

A Chara,

The Association has major concerns with regard to payment of commission to GAA Units for the sale of insurance products as a result we sought the views of our brokers Willis who agreed to advise us as to how the matter is addressed in legislation. However whilst agreeing to do so, emphasised that in commenting on this matter are not providing us with legal advice but drawing our attention to those parts of the existing regulations which may be relevant in the context of our discussions with them. Should this become a serious matter we may have to seek the advice of our legal advisor

Willis drew our attention to two texts, S.I. No 74 of 2005 which is the Statutory Instrument that transposed the IMD (Insurance Mediation Directive, 2002/92/EC) and the "Consumer Protection Code" (CPC).

S.I. 74 includes the following definitions of "insurance intermediary" and "insurance mediation":-

- "insurance intermediary" means a person who, for remuneration, undertakes or purports to undertake insurance mediation "

- "Insurance mediation" means any activity involved in proposing or undertaking preparatory work for entering into insurance contracts, or of assisting in the administration and performance of insurance contracts that have been entered into (including dealing with claims),....etc

Persons who fall within the definition of both definitions who are not exempted pursuant to the very limited exemption provisions within the S.I. are required to be authorised by the Financial Regulator.

Article 50 of the CPC states that a regulated entity (insurance intermediary) may pay a fee, commission, other reward or remuneration only to a person that is:

- A) a regulated entity;
- B) a certified person;
- C) an individual for whom a regulated entity has taken full and unconditional responsibility;
- D) an entity specifically exempt by law from requiring authorisation;
- E) an authorised "credit intermediary" (within the meaning of the Consumer Credit Act 1995); or
- F) a financial services provider operating in the State in accordance with freedom of services or establishment provisions of EU law.

From the above you will see that if an individual or a corporate body acts as an intermediary for payment they, subject to the exemptions, are required to seek authorisation from the Financial Regulator i.e. become a regulated entity. A regulated entity may only make a payment as outlined in Article 50 of the CPC referred to above.

The purpose of Article 50 of the CPC is to prevent the payment of fees, commissions and other rewards to unregulated entities for business activities that require regulation. The application of Article 50 is restricted to interactions between a regulated entity and persons purporting to provide financial services. Perhaps the key word here is "purporting". S.I. 74 quoted above has a very clear, all encompassing definition of "insurance intermediation" and one would find it very difficult to understand how the payments described might not fall foul of these regulations. There is the added complication that CLG or its clubs as a membership body could be seen to be acting on its own behalf when dealing in such matters with members and as result may not require to be regulated. The concept of membership of CLG is very loose and infinitely less rigid than say that of a Golf Club which has a very well defined membership. However these are matters that we cannot express any definitive view upon as that would fall within the competence of our legal advisors.

In any event, it is clear that CLG or indeed our its clubs should at all costs avoid acting in a manner in which it could be in breach of regulations and it would be prudent to avoid engaging in any activity that could expose our association or any of its parts to criticism. The treatment of payments which arise as

a direct consequence of arranging insurance is quite complex. We should satisfy ourselves that it does not run any risk of censure before engaging or permitting any of its parts to engage in such activities.

Please give me a call should you wish to discuss

Ruairi Mac Lannchaidh

Bainisteoir Riosca agus Árachais / Risk and Insurance Manager



Guthán 1 / Tel 1 : +353 (0) 1 836 3222

Guthán 2 / Tel 2 : +353 (0) 1 865 8660

Faics / Fax : +353 (0) 1 836 6420

<http://www.gaa.ie>

GAA, Páirc an Chrócaigh, Baile Átha Cliath 3 / **GAA**, Croke Park, Dublin 3