Brokers Ireland

Proportionate Regulation of Intermediaries

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Brokers Ireland
87 Merrion Square, Dublin 2, D02 DR40.
t: 01 661 3067
e: info@brokersireland.ie
www.brokersireland.ie

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Foreword by President and CEO

Welcome to the third edition of Brokers Ireland's *Proportionate Regulation of Intermediaries* document. The purpose of this document is to highlight to policymakers and industry stakeholders the role Brokers play, economically and socially, and to the set of needless challenges they face as a competitive force that benefits consumers and businesses.

It sets out the impact of regulation on our members, the vast majority of which are non-cash handling, non-product producing firms. Despite the Central Bank of Ireland's rating of intermediaries under PRISM (Probability Risk and Impact SystemTM) as low risk, and the fact that the Central Bank, the EU and the Irish Government have stated commitments and policies that support proportionate regulation, Brokers remain subjected to an extremely onerous regulatory regime.

In theory, proportionality means that regulatory requirements are tailored to a firm's size, systemic importance, complexity and risk profile. Brokers in their interaction with customers do not expose them to any significant level of risk.

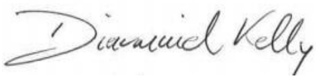
Key areas where proportionality should be applied is the authorisation/registration and PCF (Pre-Approval Controlled Function) process of intermediaries. This is an area that clearly demonstrates the lack of the application of the PRISM framework in the sector as the process is in no way proportionate to the size and complexity of the vast majority of intermediaries. The current review of the Consumer Protection Code also offers an opportunity for the Central Bank to issue revised regulations that differentiate the responsibilities of providers/product producers and separate to this, intermediary firms.

We welcome the Central Bank's increasing references to proportionality when issuing guidance; however, this concept must be implemented on a practical level for intermediaries when issuing industry-wide requirements and guidance and expectations.

Brokers Ireland will continue to work with decision makers in this regard and update members accordingly.

Kind regards

Liam Carberry (President)



Diarmuid Kelly (CEO)

EXECUTIVE SUMMARY

Role of the Broker

Brokers play an important role both nationally and internationally, with the role of the professional intermediary being to bridge the gap that exists between the products offered by various product providers and the consumer who may have a need for such products. The key services provided by the industry are essential for financial stability, both at a personal and at an economy level. The challenge is to ensure that as high a percentage of the population as possible has adequate access to pension coverage, investment, sustainability advice, risk management and risk-mitigation products.

Structure of Brokerages

Most intermediary businesses are categorised as *micro* enterprises, defined as those that employ fewer than ten persons and whose annual turnover or annual balance sheet total does not exceed €2 million.

Unfair Legislative and Regulatory Burden

Intermediaries are heavily regulated and supervised and the regulatory burden facing them is very onerous and expensive in terms of time and resources devoted to compliance. Brokers Ireland considers the current 'one size fits all' approach to financial services regulation to be unjustifiable, bearing in mind the low level of systemic and consumer risk posed by the broking sector. While Brokers Ireland recognises the importance of high regulatory standards that protect the consumer, the current regulatory burden places an enormous cost on small businesses and threatens their economic viability.

How can the burden be addressed?

Brokers Ireland supports the mandatory application of the principle of proportionality by the Central Bank of Ireland (CBI), across supervision, enforcement, and compliance. The principle of proportionality should be implemented on a practical level for intermediaries by the CBI when issuing industry-wide requirements and guidance.

Recommendations of SME Task Force and the SME Test

Brokers Ireland supports the government's recognition of the importance of the SME sector to the Irish economy. Brokers account for approximately 50% of regulated firms in Ireland, therefore when legislative and regulatory changes are being drafted, the SME Test and the 'Think Small First' principle must be applied at the initial stages whenever policymakers are reviewing or drafting regulation. It is essential that the administrative and financial impact on small entities be considered and mitigated at an early stage in the process.

Co-ordinated approach at EU and National Level

Brokers Ireland believes that steps should be taken to minimise overlapping and conflicting regulatory requirements or the gold plating/enhancement of European legislation. This would have the positive knock-on effect of reducing the volume of unnecessary documentation currently causing overload and confusion for consumers, it may assist in reducing costs and improving the overall 'value for money' concept and support the objectives of the capital markets union (CMU).

