Changes to the Policyholder Protection Rules

Danny Joffe
Senior Legal Advisor
The new Policyholder Protection Rules (PPR)

The new PPR make sweeping changes to the current ones, and will affect all personal lines policies and also small commercial policies (linked to the definition of commercial entities covered in terms of the Consumer Protection Act as to what constitutes a small commercial entity). Policyholder is defined as potential policyholder.

The new rules were finally gazetted into law on 15 December 2017, and will have a phased implementation process.

These regulations aim to now formally incorporate the six TCF outcomes into our law.

What will be affected is marketing, claims, complaints, governance and how new products are created. The old Section 8(5) fee (broker’s policy fee) has been deleted and broker fee is dealt with in PPR, making it unclear how other policies will be affected as FAIS also speaks about this fee with more onerous conditions.
The new Policyholder Protection Rules (PPR) cont.

*New determination* of premium regulations have been introduced.

*Disclosures* will need to be far more comprehensive, and relevant summaries of the cover will need to be provided to the client at quote stage.

*Claims escalation procedures* need to be documented and complaints procedures communicated to clients at the time of sale of the policy, as well as at the time of a claim being handled.

*Advertising and marketing* standards have been carefully regulated, as have product design and the sign-off of new products.
Insurers will have to far more carefully manage and oversee the intermediaries they take on, and must be a signatory to all their intermediary agreements. They can no longer pass this onto their administrators and UMAs to finalise on their own.
Purpose of new regulations

• Improve market conduct in sector
• Ensure *fair treatment of customers*
• Appropriate incentives and remuneration
• Address *conduct of business risk* and governance in the binder space
When will new fee caps apply?

Transitional arrangements

<table>
<thead>
<tr>
<th>Any new binders</th>
<th>Binders entered into after 1 January 2017</th>
<th>Binders entered into prior to 1 January 2017</th>
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</thead>
<tbody>
<tr>
<td>Immediately</td>
<td>6 (six) months/when amended</td>
<td>12 months/when amended</td>
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</table>
What are the caps?

Subject to the FSB granting an exemption from the below capped fee on a detailed application from the insurer:

<table>
<thead>
<tr>
<th>BINDER FUNCTION</th>
<th>MAXIMUM FEE PAYABLE</th>
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<tbody>
<tr>
<td>Enter into, vary or renew a policy – function (a)</td>
<td>Function (a) only</td>
</tr>
<tr>
<td>Determine wording of a policy – function (b)</td>
<td>Function (a) and one or more of functions (b)-(d)</td>
</tr>
<tr>
<td>Determine premiums under a policy – function (c)</td>
<td>One or more of functions (b)-(d) only</td>
</tr>
<tr>
<td>Determine value of policy benefits – function (d)</td>
<td>One or more of functions (b)-(d) only</td>
</tr>
<tr>
<td>Settle claims under a policy – function (e)</td>
<td></td>
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Exemptions from the fee cap

Despite the fee caps explained above, the Registrar may on application from an *insurer* allow that insurer to pay a higher binder fee to the binder holder, subject to such conditions as the Registrar may impose, if the Registrar is satisfied that:

(a) any actual or potential *conflict of interest* is effectively mitigated;

(b) the delivery of *fair outcomes* to policyholders will not be impeded; and

(c) the person has the *operational and financial capability* to perform the binder function or to conduct such business.
If a binder holder is not authorised on their FAIS licence to give advice and is not administering policies provided by a broker associated with the binder holder, the caps will not apply.
Governance and oversight requirements

An insurer must, before entering into a binder agreement and at all times thereafter, have the necessary resources and ability to exercise effective oversight over the binder holder on an ongoing basis, particularly in respect of identifying, assessing, managing and reporting on the risks of poor customer outcomes arising from conducting insurance business through binder agreements.
The insurer must satisfy itself of the adequacy of the binder holder’s: –

**governance, risk management and internal control framework**, including the binder holder’s ability to comply with applicable laws and the binder agreement;

**fitness and propriety**, including any specific technical expertise required to perform the function to which the binder agreement relates;
documented controls in place to ensure the validity, accuracy, completeness and security of any information provided by the binder holder; and

appropriate contingency plans in place to address any shortcomings that may exist in the binder holder's processes and ability to comply with the data requirements.
Before entering into, and during the lifetime of, a binder agreement, an insurer must be able to demonstrate that it is able to satisfy itself that the binder holder has the operational ability to ensure integration.

The insurer must *have access* to up-to-date, accurate and complete information held by the binder holder, as and when requested by the insurer.

An insurer must regularly review and, where appropriate, act upon the information received from the binder holder.
Data

The binder agreement will have to require the binder holder to provide the insurer with *access to* up-to-date, accurate and complete data (in accordance with Regulation 6.2A(2)) on a daily basis, to ensure that the insurer is able to comply with any regulatory requirements relating to data management, including any requirements provided for in the Policyholder Protection Rules. This has a 24-month grace period.
Reporting requirements

An insurer must, at least 30 days before entering into a binder agreement, notify the Registrar in writing of the proposed binder agreement, in the format required by the Registrar.
Thank you