

CESR

Provisional Mandates under the future Directive on Financial Instruments Markets: Technical Advice

Two major causes of concern for Professional Insurance Brokers Association (PIBA) relating to the above future Directive.

IFSRA have communicated to us that the following two concerns are a product of the above mentioned document and we seek clarification in these matters.

- 1) Advice is to become a core service. PIBA would like to see a clear separation of requirements relating to core services and capital adequacy requirements. Future capital adequacy requirements need to take account of whether or not the service has been advice only or if there has been an element of cash handling included. We seek clarification that in the instance of Advice only, that the burden of excessive capital adequacy requirements will not be placed on the Broker/intermediary.
- 2) As it stands accountants in the Republic of Ireland are allowed to conduct business as an intermediary up to a point of 20%, known as incidental business. This incidental business is not subject to the same regulatory rules and statutory obligations as other intermediary businesses in the market. IFSRA have passed such regulation to the relevant accountancy bodies. Similar provisions relate to solicitors and the Law Society of Ireland. In effect these groups now self-regulate their investment intermediary business, meaning that the current enacted legislation allows for different rules for different players conducting the same business.
 - PIBA would like to see this area tightened up.
 - PIBA is in favour of bringing competition to the market but in a fair and equitable system.
 - Accountants and solicitors acting as intermediaries, although it may only be secondary business, should attract the same regulation that other practitioners have to conform to.
 - The current system allows for “regulatory arbitrage” i.e. advice is given on an “incidental basis” and executed on an “execution only” basis through a regulated intermediary.
 - The single regulatory authority (the Irish Financial Services Regulatory Authority) was established to have one regulator throughout the industry. However, current legislation allows for the contrary.

We have been advised by IFSRA that the current regulations concerning such incidental business are derived from the Investment Services Directive and that it places an obligation on the Irish authorities to allow such dual systems to apply. Please confirm if that is the case and whether this will be reviewed in the current review of the ISD.