INTRODUCTION

Brokers Ireland is the leading representative body for Insurance Brokers in Ireland. It represents 1,225 Insurance and Financial Brokers, mostly micro-SMEs operating in every town and village in Ireland, employing an estimated 13,200 people in the local economy, making a significant contribution to regional employment and economic activity.

Brokers Ireland advises members and interacts with regulators, government, and other stakeholders on key insurance issues to raise and maintain industry standards. Our members embrace strict standards of conduct, professionalism, and practice to ensure that high standards of service are delivered to all clients. Members are regulated by the Central Bank of Ireland and adhere to conduct of business rules such as the Consumer Protection Code (CPC), the Fitness and Probity regime and the Minimum Competency Code (MCC); and will also be subject to the Common Conduct Standards and Additional Conduct Standards under the Individual Accountability Framework from December 2023. Intermediaries are required to make an annual return to the Central Bank to submit details of their accounts, the services they provide, their Professional Indemnity Insurance (PII) details and details of any complaints that they have received for the relevant reporting period. This provides an oversight for the Central Bank of the Intermediary sector.

The areas of legislation and regulation are a key priority for Brokers Ireland, and we play a vital role in representing our members. Brokers Ireland works closely with the Central Bank of Ireland, the Department of Finance and other relevant government departments to ensure that both Broker and consumer interests are protected in any proposed regulatory changes.

Brokers Ireland is a member of BIPAR, the European Federation of Insurance and Financial Intermediaries, whose mission is to promote a European regulatory environment in which intermediaries can prosper and that, at the same time, ensures fair competition, an adequate level of consumer protection and a solid and sustainable insurance market. It includes 50 national associations in 30 countries. Through its membership of BIPAR, Brokers Ireland contributes to influencing legislative developments at their inception.

All member Brokers are required to have Professional Indemnity Insurance (PII) with a minimum limit of indemnity of €1.5 million, and to contribute to the Investor Compensation Company Ltd (ICCL). They are subject to the Minimum Competency Code, which requires minimum qualification levels/experience and are required to complete 15 hours of continuous professional development with compulsory requirements for ethics training. Most Brokers are non-cash handling and non-product producing. In addition, when client monies are transferred to the Broker they are taken as being received by the provider. Therefore, the prudential risk for consumers is much less for the clients of Brokers than when dealing with other financial firms.

Brokers are remunerated for their services either by fee or by commission based on consumer choice; feedback from members indicates that the majority of consumers opt for payment via the commission system. The Central Bank of Ireland undertook a review of the commission system between 2016 and 2018, publishing the outcome from this comprehensive review in

September 2019. It concluded that they were not proposing to introduce a ban on commission payments and that *"once properly designed, commission arrangements can be beneficial for consumers by providing them with access to advice without having to pay a direct and/or upfront fee for this service. Such commission structures serve to ensure that all consumers can avail of advice on financial products and services, whilst eliminating the risk of an advice gap emerging in the event that a consumer is unable or unwilling to pay for advice"*.[1]

The commission system delivers value in spreading the cost over the lifetime of the contract for the consumer instead of an upfront fee, which may act as a barrier for consumers to access advice. The output from the Central Bank review brought greater transparency around the area of commissions and removed arrangements that could create conflicts of interest, such as overrides.

Ireland is currently experiencing a significant withdrawal of banks and post offices from local communities. Brokers have an increasingly important role to play in ensuring that consumers have proper access to financial services advice. In an increasingly complex insurance and financial marketplace, Brokers play an important part in the financial education of consumers whilst they benefit from the choice, professional advice and service provided by professional Insurance and Financial Brokers. Brokers assess a consumer's needs; research the market; give product comparisons based on consumer needs and objectives; and recommend the most appropriate products to address short, medium, and long-term financial goals and provide ongoing service throughout the policy term. Brokers play an important role in acting as an intermediary between the products offered by various product providers and the consumer who may have a need for such products.

Members are not tied to any one insurance company and offer advice to consumers on a wide range of products from varying providers, enabling them to give a superior service compared to any direct operator in the market.

There is significant consolidation going on in the industry, particularly in the Insurance Broker market. The cost of compliance is a key driver for this trend, making it more challenging for smaller Brokerages to survive. Every effort should be made to ensure that small Brokerages are able to survive and work alongside much larger Brokerages.

