE LENDING IS SOUGHT

Have you had a mortgage on any other property other than previously detailed? Yes  No

If yes, please give Details \_\_\_\_\_

\_\_\_\_\_

Have there ever been any missed Repayments or revoked Credit Cards or Judgements? Yes  No

If yes, please specify by completing the following:

1. Current Mortgage - Highest Number of Installment Arrears in last 12 months € \_\_\_\_\_

2. Current Mortgage - Highest Number of Installment Arrears in last 6 months € \_\_\_\_\_

3. Other Facilities - Highest Number of Other Arrears in last 12 months € \_\_\_\_\_

Have any judgement proceedings relating to debt ever been brought against you or any Judgments made against you?

Yes  No

If yes, please specify by completing the following:

1. Judgments - Total Value Judgments Outstanding in last 24 months € \_\_\_\_\_

Have you ever had a mortgage application declined on this or any other property? Yes  No

If yes, please give Details \_\_\_\_\_

\_\_\_\_\_

Are there any matters which should be brought to the Lenders Attention? Yes  No

If yes, please give Details \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Section G – Declarations

### COMMENTS & DECLARATIONS

Declarations have been signed Yes  No   
Customer has consented to Consumer Credit Act Yes  No   
Customer has consented to Data Protection Act Yes  No

### CONSENTS – (CONSENT(S) BY APPLICANTS TO BROKER

At Home   
At Work   
Leave message at home   
Contact employer   
Email   
SMS   
Consented to be contacted

## Section G – Declarations

### GUARANTOR DETAILS

Some mortgage lenders may request that another party guarantee the loan. If another individual is to guarantee the loan, please enter their details in this section.

First Name(s) \_\_\_\_\_ Surname \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Home Telephone \_\_\_\_\_  
 Address \_\_\_\_\_ Work Telephone \_\_\_\_\_  
 \_\_\_\_\_ Mobile Phone \_\_\_\_\_  
 \_\_\_\_\_ E-mail \_\_\_\_\_  
 Occupation \_\_\_\_\_ Basic Income € \_\_\_\_\_  
 Relationship to applicant(s) \_\_\_\_\_

### PART 1 DECLARATION

I/we hereby declare that I/we have read and understood this part of the mortgage application form and that the information I/we have tendered herein is correct.

Signed \_\_\_\_\_ Dated \_\_\_\_\_

(Applicant 2 if applicable)

Signed \_\_\_\_\_ Dated \_\_\_\_\_

### NOTES TO PART ONE OF THE APPLICATION FORM EMPLOYMENT SECTOR (NOTE 1)

Agriculture, Hunting, Forestry	A	Financial Intermediation	J
Fishing	B	Real Estate, Renting and Business Activities	K
Mining and Quarrying	C	Public Administration and Defence	L
Manufacturing	D	Education	M
Electricity, Gas and Water Supply	E	Health and Social Work	N
Construction	F	Other Services	O
Wholesale and Retail Trade	G	Private Household with Employed Persons	P
Hotel and Restaurant	H	Extra-territorial Organisations and Bodies	Q
Transport, Storage and Communications	I		

### NOTES TO PART ONE OF THE APPLICATION FORM OCCUPATION (NOTE 2)

Manager or Administrator	1	Craft and Related	5
Professional	2	Personal and Protective Services	6
Associate Professional and Technical	3	Sales	7
Clerical and Secretarial	4	Plant and Machine Operatives	8
		Other	9



## ***Section H – Notes & Messages***

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## Health Insurance Factfind

Name: \_\_\_\_\_

Address: \_\_\_\_\_

DOB \_\_\_\_\_ Gender (M/F) \_\_\_\_\_ Marital Status \_\_\_\_\_

Contact Details: Home \_\_\_\_\_ Mobile \_\_\_\_\_ Email \_\_\_\_\_

### Details of Spouse & Dependents (if family coverage is required)

Name	DOB	Male/Female	PPSN

### Existing Health Insurance Policies

Current Insurer		
Plan name / Cost		
	Number	Level
Number of additional adults		
Number of students (18-22)		
Number of children (under 18)		
Renewal Date		

### If you held no previous health insurance, please fill in the below

Are you aware of any pre existing medical conditions?	Yes	No
If 'Yes', what is/are these medical conditions?		
Are maternity benefits of interest to you?	Yes	No
Are you aware that there will be initial waiting periods?	Yes	No
<i>If answered No to the above question, please see below Waiting Periods:</i>		
<i>New Conditions 26 weeks /52 weeks/104 weeks,</i>		<i>Pre Existing 5/7/10 years,</i>
<i>Day to Day Benefits 1/2years</i>		<i>Maternity 52 weeks</i>

### Please detail if the following benefits are of importance to you:

Hospital cover, please tick the most relevant box?	Public	Private	High Tech
Stress and Psychiatric cover for you or your family?	Yes	No	
Cover for routine medical expenses(e.g. GP visit) for you or your family?	Yes	No	
Is there a particular benefit that you would like cover for?	Yes	No	
If so, please detail			

**Declaration; I /We are aware that this FactFind is only relevant to Health Insurance and have been informed of the waiting periods that may apply and confirm that the details given as noted above are correct**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## Motor Factfind

Name: \_\_\_\_\_

Address: \_\_\_\_\_

DOB \_\_\_\_\_ Gender(M/F) \_\_\_\_\_

Marital Status \_\_\_\_\_

Contact Details:  
Home \_\_\_\_\_ Mobile \_\_\_\_\_ Email \_\_\_\_\_

### Car Details

Car model	
Estimated car value	€
Engine size	
Registration Number	

How many years No Claims Discount do you have?  
In your own name \_\_\_\_\_ As a named driver \_\_\_\_\_

Which of the licences do you hold?

