

Corporate & Banking

# How to Establish an Insurance or Re- Insurance Intermediary in Ireland

## How to establish an insurance or re-insurance intermediary in Ireland

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There are over 4,000 registered insurance or reinsurance intermediaries registered in Ireland. Since the transposition of the European Communities (Insurance Mediation) Regulations, 2005 (S.I. 13/2005 as amended by S.I. 161/2008) (the "Regulations"), these intermediaries can each use their authorisation to gain simplified entry for such entities to other EU countries. As Ireland favourably attracts Foreign Direct Investment (FDI), it's not surprising that there are strong reasons for establishing registered insurance or reinsurance intermediaries here.

### So what's the regulatory regime?

Any person cannot carry on insurance or reinsurance mediation business unless it is registered under or is exempt from registration by the Irish Financial Regulator (the "Regulator") under the Regulations. Whilst registered, such insurance and reinsurance intermediaries are supervised by the Regulator.

The Regulations transposed the provisions of Directive 2002/92/EEC on insurance mediation (the "Directive"). Despite recognised problems with the Regulations, they remain the substantive legislation governing the registration of entities carrying on insurance mediation or reinsurance mediation business.

The Directive tries to overcome the inability of insurance and reinsurance intermediaries to operate freely throughout the EU which hinders a proper functioning of the single market for insurance. The Directive's purpose is to procure that equal levels of regulation apply to insurance and reinsurance intermediaries based in the EU irrespective of whether or not they originate in Ireland and allow such registered intermediaries to passport between various EU member states.

We have successfully obtained registrations for clients

### So what's in these Regulations?

Preliminary and general items such as definitions and the scope of the Regulations are dealt with in Part 1 of the Regulations. The Regulations do not apply to insurance or reinsurance intermediaries whose principal place of business is outside the EU.

Part 2 of the Regulations prevents a person from carrying on insurance or reinsurance mediation business unless it is registered or exempt from registration.

We have also advised clients on how to fall outside the ambit of the Regulations or how to change their work practices to avoid becoming unnecessarily regulated. Such clients include retail brands which would have promoted or marketed insurance products in an ancillary and peripheral manner on behalf of a third party insurer.

Part 2 also sets out how one can apply for registration as an insurance intermediary or reinsurance intermediary to the Regulator. The granting and refusing of applications for registration and the effect of registration are also set out in Part 2.

In practice, there are other requirements such as compliance with the minimum competency requirements, (which are currently being reviewed) Individual Questionnaires for key personnel, business plans and an application form, all of which must be completed before an applicant will be registered. We have assisted and guided clients through this process and are familiar with items can delay matters.

Part 3 of the Regulations imposes obligations on the regulated entities. Insurance and reinsurance intermediaries must each ensure that it has the knowledge and ability to comply with the requirements imposed upon insurance intermediaries. At a very minimum, a reasonable proportion of the persons concerned in the direction and management of the business must demonstrate the knowledge and ability necessary to enable them to undertake the intermediary's responsibilities with respect to insurance or reinsurance mediation. In practice directors will have to have a minimum of the QFA standard.

In addition to insurance intermediaries and reinsurance intermediaries holding professional indemnity insurance enhancing customer protection, insurance intermediaries must comply with the Consumer Protection Code (as amended) (the "CPC"). The CPC is likely to be updated in 2011.

Under Part 4 of the Regulations, the Regulator can review the activities of each registered insurance intermediary and reinsurance intermediary and maintains an insurance mediation register which is available to the public for inspection. The Financial Regulator also exchanges information with the relevant competent authorities of other Member States.

Enforcement provisions are set out in Part 5 of the Regulations which allow for the appointment of authorised officers who may carry out dawn raids on premises at which the officer reasonably believes that a person is carrying on an insurance mediation or reinsurance mediation business or at which records relating to such a business are being kept. Penalties and offences are also set out in Part 5.

In conclusion, the Regulations simplified the ability for entities to carry on insurance mediation in Ireland and simplified entry for such entities to other EU countries.

*This note is intended to provide a general overview and guidance. It is given wholly without any liability or responsibility on the part of Eugene F. Collins and does not replace the necessity to obtain legal advice.*

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