[1] Central Bank of Ireland, *Feedback Statement CP116: Intermediary Inducements, Enhanced Consumer Protection Measures*, 2019

SECTION 1: THE ROLE AND CONTRIBUTION OF BROKERS IN IRELAND

THE ECONOMIC VALUE OF INTERMEDIARIES

Brokers or financial and insurance intermediaries are a key element of the financial advice industry in Ireland and play a fundamental and important role in providing financial services to consumers and businesses. The traditional role of the professional intermediary is to bridge the gap that exists between the products offered by various product providers and the consumer who may have a need for such products. They act as an intermediary between the insurers and other financial institutions and the consumer.

The European Commission initiative, the capital markets union (CMU) and the goals of the Retail Investment Strategy (RIS), which is due to by published by end of May 2023, aims to ensure that consumers who invest in capital markets can do so with confidence and trust, that market outcomes are improved, and that consumer participation is increased.

Brokers play a pivotal role in the attainment of this aim to encourage participation in financial markets. Another European goal is to increase consumer engagement with sustainable products. Given the complexity of sustainability terms and product categorisation, Brokers play an important role in explaining and advising where appropriate in this regard.

With the increased complexity of financial products, regulation and taxation, the role of the intermediary has broadened considerably. It now includes comprehensive lifetime planning, including savings and investment, pensions and risk-mitigation instruments, succession planning and inheritance. They provide advice to consumers on personal financial planning, investment, various insurance products and mortgages. They act as agents that create solutions, as well as providing expertise and they reduce search costs for consumers. They consider the needs of customers and provide the most suitable solution. In other words, the service provided caters for a full-life review.

The role of intermediaries is very important from an economic and social perspective. The key services provided by the industry are essential for financial stability, both at a personal and at an economy level. The challenge is to ensure that as high a percentage of the population as possible has adequate access to pension coverage, investment, risk management and risk-mitigation products.

Consumers are not obliged to utilise the services of Brokers and can choose to deal directly with insurance companies or other providers of financial products. Brokers only exist on the merits of the services they provide to their customers in what is a very competitive marketplace. They have the skills and competency necessary to provide the best solutions, if they do not fulfil these duties to a high standard, they simply will not survive. They are also very heavily supervised and regulated to protect consumers to the greatest extent possible.

The presence of Brokers within the market ensures a highly competitive marketplace, which ultimately benefits consumers. Brokers themselves operate in a competitive marketplace where consumers are free to choose which Broker to use, but Brokers also ensure that consumers get the best and most competitive product in the market. The presence of Brokers with the requisite skills to evaluate different products ensures that product providers are forced to provide the best and most competitive product possible, as they will not write business otherwise. Brokers also make it easier for providers to enter markets (without a need to establish distribution networks).

On an individual basis, they help customers obtain best value; on a market basis, they ensure higher levels of competition between providers.

THE STRUCTURE OF INTERMEDIARIES

Most intermediaries are small businesses. Small and medium-sized enterprises (SMEs) are defined in EU Recommendation 2003/361. The main factors determining whether an enterprise is an SME are:

- staff headcount
- either turnover or balance sheet total.

Table 1: Categorisation of Companies by Size

COMPANY CATEGORY	STAFF HEADCOUNT	TURNOVER	BALANCE SHEET
Medium-sized	< 250	≤ € 50 m	≤ € 43 m
Small	< 50	≤ € 10 m	≤ € 10 m
Micro	< 10	≤ € 2 m	≤ € 2 m

Source: European Commission

These ceilings apply to the figures for individual firms only. A firm that is part of a larger group may need to include staff headcount/turnover/balance sheet data from that group too.

In summary:

- Micro enterprises are defined as enterprises that employ fewer than ten persons and whose annual turnover or annual balance sheet total does not exceed €2 million.
- Small enterprises are defined as enterprises that employ fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed €10 million.
- Medium-sized enterprises are defined as enterprises that employ fewer than 250 persons and either have an annual turnover that does not exceed €50 million, or an annual balance sheet not exceeding €43 million.