ROI (Full)  EU  UK  ROI(Provisional)  Other

How long have you held this license? \_\_\_\_\_

How many claims have you had in the last 5 years? \_\_\_\_\_

How many kilometres do you drive a year(approximately)? \_\_\_\_\_

Who is your current insurer? \_\_\_\_\_

Date cover required? \_\_\_\_/\_\_\_\_/\_\_\_\_

**Completed by:**

Client Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Advisor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Property Insurance Factfind

Name: \_\_\_\_\_

Address: \_\_\_\_\_

DOB \_\_\_\_\_ Gender(M/F) \_\_\_\_\_

Marital Status \_\_\_\_\_

Contact Details:

Home \_\_\_\_\_ Mobile \_\_\_\_\_ Email \_\_\_\_\_

### Existing Home Insurance

Current Insurer	_____
Renewal Date	_____

Is the property: Owner occupied \_\_\_\_\_ Holiday home \_\_\_\_\_ Let \_\_\_\_\_

Are smoke detectors fitted? \_\_\_\_\_

Is the property fitted with a working alarm? \_\_\_\_\_

Are mortice dead locks fitted? \_\_\_\_\_

### Current Cover Required

Sums Insured	Buildings	€
	Contents	€
	Accidental Damage Cover	Yes/No
	Unspecified All Risks	€
	Specified All risks(suitable for high value items)	€

Have you had any previous claims in the last 5 years?	Yes	No
If 'Yes', when and what were these claims for? _____		
_____		
_____		

Completed by:

Client Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Advisor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 6.3 Statement of Suitability

This document is intended only to provide some guidance as to the layout and some content of a statement of suitability letter. Each client's circumstances will be different so the recommendations should reflect these. The fundamental principle is to reflect back the client's objectives and match products to their needs. Clearly, if a complex product is being recommended, an appropriate level of detail must be included.

### Sample 'Statement of Suitability'

Mr Murphy,  
21 Compliance Avenue,  
Co. Dublin.

12 January 20\_\_

Dear xx,

#### **Important Notice – Statement of Suitability**

**This is an important document which sets out the reasons why the product(s) or service(s) offered or recommended is/are considered suitable, or the most suitable, for your particular needs, objectives and circumstances.**

Many thanks for taking the time to meet last week. I am now confirming the outcome of our discussions.

**Part 1** – Specifying unfulfilled financial need/objective(s) and generic product type to meet that need.

Following an analysis of your financial circumstances and based on the information you have provided, our understanding of your requirements are as follows:

#### **Examples**

- **Life** – you require a lump sum of €200,000 on death to replace income, we therefore recommend you effect a life assurance policy.
- **General** – we recommend that you effect home insurance as it is a requirement to cover a mortgage.
- **Mortgage** – you are a first time buyer and need to borrow €350,000 on a €400,000 apartment, you wish to limit exposure to increases in interest rates for 2 years.

**Optional – Where a client has asked to restrict advice to a particular area:**

You instructed me to specifically limit my advice to [INSERT AREAS] and I have acted accordingly. You should be aware that my recommendations may have differed if I had undertaken a full review of your financial circumstances.

**Part 2 – Recommendation of product type and how it meets the client’s needs.**

Having considered the options that meet your need/ objective(s), I am now going to outline below how the specific features of the product type are suitable to meet your needs.

**Examples**

- **Life** – the specific type of life assurance policy I would recommend is a 20-year convertible term assurance policy for a sum assured of €200,000. This will provide you with guaranteed cover at a guaranteed premium and there is an option to extend cover for a further period before the expiry of the policy without having to provide evidence of health etc.
- **General** - in relation to the recommended home insurance policy, the policy provides buildings cover of €200,000 and contents cover of €30,000. You should read the policy documents in detail to ensure that you fully understand the risks covered and any exclusion which may apply. You have chosen not to have Specified Risks cover included and so you may have a financial exposure in the event of loss or damage.
- **Mortgage** - we recommend that you take out a capital and interest mortgage for 30 years with a fixed rate for the first 2 years, reverting to a variable rate thereafter. The reasons for this are as follows: there will be no increases in repayments for the first 2 years. The loan will also be fully repaid at the end of the loan term provided all repayments are made when due.

**Part 3 - Recommendation of most suitable product from options available**

Having researched the 8 companies with which I hold agencies, I can confirm that 4 companies will provide you with the type of policy you require. We would recommend Company A as being the most suitable for the following reasons:

### Examples

- **Life** - they provide cover at the lowest premium and offer the highest rate of indexation cover if you decide to avail of this optional benefit,
- **General** - they provide cover at the lowest premium and the policy includes accidental damage and all risks cover,
- **Mortgages** - they offer the lowest 2 year fixed rate at 4.5% and a facility exists to increase your regular payments to pay off your mortgage sooner, once the fixed rate period has expired.

### Part 4 - Any risks associated with the policy.

We have previously discussed details of any risks associated with the recommended policy. You should be aware of the following risks attached to your policy:

### Examples

- **Life** - there is no value payable on this policy at any time.
- **General** - your cover is based on the estimates you have given as to the value of your home and its contents. If these estimates are under the actual values and a loss occurs, you may not receive the full value of your loss.
- **Mortgages** - you could lose your apartment if you do not keep up the repayments on this loan. You will be subject to a charge by the lender on early repayment within the 2-year fixed rate period.

### (Life only)

The enclosed key features document explains how the policy works in more detail. Please read it carefully so that you understand the benefits, restrictions and conditions that attach to such policies.

If you are happy to proceed with this policy, please sign and date below.

Should you require further information regarding the policy recommended please do not hesitate to contact me.

Yours Sincerely,  
\_\_\_\_\_ (Intermediary Signature)

Please proceed with this cover as recommended.

Michael Murphy (Client Signature) (Date)



## 6.4 Execution Only Waiver Declaration

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Dear Client,

Execution only Transaction

As requested I am arranging to place your 'product type' with your chosen provider.

This transaction has been executed upon your specific instructions and the firm does not have the information necessary to determine the suitability of the product for your needs.

The firm has not given any advice relating to the merits of the transaction.

Please sign the following section and return one copy of this document to me.

Yours sincerely,

Intermediary name

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Dear Intermediary,

I request you to place 'product type' with the chosen provider. I confirm that I have clearly specified the product and the product provider and that no advice has been given to me and that I wish to proceed with this transaction on an execution only basis.

Yours sincerely,

Client name \_\_\_\_\_

Date \_\_\_\_\_



## 6.5 Receipts

### Section 30 Receipt

This receipt is issued pursuant to Section 30 of the Investment Intermediaries Act, 1995 (as amended).

**Investment Intermediary's Name**  
(insert the name of your company)

**Investment Intermediary's Address**  
(insert the address of your company)

**Name and address of person making the payment:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Amount received: € \_\_\_\_\_

Date received: / /20

Amount (in words): \_\_\_\_\_

Type of payment: Personal Cheque  Bank Draft

Cash  Other \_\_\_\_\_

Payable to: \_\_\_\_\_

**Name of Product Producer in whose favour the payment is made, or to whom payment will be remitted:**

\_\_\_\_\_

Purpose of the payment: \_\_\_\_\_

Signed (intermediary): \_\_\_\_\_ Date / /20

**Note:** The acceptance of a completed insurance proposal by us does not in itself constitute the effecting of a policy of insurance.

