



*Association of Mortgage Intermediaries' response to FCA CP17/7
Insurance Distribution Directive Implementation (Consultation Paper 1)*

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. Our members also provide access to associated protection products.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage and insurance mediation activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Questions

Q1. Do you have any comments on our proposed approach to the application of the IDD?

We would welcome clarification of the FCA's claim that these proposals are only concerned with giving effect to the remuneration disclosure requirements under IDD and do not impact any other obligations relevant to remuneration arising from the general law, such as Plevin. The IDD rules on remuneration disclosure include commission and the FCA has gone further than the legislation in specifying that this should also capture profit share arrangements. We would therefore like an explanation of how the FCA can still have no plans to consult on changes to the commission disclosure rules for non-investment insurance when intermediaries are captured under the implementation of IDD.

Q2. Do you agree with our proposed approach to incorporating the IDD knowledge and competence requirements? If not, please explain why.

Yes.

Q3. Do you agree with our proposed PII requirements? If not, please explain why.

Yes.

Q4. Do you have any comments on our intended approach to implementing the IDD requirements concerning the protection of client assets, in particular:

- a) The mandatory application of CASS 5 to reinsurance mediation?
- b) Narrowing the scope available options for reinsurance contracts, for example only allowing risk transfer?
- c) The potential application of CASS 5.8 to reinsurance mediation?

This is not our area of expertise.

Q5. Do you agree with our proposals for implementing the IDD requirements in relation to complaints and out-of-court redress? If not, please explain why.

We agree that the scope of the jurisdiction of the FOS should not be extended beyond eligible complainants to consider complaints from wider commercial customers.

Q6. Do you agree with our proposed amendments to ICOBS 2? If not, please explain why.

Yes.

Q7. Do you agree with our proposed amendments to ICOBS 4? If not, please explain why.

The proposed guidance for intermediaries giving advice on the basis of a fair and personal analysis (4.1.8) does not sufficiently copy out the IDD text. While an addition has been proposed that a firm should be required “to ensure that the analysis is of a sufficiently large number of contracts of insurance available on the market”, this should be extended to include that in assessing this, “appropriate consideration should be given, inter alia, to the needs of the customer, the number of providers in the market, the market share of those providers, the number of relevant insurance products available from each provider, and the features of those products”, as set out in recital 46 of the IDD. We cannot see this being adequately covered elsewhere in the proposed rules. In addition, the reference to “ICOBS 4.1.6BR” does not appear to be valid.

We believe the FCA’s proposals around remuneration disclosure go further than the requirements in the rules set out by the IDD. The IDD requires those carrying out insurance distribution activities to disclose the nature and basis of the remuneration they receive in relation to the contract proposed. By virtue of the fact intermediaries will be able to advise on products from more than one insurer and are often remunerated by the insurers, the IDD clearly covers commission paid by the insurer with the intention to make clear the relationship between the insurer and intermediary. To ensure a level playing field, as insurers can only advise on their own products and are not remunerated by another party, the IDD has prescribed that insurers disclose the nature of the remuneration paid to their employees. However the FCA has gone further than the legislation in its proposed requirements for intermediaries by extending the rules to include their employees as well. We would welcome further clarification and explanation on what this means in reality and how firms are expected to meet the new requirements. The intermediary firm is the regulated entity and already has responsibility to ensure its advisers are complying with disclosure of the firm’s remuneration. The conflicts of interest requirements are separate and already capture intermediaries in this regard. We do not understand the need for intermediary firms to disclose individual employee remuneration structures considering the FCA believes the statement “We receive commission from the insurer which is a percentage of the total annual premium” is a compliant disclosure, with no mention of individuals or the amount, as the advice and disclosure is quite rightly at a firm level. The FCA’s proposed additional rules set out in 4.3.-3G create an unnecessary burden for intermediary firms.

The FCA has also applied a layer of granularity to its definition of remuneration, not set out in the IDD, that it should include “cash bonuses paid for achieving a sales target and additional annual leave for achieving a high customer service score on sales calls, profit share arrangements, overrides or other enhanced commissions”.

We would welcome clarification on whether (and if so, how) intermediaries are required to disclose the remuneration of any introducers, as this is may be a fee that is paid rather than received.

Q8. Do you have any comments on the illustrative examples set out in Table 1 (in relation to remuneration disclosure)?

While the table sets out helpful examples of compliance for firms (in particular clarification that firms are not required to disclose the amount of commission they receive in monetary or percentage terms), this is not included in the proposed rules or guidance so we would urge that this be incorporated, otherwise this reference will be lost.

Q9. Do you have any comments on our proposal to amend the Glossary definitions of ‘durable medium’, ‘fee’ and ‘remuneration’?

No.

Q10. Do you agree with our proposed amendments to ICOBS 5? If not, please explain why.

Our response to question 7 also applies in that we believe that the proposed amendments to 5.3.3 do not sufficiently cover the IDD text under recital 46.

Q11. Do you have any comments on the illustrative examples set out in Table 2 (in relation to requirements concerning the customer’s insurance demands and needs)?

Our response to question 8 also applies, as this table is only set out in the consultation narrative rather than enforceable rules and guidance.

Q12. Do you agree with our proposed amendments to ICOBS Chapter 6 to incorporate the IDD cross-selling requirements? If not, please explain why.

No comment.

Q13. What are your views on the provision of an IPID or other form of pre-contractual disclosure for commercial customers? Are there particular commercial customers (such as SME customers) that have different information needs?

No comment.

Q14. What are your views on the practical considerations of format and content if IPID requirements were to apply to some or all commercial customers?

No comment.

Q15. Do you agree with our proposal to extend the professional, organisational and prudential requirements to in-scope Alls? If not, please explain why.

Yes.

Q16: Do you agree with our proposal to align the conduct of business regime for in-scope Alls with that for insurance intermediaries? If not, please explain why.

Yes.

Q17. Do you agree with our proposal to extend the professional and organisational requirements to CTI providers? If not, please explain why.

Yes.

Q18. Do you agree with our proposed conduct of business regime for CTI providers? If not, please explain why.

Yes.

Q19. Do you agree with our proposals for authorised firms distributing through out-of-scope AIs? If not, please explain why.

Yes.