A survey of Brokers Ireland members (sample size 312) shows that based on employment levels and turnover; the sector is dominated by micro enterprises. Table 2 demonstrates that 80.9 per cent of intermediaries are micro enterprises, 13.9 per cent are small enterprises and 4.7 per cent are medium-sized enterprises.

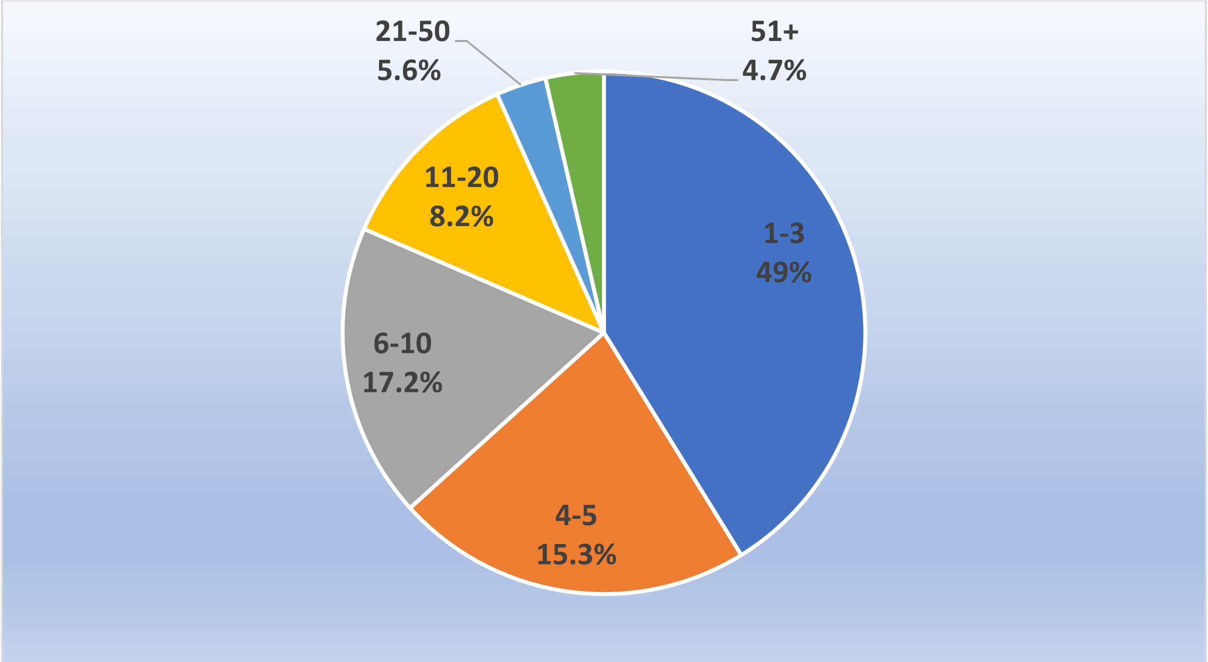
Table 2: Number of Employees in Intermediaries

COMPANY CATEGORY	NUMBER OF EMPLOYEES	% OF TOTAL
Medium-sized	> 50 < 250	4.7%
Small	> 10 < 50	13.9%
Micro	< 10	80.9%

Source: Brokers Ireland Survey, February 2022

Figure 1 provides a more detailed breakdown of employment levels in Irish Brokerages.

Figure 1: Number of Employees in Intermediaries



Source: Brokers Ireland Survey, February 2022 (312 respondents)

This employment is geographically spread and makes a significant contribution to regional employment and economic activity.

In terms of turnover, 88.4 per cent of respondents have turnover of €2 million or less and are characterised as micro enterprises, 7.1 per cent have turnover of between €2 million and €10 million and are characterised as small enterprises and 4.5 per cent have turnover in excess of €10 million and are characterised as medium-sized enterprises (Table 3).