(Note – insert your status disclosure statement.)

## Insurance Intermediary receipt template

### Intermediary Receipt

**Intermediary's Name**

(insert the name of your company)

**Intermediary's Address**

(insert the address of your company)

**Name and address of person making the payment:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Amount received: € \_\_\_\_\_

Date received: / /20

Amount (in words): \_\_\_\_\_

Type of payment: Personal Cheque  Bank Draft

Cash  Other \_\_\_\_\_

Payable to: \_\_\_\_\_

**Name of Product Producer in whose favour the payment is made, or to whom payment will be remitted:**

\_\_\_\_\_

Purpose of the payment: \_\_\_\_\_

Signed (intermediary): \_\_\_\_\_ Date / /20

**Note:** The acceptance of a completed insurance proposal by us does not in itself constitute the effecting of a policy of insurance.

(**Note** – insert your status disclosure statement.)

## 6.6 Research Guidelines

# PIBA Research Guidelines

## Protection- Life Assurance



	YES	NO	Reasons, if not
Have you considered price?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you addressed underwriting issues such as, non-medical limits, medical conditions, smoker rates?	<input type="checkbox"/>	<input type="checkbox"/>	
Have policy conditions been advised?	<input type="checkbox"/>	<input type="checkbox"/>	
Where the product has indexed cover and indexed premiums, have you considered long term costs?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Protection- Serious Illness



	YES	NO	Reasons, if not
Have you considered price?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you addressed underwriting issues such as, non-medical limits, medical conditions, smoker rates?	<input type="checkbox"/>	<input type="checkbox"/>	
Where the product has indexed cover and indexed premiums, have you considered long term costs?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you referred the client to the restrictions, conditions and exclusions attached to the policy?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you referred the client to the definitions of illness?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Protection- Permanent Health Insurance



	YES	NO	Reasons, if not
Do you understand the consumer's occupation- Is it classified correctly?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you researched what deferred periods are available from different insurers?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you explained the definitions of disability with reference to own/any occupation and partial disability?	<input type="checkbox"/>	<input type="checkbox"/>	
Guaranteed versus reviewable premiums- Have you explained the cost difference to the client?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have policy restrictions been brought to the consumer's attention?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Pensions



	YES	NO	Reasons, if not
Have you considered the allocation rates?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered management charges?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered historical fund performance?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered estimated values?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered bonuses-maturity, loyalty?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered early encashment or transfer value penalties?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered fund choices available and asset class mixes?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
Was risk profiling undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered the age of the client?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Investments



	YES	NO	Reasons, if not
Have you matched fund selection to the client's risk profile?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the client access to cash funds at short notice?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered price, e.g. allocation rates and charges?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered what term of investment the client is looking for?	<input type="checkbox"/>	<input type="checkbox"/>	
Guarantees -Are you aware of how much the investor is prepared to lose?	<input type="checkbox"/>	<input type="checkbox"/>	
Guarantees- Who actually is providing the guarantee for the product?	<input type="checkbox"/>	<input type="checkbox"/>	
Single/multiple products- Have you considered whether investments should be spread?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered early encashment penalties?	<input type="checkbox"/>	<input type="checkbox"/>	
Insurer/product provider information- Have you outlined the negatives as well as positives?	<input type="checkbox"/>	<input type="checkbox"/>	
If complex products are being considered, do you understand the complexities?	<input type="checkbox"/>	<input type="checkbox"/>	
Has greater care being taken when dealing with older/vulnerable consumers? <i>Refer to PIBA Sales to vulnerable guidelines</i>	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Deposits



	YES	NO	Reasons, if not
Have you considered rates?	<input type="checkbox"/>	<input type="checkbox"/>	
Guarantees - have you considered which regulatory regime the provider is covered under? What are the levels/terms of the guarantees?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered the term required?	<input type="checkbox"/>	<input type="checkbox"/>	
Will the period of investment run beyond the expiry date of any guarantee?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered Internet providers- Is the client computer literate?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			



# PIBA Research Guidelines

## Mortgages



	YES	NO	Reasons, if not
Have you considered client needs i.e. first time buyer, switcher, trading up, re-mortgage?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered loan-to-value ratio?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered affordability?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered the term of the loan given the age profile of the client?	<input type="checkbox"/>	<input type="checkbox"/>	
Has ability to make repayments after retirement been taken into account?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you reviewed product type i.e. fixed, variable, interest only?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered interest rates for different products?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered lender criteria and availability?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>NOTES / COMMENTS</b>			

# PIBA Research Guidelines

## Personal Lines- Motor/Household



	YES	NO	Reasons, if not
Have you used quotation engines?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you retained a copy of quotation in hard copy or stored it electronically?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered price?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered policy conditions?	<input type="checkbox"/>	<input type="checkbox"/>	
If optional extras are being provided, is there evidence that the product offered has been treated as a separate product?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Note: Rationale for a preferred provider of cover must be retained on file</i>	<input type="checkbox"/>	<input type="checkbox"/>	

### NOTES / COMMENTS

# PIBA Research Guidelines

## Commercial



	YES	NO	Reasons, if not
Have you considered price?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you issued submissions to a selected group of underwriters who have indicated an interest in the specific market?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you recorded submissions made and the outcome of research?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered the security of the insurer?	<input type="checkbox"/>	<input type="checkbox"/>	
If using a Statement of Fact, does client understand fully the implications of not having to sign a proposal form?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the rationale for product recommendation clearly recorded on file?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered broker and customer service?	<input type="checkbox"/>	<input type="checkbox"/>	

### NOTES / COMMENTS

## 6.7 Client File Checklist



### Checklist for Client File

Name of Client: .....	Date of Birth: .....
NS/S Spouse: .....	Date of Birth: .....
NS/S Address: .....	Phone No: .....
.....	Fax No: .....
Occupation: .....	Email: .....
Spouse's Occupation: .....	Phone No: .....
Family: .....	.....
.....	.....

#### How contact was made?

Is the client a new or existing client? New  Existing

If new - Is there a record on file of how contact was made? .....

