Addendum to the Consumer Protection Code 2012

Following on from a public consultation on Intermediary Inducements – Enhanced Consumer Protection Measures (CP116), in September 2019 the **Central Bank of Ireland** (the "Central Bank") published a further Addendum to the Consumer Protection Code 2012 (the "**CPC**") which introduces new requirements relating to the payment of commission to Financial Intermediaries. The Addendum also outlines consequential amendments to the CPC arising from the transposition of the European Union IDD (the "**Insurance Distribution Directive**").

The changes in relation to Financial Intermediaries are designed to further protect consumers by enhancing **transparency of commission activities** between Financial Intermediaries and product producers, and to prohibit certain types of commission arrangements.

"It is important that consumers are clear about the price they are paying for financial services. These new rules will provide much needed transparency around commission payments, allowing consumers to see what commission payments their financial advisors are getting for the products they are recommending."[1]

Gráinne McEvoy
Director of Consumer Protection

[1] https://www.centralbank.ie/news-media/press-releases/press-release-intermediary-commissions-25-sept-2019

The amendments outline requirements regarding the **fair treatment of consumers, responsible business conduct** and **conflicts of interest** and will come into effect on **31 March 2020.**

Fair Treatment of Consumers

The updates introduce new requirements concerning transparency, and prohibitions to certain types of commission arrangements, to enable intermediaries avoid any perception of a conflict of interest. Prior to finalising a contract for a financial product service with a consumer, intermediaries will be required to make available an easily accessible summary outlining **all commission arrangements** that the intermediary has in place with product producers. Where an intermediary has a website, the summary information must also be published onto its website.

The summary must include:

- an indication of the agreed amount, or percentage of any fee, paid to the intermediary;
- an explanation of the arrangement between the intermediary and the product producer, including details such as the type of commission, fee or other remuneration paid to the intermediary, for example sales commission;
- the circumstances, if any, that might impact the fee or other remuneration paid to the intermediary, for example clawback provisions; and
- details of any other agreed fees or non-monetary benefits under such arrangements, for example administration costs.

Intermediaries must maintain records outlining compliance with this requirement.

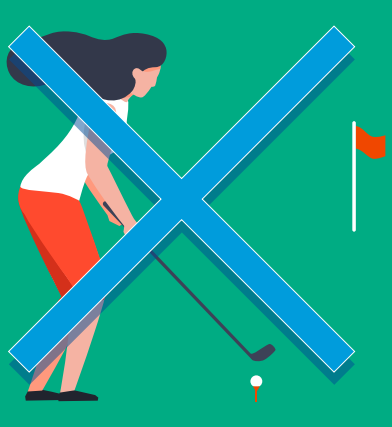
Responsible Business Conduct

The Addendum also contains provisions regulating the use of the word "independent" by an intermediary. Firms will no longer be permitted to describe themselves and their regulated activities as 'independent' in instances where they accept commission from a third party for the provision of advice. The only exceptions to this are if the relevant commission is a "Minor Non-Monetary Benefit" ("**MNB**"), for example attendance at a conference; or if the fee is paid by a consumer

Conflicts of Interest & Commission Payments

The updates introduce prohibitions to certain types of commission arrangements to mitigate perceptions of conflicts of interest. Only commission payments that do not impair a firm's compliance with the regulated entity's duty to act in the best interests of consumers, and those that do not impair compliance with the entity's obligation to satisfy the conflict of interest requirements of the Code or the IDD Regulations (2018) will be permitted.

Specifically, the Addendum outlines that commission, or other rewards, linked to the achievement of targets that do not consider a consumer's best interests will be deemed a conflict of interest and prohibited, for example, targets relating to volume and business retention. In addition, agreements under which an intermediary receives a reward in return for directing business to a specific person are also prohibited.



Non-monetary Benefits

Under the new rules only non-monetary benefits which are considered to enhance the quality of the service to the consumer will be allowed. Such benefits might include food and drink at a business meeting or conference, or other consumer-oriented industry event. The Central Bank has emphasised that corporate events such as golf trips and tickets for sporting events **will not be permitted.**

As part of their compliance monitoring process, Central Bank supervisors will be empowered to request from intermediaries' details of all non-monetary benefits received, including justification for explaining how the benefits enhanced the quality of the service to the consumer.

Next Steps

The latest amendments to the CPC will require product producers and intermediaries to review their commission and inducement arrangements and make changes where necessary. Intermediaries will be required to take the necessary steps to comply with the transparency requirements. The new rules come into effect on **31 March 2020** and regulated entities will have until then to comply with the new requirements.

Contact Us:

Please call us if you would like to discuss the most efficient and compliant implementation processes to suit your needs.

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