Table 3: Turnover of Intermediaries

COMPANY CATEGORY	TURNOVER	% OF TOTAL
Medium-sized	≤ € 50 m	4.5%
Small	≤ € 10 m	7.1%
Micro	≤ € 2 m	88.4%

Source: Brokers Ireland Survey, February 2022

SECTION 2: THE REGULATION OF INTERMEDIARIES

Brokers over the years have had to embrace a significantly increased regulatory burden. The regulatory framework includes both European and national legislation combined with the Central Bank of Ireland's codes of conduct such as the Consumer Protection Code, Minimum Competency Code and Fitness and Probity, coupled with Central Bank guidance/expectations and industry communications such as 'Dear CEO' letters and communications via the *Intermediary Times* newsletter; and other regulatory authorities' requirements such as compliance with the General Data Protection Regulation (GDPR). This regulatory framework will be expanded further with the application of the Common Conduct Standards and Additional Conduct Standards of the Individual Accountability Framework from the 31st of December 2023.

These developments are superimposed on general national rules and legislation such as taxation law and company law. The combination of sector-specific rules and general law are intended to create an optimal framework to ensure maximum consumer protection. However, the overall regime creates a very challenging environment for intermediaries, the majority of whom are very small enterprises. Table 4 summarises the legislative and regulatory landscape that intermediaries are subjected to.

Table 4: The Legislative and Regulatory Landscape

➢ Company Law Requirements
➢ General Data Protection Regulation (GDPR) ➢ ePrivacy Regulations
➢ Packaged Retail Investment Products (PRIPs)
➢ Investment Intermediaries Act, 1995 (as amended) ➢ Handbook of Prudential Requirements for Investment Intermediaries ➢ MiFID Article 3
➢ Insurance Distribution Regulations (IDR)
➢ Consumer Mortgage Credit Agreements Regulations 2016 (CMCAR) ➢ Consumer Credit Act, 1995
➢ Assisted Decision-Making (Capacity) (Amendment) Act, 2022
➢ Consumer Protection Code and Addendums ➢ Minimum Competency Code ➢ Fitness and Probity Standards ➢ Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010 (as amended) (CJA 2010) ➢ Consumer Insurance Contracts Act, 2019 ➢ Life Assurance (Provision of Information) (Amendment) Regulations 2017 ➢ Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007 ➢ Sustainable Finance Disclosure Regulation ➢ Distance Marketing Regulations ➢ Climate Change / Sustainability Expectations
➢ Central Bank Expectations in respect of Assessing Financial Soundness ➢ Cross Industry Guidance on Outsourcing and Operational Resilience

SECTION 3: IS THE REGULATORY BURDEN APPROPRIATE?

The Central Bank has outlined that regulation needs to follow six principles: forward looking, connected, proportionate, predictable, transparent and agile. Brokers Ireland supports these principles.

The Irish intermediary sector is characterised by a myriad of small operations typically classified as being micro or small businesses based on metrics such as employment levels and turnover. Despite their small size, Brokers are subjected to much of the same legislative and regulatory requirements as are applied to credit institutions, MiFID firms and insurance companies. Brokers Ireland considers this approach to be unjustified based on the low level of systemic and consumer risk posed by the broking sector.

The OECD's policy framework for effective and efficient financial regulation indicates that state authorities should only intervene where there is an identified market failure that can be addressed through regulation.[2] Where authorities do intervene, they must assess critical trade-offs and alternatives, in the public interest. They must ensure that the benefits of intervention outweigh the costs, with careful consideration of unintended consequences.

This has not been the case for intermediaries: the regulatory burden and associated costs are very onerous for small businesses based on the time that must be devoted to compliance and the resources that must be apportioned to it. Disproportionate regulation has the ultimate effect of increasing the cost of advice to consumers.

Brokers account for 50 per cent of regulated firms but are a small low-risk section of the market.

Too much regulatory focus on such small advice-based firms may divert resources from real and higher risk priorities of the Central Bank.

THE SME TEST

The European Commission is committed to a systematic and proportionate application of the SME Test in its impact assessment guidelines.[3] The SME Test analyses the possible effects of EU legislative proposals on SMEs. It has been an integral part of the European Commission's Better Regulation guidelines since 2009. The Commission actively encourages EU countries and other EU institutions to systematically apply the SME Test in the policymaking process. By assessing the costs and benefits of policy options, it helps implement the 'Think Small First' principle and improve the business environment. The purpose of the SME Test is to request policymakers to think about the negative impact of any new legislation or regulation which may create a burden on SMEs. The main thrust of the test is to propose possible exemptions or less stringent requirements for smaller companies.