If personal contact was made with the client, was informed consent received from the client?  
Give details .....

.....

#### Client information

Are there copies of all correspondence with the client & details of any other information provided in relation to the product/service & copies of all original documents submitted in support of the application? Yes  No

#### Terms of Business

Is there proof on file that the client has received a copy of the Terms of Business with the date of issue recorded? Yes  No

#### Factfind

N/A for Execution Only business

Is there a signed copy of the Factfind on file? Yes  No

Has the Factfind been completed in full and signed by both the advisor and the client? Yes  No

Where sections of the Factfind have not been completed is there a note on file explaining why and has the client initialled the relevant sections?

When there is a time lag between completion of a Factfind and arranging a transaction, has the Factfind been up-dated? Yes  No

<b>Statement of Suitability</b>	N/A for Execution Only business
Is there a completed Statement of Suitability (which includes the required warning statement) on file?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the Statement of Suitability cover the following points	
a) the reasons why a product or service offered to a consumer is considered to be suitable to that consumer;	
b) the reasons why each of a selection of product options offered to a consumer are considered to be suitable to that consumer; or	
c) the reasons why a recommended product is considered to be the most suitable product for that consumer.	
d) if an investment or pension product, has the client's risk profile and matching product been clearly recorded.	
e) if applicable, how the nature extent & limitations of any guarantee attached to the product is aligned with the consumer's attitude to risk	
Also, if an existing policy is being replaced is the reason why it is been replaced included in the Statement of Suitability?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Research</b>	N/A for Execution Only business
Is there evidence on file of research carried out on products?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Execution only</b> (where the consumer has specified both the product and the provider and has not received any advice)	
Is there an Execution Only waiver declaration on file signed by both the client and the advisor?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Proposal Form</b>	
Is there a copy of the completed proposal form signed by both the client & advisor?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If the policy is a non-standard PRSA is there a copy of the Non-standard PRSA declaration on file?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Customer Information Notice (Disclosure Notice)</b>	
Where required, is it evident on file where/when the Consumer Information Notice was provided to the client?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Receipt</b>	
Is there a copy of a completed Section 30 receipt on file?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Anti-Money Laundering Procedures</b>	N/A
Has the client been identified in accordance with money laundering procedures?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, is there a copy of proof of identification & proof of residency on file?	Yes <input type="checkbox"/> No <input type="checkbox"/>
(If no, give details) .....	
<b>Outstanding Items</b>	
.....	

## 6.8 Vulnerable Client Checklist

### Vulnerable Consumer CHECKLIST



PLEASE  
TICK

- Was additional assistance/arrangements offered
- Third party, family member, or advisor present
- Product Booklet and Customer Information Notice explained
- Current and potential income requirement
- Evaluation of other assets to ensure investment is appropriate
- Explanation of the long-term nature of investment policies (min 3-5 years)
- Nature and limitations of any guarantees that are included in the product
- Assessment of attitude to risk
- Risks attached to investment
- Restrictions on encashment
- Explanation of encashment penalties applying, if appropriate
- Explanation of impact of gearing, if appropriate
- Explanation of market value adjustments, if appropriate
- Explanation of stock market volatility
- Explanation of 'worst case' scenario if investment doesn't perform
- Explanation of what happens on death — warning on fund value, and when investment can be encashed
- Explanation of 'wrapped' product, if appropriate
- Capital required for short term needs and emergencies (covering the full period of investment)

Additional Notes (e.g. any specific questions raised by client)

#### CLIENT DECLARATION

I am satisfied that the above items have been addressed by my Advisor

Client \_\_\_\_\_

Third Party \_\_\_\_\_

Advisor/Senior Advisor \_\_\_\_\_



## 6.10 Client Premium Account Reconciliation

---

Bank Statement Dated \_\_\_\_\_

Closing Balance on Statement € \_\_\_\_\_

**Less:** Cheques issued not yet cashed

Date issued	Cheque no.	Comment	Amount

**Add:** Cheques drawn for which no lodgement shown (not usual type transaction)

Date issued	Cheque no.	Comment	Amount

Miscellaneous Transactions

Date issued	Ref.	Comment	Amount
		Bank charges debited	
		Bank charges credited	
		Interest debited	
		Interest credited	
		Transaction to clear miscellaneous transactions	

### Reconciled Balance

Balance following reconciliation of outstanding transactions €

### Actions required

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_



## 6.11 Complaints Procedure operated by XXX

---

### Scope

This procedure is operated by the firm in relation to its insurance and investment business services provided under the Consumer Protection Code.

### Our objectives:

- To respond to complaints in a courteous, timely and fair manner.
- To endeavour to address the specific issues raised by our customers and, where appropriate, update our procedures to avoid re-occurrence of problems.
- To endeavour to achieve a situation where our customer feels we have addressed the complaint, but if he/she remains dissatisfied with the outcome of our efforts, to ensure that he/she is notified of the right to refer the matter to the Financial Services Ombudsman or Pensions Ombudsman.

### Procedure

1. The firm will establish and maintain a complaints file and all complaint records will be kept for six years.
2. Where the firm receives an oral complaint, we will offer the consumer the opportunity to have the complaint treated as a written complaint. The firm will investigate the complaint on the basis of our understanding of the issue.
3. The firm will acknowledge in writing each complaint within 5 business days of receipt. This acknowledgement will contain a copy of these procedures and notification that the complainant can refer the matter to the Financial Services Ombudsman or the Pensions Ombudsman if he/she is not happy with the outcome of our investigation, or if the matter has not been resolved within 40 business days.
4. We shall endeavour to investigate the complaint as swiftly as possible, and, where applicable, the complainant shall receive a written report on the progress of the investigation every 20 business days.
5. Within 5 business days of the conclusion of our investigation of the complaint, the firm shall send a written report of the outcome of this investigation. This report shall include, if applicable, an explanation of the terms of any offer that the firm is prepared to make in settlement of the complaint. We will also inform the complainant of the right to refer the complaint to the Financial Services Ombudsman or Pensions Ombudsman and will provide the consumer with the contact details of such Ombudsman.
6. Where it appears to the firm that the complainant is not satisfied with the outcome of our investigation, and where we feel that we cannot progress the issue further, we will immediately write to the complainant advising them of their right to refer the dispute to the Financial Services Ombudsman or Pensions Ombudsman.
7. A senior manager will review the file before its conclusion, and attempt to identify any procedures that can be implemented by our firm to avoid a repeat of the type of complaint received. Any new procedures will be immediately communicated to all staff and placed in the Written Procedures file.
8. The person responsible for complaints in this firm is: \_\_\_\_\_

# Complaints Register

## ABC Mortgage & Financial Advisers - Complaints Log

Date of Receipt	Complainant (File Ref No.)	Details of complaint	Date Acknowledged	Summary of responses given & dates updates were issued	Action taken to resolve complaint	Date complaint was resolved	Status of Complaint

## 6.12 Errors Handling procedure operated by XX

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### Scope

This procedure is operated by the firm in relation to services provided under the Consumer Protection Code.

