

Guidance on Provision 4.58A of the Consumer Protection Code 2012

1) Does Provision 4.58A apply to all intermediaries, regardless of whether they deal directly with consumers or act as a wholesale broker or MGA? (Clarification included 24/05/2021)

Provision 4.58A requires an intermediary to make available in its public offices or on its website, in a manner that is easily accessible to consumers, a summary of the details of all arrangements for any fee, commission, other reward or remuneration paid or provided to the intermediary, which it has agreed with product producers.

The intention of provision 4.58A is to make commission arrangements transparent to consumers, particularly where an intermediary has several commission arrangements available to him/her in respect of the products or services that he/she is offering to the consumer. The aim of the provision is to encourage product producers and intermediaries to develop commission arrangements that are aligned with the consumer's best interests and to help mitigate the risk of commission bias.

Provision 4.58A applies to all intermediaries that deal directly with consumers.

2) What are the commission arrangements that must be made available to consumers in accordance with Provision 4.58A? (Clarification included 24/05/2021)

Provision 4.58A prescribes that an intermediary must make available in its public offices or on its website, in a manner that is easily accessible to consumers, a summary of the details of all arrangements for any fee, commission, other reward or remuneration paid or provided to the intermediary which it has agreed with product producers. Where an intermediary operates a website, it must publish the summary on its website.

Further clarification on this provision is provided as follows:

- The commission (fee, commission, other reward or remuneration) information that **must be made available** to consumers - at a minimum - is contained in points a) to c) of this provision,
- It is described as a "summary" of the details of all arrangements because the Central Bank has prescribed the minimum amount of information that must be included.

3) Can the commission amounts required by Provision 4.58A be displayed as ranges such as "between x% and y%", "up to x%" and "max. x%"?

In accordance with Provision 4.58A of the Code, intermediaries must make available a summary of the **details** of all arrangements for any fee, commission, other reward or remuneration paid or provided to the intermediary which they have agreed with product producers. Intermediaries are expected to provide information in relation to their commission arrangements in order to provide more transparency to consumers.

Provision 4.58A sets out, at points a), b), and c), the minimum information that must be provided, including:

- an indication of **the agreed amount or percentage** of any fee, commission, other reward or remuneration where the payment is made to the intermediary on this basis;
- **an explanation of the arrangement** including **details on the type of fee, commission, other reward or remuneration** paid or provided to the intermediary; and

- **details affecting the fee, commission, other reward or remuneration** paid or provided to the intermediary.

Further clarification on this provision is provided as follows:

- An intermediary's level of commission must be displayed as an individual number as opposed to a range, where possible.
- When an intermediary's level of commission depends on individual circumstances and can **only** be displayed as a range, the intermediary must explain the arrangement in the summary and the basis on which the level of commission within the range is decided should be disclosed, e.g. intermediary's discretion, whether the level of commission is negotiable, length of time of the policy, length of investment period, etc. In that regard, the disclosure needs to specify which of the factors is relevant in each case.

4) Where and how should the information required under Provision 4.58A be published?

The commission details required by Provision 4.58A must be provided to consumers in an accessible manner, e.g., on a webpage. An intermediary is also required to bring this information to the attention of the consumer before concluding the contract and retain records that demonstrate compliance with this requirement.

If an intermediary operates a website

If an intermediary operates a website, the information must be made available on the website. In this regard, intermediaries must ensure that it is easy for consumers to locate the information on their website. This means that it must not be necessary for consumers to access multiple links or to operate a search on the website in order to find the information.

When the information is displayed via a link, the link should be accessible on the home page. The link provided on the homepage must be logical and not misleading so that a consumer knows that this link will provide the relevant information.

The commission arrangements summary may be presented in a format that allows the information to be filtered by product producer and product. This could be achieved by using drop down fields on the webpage so that consumers can access the information they require. However, it is crucial that all commission information is available in line with the requirements set out in Provision 4.58A.

If an intermediary does not operate a website

In circumstances where an intermediary does not operate a website, the intermediary is permitted to make the information available to the consumer in either softcopy form (i.e. on a desktop computer or laptop in its public office) or hard copy form (i.e. a print out of all commission arrangements available).

Please be advised that the above examples are illustrative only and not intended to prescribe exactly how to meet the requirements of Provision 4.58A as this is a matter for each individual firm.