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[2] OECD, *Policy Framework for Effective and Efficient Financial Regulation,* 2010

[3] *Minimizing regulatory burden for SMEs. Adapting EU regulation to the needs of micro-enterprises* (COM (2011) 803 final)

The European Commission estimates that on average, where a big company spends one euro per employee to comply with a regulatory duty, a medium-sized enterprise might have to spend around four euro and a small business up to ten euro per employee.[4]

Three explanations are offered for the disproportionate regulatory burden on small businesses:

- the fixed-cost nature of regulation,
- the lower efficiency of smaller businesses in dealing with regulation,
- the fact that in small businesses the most important resource, the entrepreneur, must deal with regulation him or herself.

The Irish government cites three key points in the Irish SME Test.[5]

- **Exemptions** are the most widely used method to reduce the regulatory burden for small enterprises and they can be found in almost all areas of regulation. They can typically be applied directly for businesses below certain thresholds who do not have to comply with certain rules; or indirectly, depending on a criterion strongly correlated with size such as a particular economic sector or legal type of business formation.
- **Deadline variation/flexibility** – temporal reductions could include longer intervals for certain obligations, a lower frequency/probability for audits or inspections, or longer transitional periods for new regulations.
- **Simplification** of the implementation of regulations for small businesses may be achieved by introducing simpler formal requirements. An example of this would be a specific code/handbook for the intermediary sector.

The Irish Programme for Government 2020 gave a commitment that the government would seek to cut bureaucracy for SMEs and support the SME Test across government to assess the potential for less stringent requirements and simplification of regulatory adherence.

Four steps are required to apply the SME Test. These are:

1) consultation with SME stakeholders
2) identification of affected businesses
3) measurement of the impact on SMEs
4) assessment of alternative mechanisms and mitigating measures.

The Programme states: 'Regulations should be both created and administered in a way that minimises obstacles for SMEs and requires their interests to be taken into account at each stage of policymaking'.[6]

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[4] European Commission Enterprise and Industry Directorate-General, *Report of the Expert Group Models to Reduce the Disproportionate Regulatory Burden on SMEs*, May 2007
[5] Department of Enterprise, Trade and Employment, *Ireland's SME Test, The "Think Small First" Principle*
[6] *Programme for Government: Our Shared Future*, 2020

Intermediaries are in the main very small businesses, but they are subject to the same regulatory and supervisory burden as larger insurance companies and regulated bodies. While Brokers Ireland recognises the importance of high regulatory standards that protect the consumer, the current regulatory burden places an enormous cost on small businesses.

The costs for micro/small firms to employ full-time compliance, data protection, risk management, HR or IT staff is not proportionate to the risk they pose. These types of firms have fewer resources to comply with legislative and regulatory change and thus require more time and effort to understand, implement and comply. This impacts small firms' ability to compete in a very real way.

PRISM

The Central Bank has a risk-based framework for the supervision of regulated firms. The Probability Risk and Impact SysteM™ (PRISM™) judges the risk that regulated firms pose to the economy and consumer, and the mitigation of those risks that are judged to be unacceptable by the Central Bank. Under the system, those firms with the ability to have the greatest impact on financial stability and the consumer receive a high level of supervision under structured engagement plans, leading to early intervention to mitigate potential risks. Those firms which have the lowest potential adverse impact are supervised reactively or through thematic assessments, with the Central Bank taking targeted enforcement action against firms across all impact categories whose poor behaviour risks jeopardising the statutory objectives, including financial stability and consumer protection.

Risk-based supervision starts on the basis that not all firms are equally important to the economy and that a regulator can deliver most value through focusing its energies on the firms that are most significant and on the risks that pose the greatest threat to financial stability and consumers.

The Central Bank has evaluated the intermediary sector as low risk under PRISM, and as such has allocated the level of resources it believes are required to supervise the sector, using the principle of proportionality as set out in their *PRISM Explained* document.[7]

Table 5: PRISM and the Principle of Proportionality

IMPACT CATEGORY OF FIRM	SUPERVISORS ALLOCATED TO FIRM
Ultra-High	8
High	Between 2 and 4 Supervisors
Medium-High	Between 50% and 100% of A Supervisor
Medium-Low	Between 10% and 20% of A Supervisor

Source: PRISM Explained, February 2016

The proportionality principle is a general principle that applies to all areas of insurance supervisory law. It determines the extent to which supervisory requirements must be met in individual cases, namely in relation to the risk. The risk profile of the individual firm is

[7] *PRISM Explained – How the Central Bank of Ireland is Implementing Risk-Based Regulation*, February 2016

therefore to be used as a yardstick. As per above, as insurance intermediaries are considered to be low risk by the CBI then their yardstick should not be as stringent as those used for insurance undertakings or banks.