### Our objectives:

- To correct errors speedily, efficiently and fairly.
- To resolve all errors no later than 6 months after the date the error was first discovered.
- Where an error which affects consumers has not been fully resolved within 40 business days of the date the error was discovered, the firm will inform the Central Bank within 5 business days of that deadline.

### Procedure

- Where an error was been discovered, the firm must:
  - Identify the cause of the error;
  - Identify all affected consumers;
  - Conduct appropriate analysis of the patterns of the errors, including investigation as to whether or not it was an isolated error;
  - Ensure that there is proper control of the correction process; and
  - Ensure that the errors are escalated to the person responsible for compliance and senior management.
- The firm must resolve all errors speedily and no later than six months after the date the error was first discovered by:
  - correcting any systems failures;
  - ensuring effective controls are implemented to prevent any recurrence of the identified error;
  - effecting a refund (with appropriate interest) to all consumers who have been affected by the error, where possible; and
  - notifying all affected consumers, both current and former, in a timely manner, of any error that has impacted or may impact negatively on the cost of the service, or the value of the product provided, where possible.
- The firm must maintain a record of all steps taken to resolve an error which affects consumers, including details of the steps taken where:
  - any affected consumers were dissatisfied with the outcome;
  - there were difficulties contacting affected consumers; and
  - a refund could not be repaid.

- The firm must not benefit from any balance arising out of a refund, which cannot be repaid, in respect of an error.
- The firm must maintain a log of all errors which affect consumers (template outlined below)

### ABC Mortgage & Financial Advisers - Errors Log

Date error Discovered	How error was discovered	Details of error	Period of time error occurred	No. of consumers affected	Monetary amounts involved	Status of error	Date error was resolved	No. of consumer refunded	Total amount refunded



## 6.13 Conflicts of Interest

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*Note: It is up to each member to implement a conflicts of interest policy appropriate to their individual firm.*

It is the policy of our firm to avoid conflicts of interest in providing services to you. Such conflicts might arise, for example, from existing or new commercial relationships and ties between our firm and other service providers or from personal relationships between members of our firm and members of other providers. The concern would be that such relationships would allow a reasonable person to question whether the parties can act at all times at arms length with each other and whether their commercial or personal interests could be conflicted.

To monitor potential conflicts, we review all instructions to our firm on a regular basis to assess and seek to identify circumstances which may give rise to a potential conflict of interest, entailing a risk of damage to your interests or the interests of any of our clients.

However, where an unavoidable conflict of interest arises, we will disclose the general nature and/or source of the conflicts of interest to you and advise you of the procedures to be followed in order to manage any such conflict before providing you with any service.

In such cases, the consumer must acknowledge, on paper or on another durable medium, that he or she is aware of the conflict of interest and still wants to proceed.

It is our policy that none of our officers or employees offer, give, solicit or accept gifts or rewards (monetary or otherwise) which are likely to conflict with any of their duties or activities.

We shall at all times ensure that our duty to act in your best interests is not impaired.

## Section 7 - Inspections

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### 7.1 Site Inspections - Key Pointers

### 7.2 Inspection Protocol

- Reasons for Inspection
- Pre-Inspection
- The Inspection
- Post-Inspection

### 7.3 Documentation Preparation

## Section 7- Inspections

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On average the Central Bank of Ireland conducts approximately 50 onsite inspections on intermediaries annually, which are mainly part of their thematic inspections.

The key to having a successful inspection is having well-defined procedures and up-to-date records to demonstrate that these procedures are being implemented in your firm effectively. It is also recommended that you engage in a meaningful way with the Central Bank officials throughout the inspection in order to address any concerns they may have.

### 7.1 Site Inspections – Key Pointers

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1. Ensure employees understand fully the requirements of the Consumer Protection Code, the Minimum Competency Code, the Fitness & Probity regime and other related issues.
2. Do not go looking for trouble – pay levies when they are due, complete online accounts within specified timeframes, respond to queries raised by the Central Bank of Ireland, know when to contact the Central Bank of Ireland, for example, when you receive a new mortgage letter of appointment.
3. Know how to keep your files in order and remain compliant. This ensures that you are prepared – do not wait to get the call to do this.
4. Make sure your accounts are up to date.
5. Reconcile your accounts on a monthly basis.
6. Have appropriate back-up systems in place.
7. Do not create situations that do not exist e.g. if you find a file which did not have a Statement of Suitability issued, send out an immediate explanation to the client and do not backdate the letter. Do not falsify records.
8. If a file does not have an appropriate client signature do not under any circumstances falsify a signature.
9. Check your file to make sure there are no original policy documents on file. You are not permitted to retain legal ownership of documents.
10. Life Intermediaries acting as MAIs and AAs are not allowed to act as Trustees on life policies. If you have acted as a Trustee in the past make sure you ask the client to remove you as a Trustee.
11. Mortgage intermediaries need to be particularly careful when receiving supporting documentation from clients or introducers. Review all documents to see if they appear to be reasonable and authentic.

## 7.2 Inspection Protocol

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A protocol governing the conduct of consumer focused on-site inspections was published in November 2006.

- The protocol seeks to provide guidance to investment business firms (including AAs and MAIs), registered insurance intermediaries (within the meaning of the IMD) and holders of mortgage intermediary authorisation within the meaning of the Consumer Credit Act; as to how the Central Bank of Ireland expects to conduct inspections.
- It aims to promote confidence amongst firms and encourage dialogue with the Central Bank of Ireland with regards to compliance issues relevant to the firm.

### Reasons for Inspections

Inspections will generally be initiated because of:

- consumer queries and complaints;
- communications with other regulatory bodies;
- market intelligence;
- clear breaches of regulatory requirements, for e.g., accounts submitted late;
- the nature and size of the business;
- monitoring the advertising of financial services;
- newspaper articles;
- themed inspections; or
- random selection.

