



October 2019

## Less perks more compliance - new rules on broker commission

### Background

On 25 September 2019, the Central Bank of Ireland (the “**Central Bank**”) published an Addendum to the Consumer Protection Code 2012 (the “**CPC**”) which introduces new requirements relating to the payment of commission to financial intermediaries.

The amendments are designed to enhance transparency in commission arrangements between financial intermediaries and product producers and to prohibit certain types of commission arrangements. The aim is to minimise the risk of conflicts of interest arising from commission arrangements when intermediaries are providing advice to consumers.

### Independent no more?

Under the new rules, in order for commission arrangements to be permitted, the commission must not impair compliance with the duty to act in the best interests of consumers. In the case of a non-monetary benefit, the commission must be designed to enhance the quality of the relevant service to the consumer.

Further, conflicts of interest must be avoided. Any commission that is linked to targets that do not consider a consumer’s best interests, e.g. sales volumes, will be deemed a conflict of interest.

Significantly, an intermediary is no longer permitted to describe itself or its services as “*independent*”, where it accepts and retains commission and is providing financial advice.

### New disclosure requirements

Intermediaries will be required to disclose to consumers a summary

For further information on any of the issues discussed in this article please contact:



**Keith Waine**

DD:+ 353 (0)1 673 1822

[keith.waine@dilloneustace.ie](mailto:keith.waine@dilloneustace.ie)

of the details of all commission arrangements that the intermediary has in place with product producers. The summary must, at a minimum, include the following:

- an indication of the agreed amount or percentage paid to the intermediary;
- an explanation of the arrangement, including details of the type of fee, commission, other reward or remuneration provided to the intermediary; and
- details of any other agreed fees, administrative costs or non-monetary benefits included under such arrangements.

This information must be brought to the attention of the consumer before concluding a contract for a financial product service.

### **Conferences in, golf days out**

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

As part of the Central Bank's consumer protection compliance monitoring process, supervisors will be empowered to request from intermediaries details of all non-monetary benefits received.

### **Conclusion**

The amendments to the CPC will require product producers and intermediaries to review their commission and inducement arrangements and to 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.

If you have any queries relating to the new rules, please contact the writer or your usual contact in Dillon Eustace.

## **DILLON EUSTACE**

#### **Dublin**

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

#### **Cayman Islands**

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

#### **New York**

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

#### **Tokyo**

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

#### **DISCLAIMER:**

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above in Dillon Eustace.

#### **Copyright Notice:**

© 2019 Dillon Eustace. All rights reserved.