Whilst proportionality may be a guiding principle for supervision and enforcement (large firms are fined more than small firms), it expects all regulated entities to comply with the same regulations irrespective of the size of the entity, or the risk it poses systemically and to consumers. Whilst the CBI makes reference to proportionality in recent publications, no guidance has been issued as to what proportionality looks like on a practical level, or how it is applied so that firms can comply with legislation, regulations, codes, guidelines, and the expectations it sets for the firms it supervises.

An example of where proportionality should be applied is the authorisation/registration and PCF (Pre-Approval Controlled Function) process of intermediaries. This is an area that clearly demonstrates the lack of the application of the PRISM framework in the sector. The process is in no way proportionate to the size and complexity of the vast majority of intermediaries.

The Central Bank stance is that the robust authorisation process is to reflect its role as 'gatekeeper' in the industry; however, the same authorisation process is applied to existing authorised trading firms who are either adding an authorisation or changing from a sole trader to a single director limited company as to that applied to a new entrant. Despite the Central Bank reforming the application in July 2020, the shortest form applicable to the smallest intermediaries is still 33 pages long, and feedback from members continues to highlight concerns with the onerous process.

Article 3.5. of the Insurance Distribution Directive (IDD) states that *"Member States shall ensure that applications by intermediaries for inclusion in the register are dealt with within three months of the submission of a complete application, and that the applicant shall be notified promptly of the decision."*

The Central Bank time frame for processing applications is 90 working days, but members continuously advise that applications are taking over nine months, with the Central Bank drip-feeding questions: often questions that have been answered previously. Another concern is that the Central Bank changes the parameters of what is an acceptable response to certain questions posed, with many of the responses sought by the Central Bank being over and above the legislative and regulatory requirements.

The process in Ireland is not in line with the process in other European countries. Taking Germany as an example, Brokers are required to be licenced and registered with the Chamber of Industry and Commerce (DIHK). The authorisation process requires an application form of nine pages to be downloaded from the DIHK website, completed by a responsible individual at the company, and returned in hard copy format. The application is accompanied by:

- an excerpt of the commercial register,
- proof of orderly financial circumstances, including excerpts from the debtor's files,
- attestation from the bankruptcy court and certificate from the tax authorities regarding tax matters,

- proof of expertise and proof of certain professional qualifications for key senior management authorised to represent the company,
- personal documents for all natural persons authorised to manage the company (certificate of good conduct, copy of personal ID, etc.),
- proof that there is sufficient professional indemnity insurance in place (at least €2.3 million per claim and € 3.4 million in the aggregate).

Confirmation of registration (depending on the completeness of the documentation provided) generally takes two weeks from the date of submission, in stark contrast to the time frames in Ireland.

Outlined below are key reforms that Brokers Ireland proposed to the Central Bank but were rejected. We believe these reforms would enhance the authorisation process whilst still maintaining the Central Bank's role as gatekeeper to the industry.

1. Mortgage authorisation renewals – a simplified online approval process, whereby if the currently regulated applicant has had no regulatory issues (no issues with previous annual returns, has completed PCF due diligence declarations and provided confirmation of no outstanding complaints), they should be able to submit evidence of tax clearance, confirmation of solvency and proof of PII, after which the renewal should be automatic.

This is to reflect that, in essence, the authorised entity remains the same as the same individual is involved and there is a regulatory history of the individual/entity.

2. Sole trade moving to incorporated single director firm – a simplified online submission provided there has been no regulatory issues with the sole trader and submission of the following documents:
    - certificate of incorporation,
    - tax clearance,
    - confirmation of solvency
    - proof of PII.