As a consequence, the possible variation in the type of inspection carried out will require the application of a degree of flexibility in the operation of this protocol.

### Pre-Inspection

#### Notification

- An authorised officer who will participate in the inspection will contact the director/principal/partner of the firm by telephone.
- The firm will be advised that it has been selected for inspection and advised of the scope of the inspection.
- The firm will be informed of the proposed date(s) of the inspection and the names of the authorised officers.
- For routine inspections a minimum of **15 working days** notice of the proposed visit will be given (If the date does not suit for personal reasons, the Central Bank of Ireland will seek to accommodate such a request.). However, the Central Bank of Ireland reserves the right to visit at shorter notice if issues of serious concern arise.
- Confirmation will be sent to a firm by e-mail, fax or letter.
- A '**Form A**' questionnaire will be included with this confirmation. Form A should be returned at least **5 days** before the commencement of the inspection. This must be





completed prior to the inspection. A specified list of documentation must also be made available at the start of the inspection.

You should review these forms and lists of documents and know exactly where the information is located. *A copy of Form A which the Central Bank issues in advance of an inspection to investment and mortgage intermediaries can be found retrospectively in Appendix 14i and Appendix 14j.*

## The Inspection

### On-Site Visit

- Generally commences between 9am and 10am.
- Authorised officers are required to produce their original certificates of authority and some form of personal identification. The firm is permitted to take a copy of these documents.
- An inspection will typically last up to 3 days; however, this may vary according to a number of factors including the size of the firm and the focus of the visit.

### Initial Meeting

- The director/partner/principal of the firm must be available to attend the initial meeting.
- The purpose of this meeting is to help the authorised officers to gain a better understanding of the firm and its operations including its business and sales processes.
- It is at this point that the firm should raise any compliance issues that they feel currently exist within their firm.
- Following this meeting if the principal is unavailable to continue to participate in the inspection, a member of staff should be nominated to liaise with authorised officers during the inspection and deal with issues that arise.

### Examination of documentation

- The documentation requested prior to inspection will be examined.
- A sample of the client files will be reviewed. It is important to have evidence supporting the basis of your advice. Ensure files are clearly explicable e.g. handwritten notes and abbreviations are legible and understandable.
- Additional information must be made available on request.
- Copies of documentation can be taken by authorised officers.
- Meeting(s) may be requested with the compliance officer and other staff members, as appropriate.
- You should ensure that you record what documents are being taken off site for your own records.

### Wrap up meeting

- The director/partner/principal of the firm will be asked to attend a wrap-up meeting.
- Authorised officer will present their findings.
- The firm will be offered the opportunity to respond to and address all issues verbally, in the first instance.
- Notes may be taken by both parties at the initial and wrap-up meetings.
- Be sure to take notes for your own records.
- At this point, firms should seek clarification on any issues that are unclear on.
- Firm will be encouraged to take immediate action to address minor issues, for e.g. typographical errors in the firm's status disclosure. This is to prevent these issues from being included in the post-inspection letter.

## Post – Inspection

### Communication

- The authorised officers remain available to discuss all issues arising from the inspection with the firm.
- On occasion the Central Bank of Ireland may require further meetings or a return visit.

### Post-inspection letter

- Following the completion of an inspection, the Central Bank of Ireland will issue a letter to the regulated entity.
- The letter will acknowledge the visit and will also give a date as to when to expect the post-inspection letter.
- If issues arise from the inspection, which require more immediate action, the Central Bank of Ireland will communicate before the post-inspection letter is issued.
- The post-inspection letter usually follows within **30 days** of the wrap-up meeting. If the Central Bank is not in a position to issue this letter, within the above timeframe, this should be communicated to the firm by letter and telephone indicating when they expect to do so.
- A formal response from the letter is required within **30 working days** of the date of the letter.
- The authorised officers remain available to discuss any issues or provide clarification.

### Final/Close off letter

- A letter is issued when all issues arising have been dealt with satisfactorily.

### 7.3 Document Preparation

The following documents need to be made available to the authorised officer on arrival:

<b>Investment/ Insurance Intermediary</b>	<b>Mortgage Intermediary</b>
FORM A original	FORM A original
Current list of customers	Current list of customers
Statements, lodgement books, inwards remittance books and cheque books for last 12 months on all bank accounts. Central Bank of Ireland/Central Bank correspondence file.	Office of the Director of Consumer Affairs/ Central Bank of Ireland correspondence file, if any.
Product Producer correspondence files including letters of appointments for the past 6 years (as applicable).	Mortgage Lender/other Intermediary correspondence files including letters of appointment and agency agreements).
Commission income statements	Commission income statements
Complaints file	Complaints file
Firm's Professional Indemnity insurance Policy	Firm's Professional Indemnity insurance Policy, if applicable.

PIBA would recommend that you also present the authorised officer with the following:

- Procedure manuals relating to all aspects of business,
- Receipt books,
- Organisation chart (not applicable to a sole trader with no more than two staff),
- Details of market research methods and tools used by the firm,
- Firm's recent advertisement(s), if any,
- Copy of the firm's stationery,
- Current Terms of Business document.

## Section 8 - Mortgages

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### 8.1 Regulation

- Introducing Mortgage Business
- Changes to a firm's authorisation

### 8.2 Conduct of Business Rules

- Consumer Protection Code
- Loan Consolidation

### 8.3 Documentation required to process a mortgage application

### 8.4 Certification of Documentation

### 8.5 The Mortgage Process

## Section 8 - Mortgages

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### 8.1 Regulation

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Mortgage Intermediaries are regulated by the Central Bank of Ireland under the Consumer Credit Act, 1995.

#### Definition of a Mortgage Intermediary (Consumer Credit Act, 1995)

*"any person, other than a mortgage lender or credit institution, who in return for a commission, payment or consideration of any kind in relation to the credit transaction arranges or offers to arrange the provision of a housing loan by a mortgage lender."*

#### Expansion of definition to include introducers –January 1<sup>st</sup> 2005

*"a person other than a mortgage lender or credit institution who in return for commission or some other form of consideration – introduces a consumer to an intermediary who arranges, or offers to arrange, for a mortgage lender to provide the consumer with such a loan."*

#### Introducing Mortgage Business

The expansion of the definition of mortgage intermediary in January 2005 means that where mortgage referrals are made to another intermediary in return for remuneration this is considered to be an activity of a mortgage intermediary.

*Please note: Applies to insurance intermediaries, auctioneers, solicitors etc.*

#### Options that you can take if you conduct mortgage referrals.

1. Get authorised as a Mortgage Intermediary, or
2. Stop introducing, or
3. Continue introducing **but** stop taking payment or benefit.

## Changes to a firm's authorisation

### New Appointments Received

- Write to the Central Bank of Ireland to inform them of any new appointments.
- Enclose a copy of the appointment letter.
- Enclose a copy of your original certificate of authorisation to be amended.
- Take a copy of the authorisation, to be placed on your wall, while the original is being amended.

### Cancelled Appointments

- Advise the Central Bank of Ireland of any agencies cancelled or not renewed.
- Enclose a copy of your original certificate of authorisation to be amended.
- Take a copy of the authorisation, to be placed on your wall, while the original is being amended.

### Agencies appointments issued

If you as a Mortgage Intermediary issue letters of appointment to other intermediaries/introducers you must:

- Hold a register of all appointments issued.
- Notify the Central Bank of Ireland of any agency cancellations and the reasons for such cancellations.
- Notify the Central Bank of Ireland of any new appointments issued.

## 8.2 Conduct of Business Rules

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### Consumer Protection Code

- Chapter 2 & 3 - imposes certain requirements on your dealings with clients.
- Chapter 4 & 5 - has a number of specific provisions in relation to mortgages.
- Chapter 9 - covers advertising obligations.
- An in-depth knowledge and understanding of products available on the market specifically in relation to the products on which you can advise is crucial.
- You need to carry out an affordability assessment and document this on file.
  - When offering or recommending a variable interest rate mortgage, a regulated entity must provide a personal consumer, on paper or on another durable medium, with figures reflecting the revised instalment amount following a 2% interest rate increase above the variable interest rate offered.
  - Where the lender is offering an introductory interest rate, the revised instalment amounts must reflect an increase of 2% on the variable interest rate to be applied

after the introductory period has ended if known at the time of the offer of the introductory interest rate or the current variable interest rate, if the variable interest rate to be applied after the introductory period has ended is not yet known.

- You need to understand the lending criteria of all the lenders you deal with and should be fully up-to-date on all changes in relation to new products and rates, keeping abreast of current developments.
- Typically, mortgage intermediaries have expertise in knowing where to place mortgage business. The core issue is that evidence of your research and reasons for lender/product selection must be on the client's file. Otherwise you cannot show how you are acting in the client's best interests.

#### Note: Loan Consolidation

Ch 4 (27) of the Consumer Protection Code requires that, where a mortgage is offered to a consumer, for the purpose of consolidating other loans or credit facilities the regulated entity must provide the consumer with a written indicative comparison of the total interest they will pay if they continue with the existing facilities and the total interest payable over the term of the consolidated facility on offer. Any assumptions used must be reasonable and justifiable and must be clearly stated.

**Note:** Direction under Section 135(1) (i) (d) of the Consumer Credit Act 1995 requires that, for advertisements or information documents promoting debt consolidation, the repayment term can be no longer than 20 years where sample repayments of the proposed housing loan are displayed. This requirement is specific to advertisements and information documents.

Any firm which engages in advertising must be aware of all the various advertising requirements for the particular product type being promoted.

Please see below for a sample Loan Consolidation Chart.

#### Original mortgage and personal loan plan

Loan Details	Amount owing	Remaining Term	Typical APR	Monthly Payments	Cost of Credit
Existing mortgage	€100,000	20 years	3.6	€582	€39,680
Home improvement loan	€30,000	7 years	4.10	€410	€4,440
Car loan	€18,000	5 years	8.45	€366	€3,960
Personal loan	€10,000	5 years	10.75	€214	€2,840
<b>Total</b>	<b>€158,000</b>			<b>€1,572</b>	<b>€50,920</b>

### New consolidated loan plan

Loan Details	Amount owing	Remaining Term	Typical APR	Monthly Payments	Cost of Credit
New mortgage	€158,000	20 years	3.60	€920	€62,800

### Extra cost of consolidated loan

<b>Total (€62,800 less €50,920) €11,880</b>	<b>€11,880</b>
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Please note monthly repayment figures rounded to the nearest euro.

## 8.3 Documentation required to process a mortgage application

Although not an exhaustive list, the key documentation required for mortgage applications is as follows:

- Signed mortgage application;
- Original P60(s);
- Original salary certificates signed by employer;
- Original pay slips x 6;
- Statement of accounts if self employed (3 years), 3 years certified accounts + Notice of assessment;
- Original bank statements for previous 6 months;
- 12 months statements on all existing loans;
- Evidence of savings – recent statements etc. (minimum of 6 months required);
- Evidence of rent payments, only acceptable via bank statements;
- Anti-money laundering documents – proof of identity, proof of address;
- Original valuation report;
- Intermediary fee authorisation from client;
- Other relevant information;
- Certification to the lender for each mortgage that you have had sight of original supporting documentation;
- Client declaration for each lender who receives the application to allow the lender to run credit checks etc.

Lenders may not require all of the above documents or indeed may have additional requirements.

Mortgage client files are inspected under the Consumer Credit Act, 1995 so make sure to keep *separate files* for business written for mortgages and insurance.