Brokers Ireland's view is that the level of understanding demonstrated by any PCF-10 (Sole Trader applicant) is appropriate for a PCF-1 (Executive Director) role in a corporate that is wholly owned and directed by that applicant and that the size, the business and the risk profile of the sole trader's business does not justify a duplicated and burdensome application process. We believe that the parallel application system is a significant and unfair barrier to entry to limited liability status for regulated sole traders.

We believe that the Central Bank should use the knowledge that it gains in one regulatory process (e.g. supervising a regulated sole trader) to inform itself in another process (e.g. considering an application by a sole trader to trade through a corporate).

This is permitted by Section 34 of the Central Bank (Supervision and Enforcement) Act, 2013, which says that *"Information acquired by the Bank or an authorised officer in the performance of any functions conferred on the Bank or the authorised officer under financial services legislation may be used by the Bank for the purposes of the performance of any of its functions* *under financial services legislation".* The information that the Central Bank has on the sole trader could pre-empt and cut out large swathes of the application form that is used to apply for the authorisation of a corporate. A similar line of sharing information and joined-up thinking could be used to streamline the PCF-1 application process (e.g. by recognising the close alignment between a PCF-10 and a PCF-1 role). The entire sole-trader-to-corporate process could be abridged.

It would also be beneficial to the industry if guidance is provided about the CBI's expectations for PCF roles, e.g. in terms of the minimum number of working days expected for holding a PCF-2 role, and guidance in relation to CBI expectations in relation to the experience required for PCF roles. There are increasingly more issues with the approval of PCFs, with the Central Bank's parameters for what is acceptable from a Fitness and Probity point of view for applicants shifting over the past number of years but no communication to the industry to reflect this. This uncertainty for applicants is significant, causing delays in appointments to roles where individuals are out of work in the interim.

LOW LEVEL OF COMPLAINTS TO FSPO

A key indicator of the quality of advice and service provided by the broking sector is complaints data from the Financial Services and Pensions Ombudsman (FSPO). The level of complaints against intermediaries is consistently low, as outlined below.

- In 2019, it received 345 complaints concerning intermediaries, which was equivalent to just 6.5 per cent of total complaints received.
- In 2020, it received 293 complaints concerning intermediaries, which was equivalent to just 5.4 per cent of total complaints received.
- In 2021, it received 300 complaints concerning intermediaries, which was equivalent to just 6.4 per cent of total complaints received.
- In 2022, it received just 288 complaints concerning intermediaries, which was equivalent to 6 per cent of total complaints received. Of these, 207 related to insurance intermediaries; 46 to mortgage intermediaries; and 35 to other intermediaries.

This information further underlines the low impact Broker firms have in this sector despite the disproportionate level of regulation they face.

CONCLUSIONS

- Regulation is vital in protecting consumer interests, but it should not be applied in a manner that negatively impacts the ability of firms of different size, scale, and complexity to competitively operate in the same market.

- The principle of proportionality is key to the future development of legislative and regulatory requirements and to how these are administered. Proportionate regulation need not undermine key prudential safeguards once it incorporates an appropriate level of supervision and control of entities that benefit from simplified regulatory rules. Proportionate regulation should promote a more efficient and viable market.

- Brokers are mainly micro/small, non-cash handling, non-product producing firms. The level of regulatory compliance is not proportionate to the level of risk that the majority of Brokers represent. The Central Bank's own PRISM risk rating of Brokers is low.

- Brokers provide a valuable service to customers in acting as an intermediary between product providers and their various financial requirements. The regulatory burden they work under should be proportionate to the risks that they pose to consumers.

- The relationship between a Broker and client is built on trust and personal relationships, and many customers will continue to value this. Others will be happy to deal with larger Brokerages. However, it should be possible for both models to operate simultaneously.

- Brokers have an increasingly important role to play in ensuring that all consumers have proper access to financial services advice given the withdrawal of banks and post offices throughout Ireland.

- There is significant consolidation going on in the industry and it is becoming more challenging for smaller Brokerages to survive. Every effort should be made to ensure that small Brokerages remain economically viable in order to survive and work alongside much larger Brokerages.

- The costs for micro/small firms to employ full-time compliance, data protection, risk management, HR or IT staff is not proportionate to the risk that they pose. These types of firms have fewer resources to comply with legislative and regulatory change and thus require more time and effort to understand, implement and comply. This impacts small firms' ability to compete in a very competitive market.