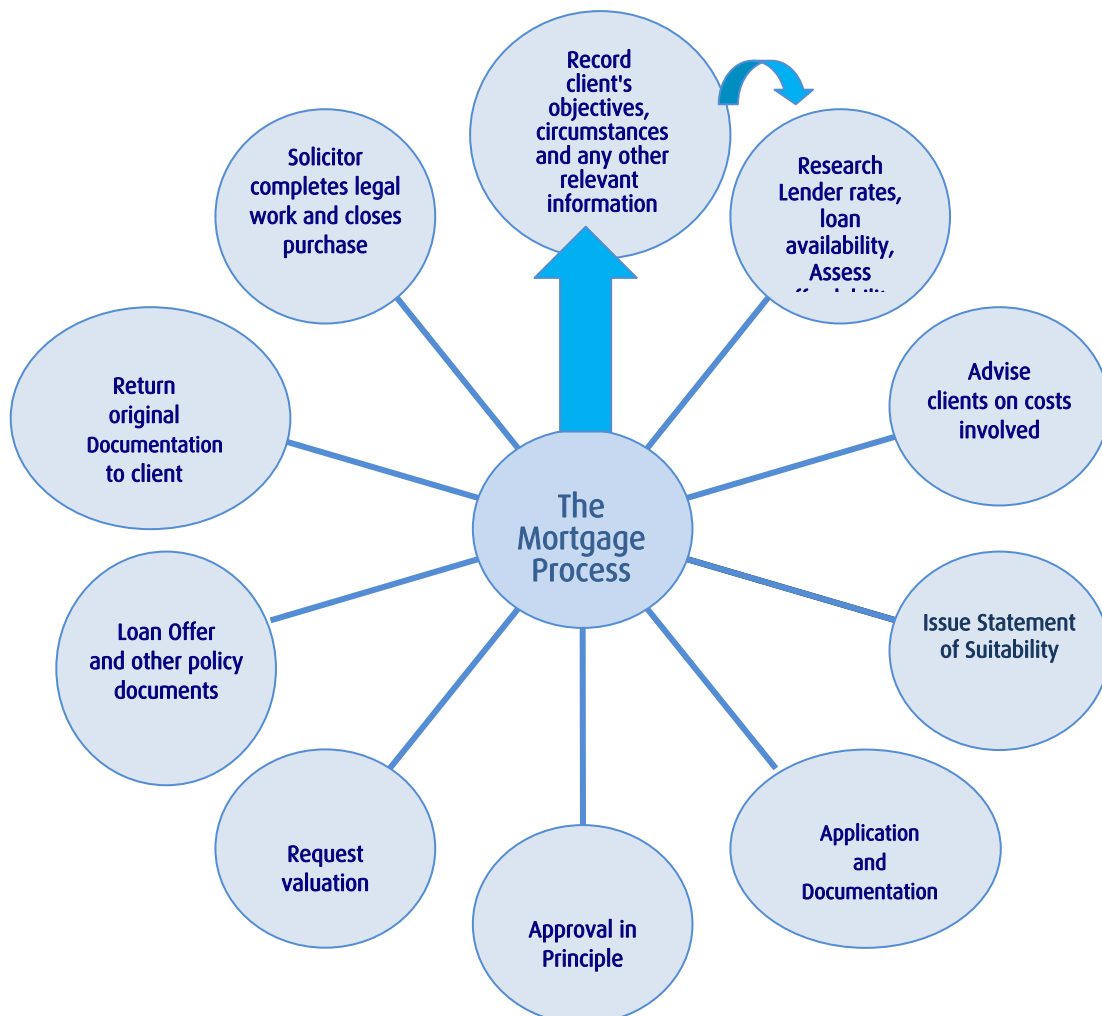
## 8.4 Certification of Documentation

The Consumer Protection Code states that, before a mortgage can be drawn down, you must submit to a mortgage lender a signed declaration that you have seen all original supporting documentation including bank statements, P60's, certificates of earnings and other supporting documentation evidencing the consumer's identity and ability to repay.

Note: A declaration signed by the consumer (or his or her representative), certifying income and/or ability to repay is not sufficient evidence for these purposes.

Mortgage Intermediaries are required to retain copies of all evidence used to verify the consumer's identity and ability to repay. These should be marked "original sighted", dated and signed. All original documents such as statements must be returned to the client.

## 8.5 The Mortgage Process





## Section 9 – Additional

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- 9.1 Self-Employed Agents
- 9.2 Product Provider Responsibilities

## Section 9 - Additional

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### 9.1 Self Employed Agents

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Under the Insurance Mediation Directive (IMD), an intermediary **cannot** take full and unconditional responsibility for another intermediary, therefore if a self employed agent mediates in relation to insurance policies or mortgages, the self employed agent must be registered under the Insurance Mediation Directive as an insurance intermediary and get authorised under the Consumer Credit Act as a mortgage intermediary.

The concept of an intermediary taking full and unconditional responsibility for another intermediary applies under the Investment Intermediaries Act (IIA). Under the IIA, the intermediary for whom responsibility is taken would not need to have their own authorisation to advise on products which fall under the IIA e.g. Deposits. However, excludes insurance policies. For example, a self employed agent could sell a deposit provided the firm takes full and unconditional responsibility for the self employed agent. It is important to note that an intermediary cannot take full and unconditional responsibility for a Limited company under the IIA as legislation requires the person in question be a natural, as opposed to a legal, person.

Self-employed agents are not required to hold individual professional indemnity (PI) policies. It is permissible for them to be listed on the PI policy schedule of the intermediary they are operating on behalf of on a self-employed basis.

The authorisation process with the Central Bank of Ireland under the Insurance Mediation Directive takes between 6 and 8 weeks. Details of the registration process under the Insurance Mediation Directive are outlined in [Section 1.4](#).

#### Revenue

Firms who are employing individuals on a “self-employed” basis should be aware that the Revenue has started focusing on the issue of individuals employed on a self-employed basis. As recently as earlier this year (2011), the Revenue publicly stated that they will continue to focus on the issue of employed vs. self-employed across various sectors in the industry.

The Revenue has issued a Code of Practice for determining employment or self-employment status of individuals. This outlines the criteria for determining whether someone is classed as an employee or self employed. This code is available in [Appendix 15](#). It is important that you take the time to read this to ensure that if you are employing someone on a self employed basis that they fall under the correct criteria.

## 9.2 Product Producer Responsibilities

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The Consumer Protection Code 2012 contained new requirements for Product Producers who operate through the intermediary market. These requirements enhance the responsibilities of product producers in relation to the information provided to intermediaries regarding their products.

Where a new investment product is designed by a product producer, the product producer must provide the following details to the intermediary:

- a) the key characteristics and features of the product;
- b) the target market of consumers for the product;
- c) the nature and extent of the risks inherent in the product; and
- d) the level, nature, extent and limitations of any guarantee attaching to the product and the name of the guarantor.

The product producer must provide information to intermediaries about the investment product that is clear, accurate, up to date and not misleading. The product producer must also provide an ongoing facility to the intermediary whereby they can ask questions and obtain information on the investment product.

The product producer must:

- a) provide this facility to the intermediary for the duration of the period in which that product is offered for sale by the product producer; and
- b) inform the intermediary of his or her right to that ongoing facility.

Within the first year of launching an investment product which is sold to consumers and at least annually thereafter, a product producer must update the information regarding the characteristics of the product and relevant target market and provide that updated information to the intermediary.



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