Irish Life Health

Health Insurance Authority Consultation paper on community-rated health insurance market in Ireland and proposed changes to the Risk Equalisation Scheme

Response from Irish Life Health to the Health Insurance Authority's Consultation Paper

February 2021

1. Introduction

Irish Life Health dac ('Irish Life Health') welcomes this opportunity to make a submission to the Health Insurance Authority ('HIA') on proposed changes to the Risk Equalisation Scheme.

Irish Life Health is part of Irish Life Group ('Irish Life'). Irish Life is one of Ireland's leading financial services companies and has been helping people in Ireland to look after their protection, pension and investment needs for over 80 years. Irish Life's vision is to be the Ireland's home of health and wealth, for the benefit of our customers and the wider Irish population.

Irish Life Health helps people live healthier lives by providing access to healthcare through its health insurance plans.

Over 46% of the population (over 2 million people) hold private health insurance. Private healthcare funded through private health insurance is a vital support to the overall health system in Ireland, alongside the public system.

Therefore, it is in the interests of health insurance customers and the overall health system in Ireland for there to be a vibrant and competitive private health insurance market in Ireland to support the continued effective functioning of the private health system.

Irish Life Health supports the principles of community rating and intergenerational solidarity for health insurance in the interests of the common good.

The Risk Equalisation Scheme is an important part of the Irish community rated health insurance market. The operation of the Risk Equalisation Scheme has a direct impact on over 2 million health insurance customers, on the attractiveness of insurance to younger lives and the sustainability of the health insurance market and indirectly, on the functioning of the wider health system.

There are a number of different aspects which needs to be considered in designing an effective Risk Equalisation Scheme, which meets the Principle Objective of the Health Insurance Act, whilst avoiding overcompensation, maintaining the sustainability of the market, maintaining fair and open competition and avoiding generating surpluses or deficits from year to year. Irish Life Health's view is that it is very important that the Risk Equalisation Scheme is responsive, regularly reviewed and changed as needed to ensure it operates as effectively and equitably as possible. This is particularly important when there are significant changes in the market and the level of claims experienced.

In this context, Irish Life Health welcomes the first public consultation on potential changes to the Risk Equalisation Scheme for 2022.

This submission addresses the four questions asked by the HIA in the consultation paper issued on 4 January 2021. The submission sets out Irish Life Health's views on the proposed change to the Risk Equalisation Scheme and outlines further changes that we believe are essential to address fundamental issues with how the scheme currently operates and ensure the future sustainability of the market.

As the current Consultation only deals with a high-level proposal for the concept of a High Cost Claims Pool and does not consider other aspects of the scheme, Irish Life Health assumes that there will be further detailed consultations prior to the finalisation of the 2022 scheme and any subsequent implementation as it is critical to the proper functioning of the scheme and market of the scheme issues are addressed. Failing to do so will result in another scheme that is blunt in its design and just exacerbates the issues with the current scheme.

2. Executive Summary

Irish Life Health's view is that the current Risk Equalisation Scheme has a number of shortcomings and that urgent review is needed. We make this submission in the interests of all customers and to ensure that there is a vibrant growing health insurance market for the benefit of all.

The introduction of a new Risk Equalisation Scheme from 2022 is an opportunity to address the issues with the current scheme.

Irish Life Health is concerned that the focus of the review appears to be very narrow, with only one change proposed – the introduction of a High Cost Claims Pool.

Irish Life Health's view is that the High Cost Claims Pool will not achieve the aims of the Risk Equalisation Scheme and is likely to exacerbate some of the current issues with the scheme. Furthermore, Irish Life Health notes that other serious issues such as inadequacies in the overcompensation test and the appropriateness of the current stamp duty structure do not appear to have been considered in this review.

A key consideration for any changes to the Risk Equalisation Scheme needs to be the sustainability of the market and the need to ensure claims costs are controlled. Demographics within Ireland are aging and the health insurance market never fully recouped the younger, health age cohort that left the market due to the financial crisis (the percentage of population with health insurance is still 4.8% below the 50.9% achieved in 2008).

High Cost Claims Pool

The public consultation document provides limited detail on the proposed High Cost Claims Pool.

Based on the information provided, Irish Life Health's views on the proposal are as follows:

- **Subsidy between lower benefit and higher benefit plans:** If the High Cost Claims Pool payments are based on actual claims costs incurred (as appears to be the proposal), it will exacerbate the issue which currently exists whereby lower benefit plans subsidise higher level plans which provide access to more luxurious accommodation during treatments and hospital stays.
- **Inefficiencies:** The introduction of a High Cost Claims Pool will significantly reduce incentives for insurers to manage their claims costs efficiently as losses will be shared across the market. This will ultimately be to the detriment of all health insurance customers.
- **Heightened risk of overcompensation:** The use of a High Cost Claims Pool will increase the risk of overcompensation. The Risk Equalisation Scheme does not have an adequate process to assess and correct overcompensation which leads to distortion in competition in the market and inequity between customers.

- **Review of existing features:** The introduction of a High Cost Claims Pool should trigger a full review of other features of the scheme to ensure that there are no overlaps which could trigger an over compensation for the different risks in the market.

Overall, Irish Life Health's view is that the introduction of another crude measure of health status in the scheme such as a High Cost Claims Pool will not improve the effectiveness of the scheme.

However, if a High Cost Claims Pool is to be introduced it is critical that the calculation of the high cost claims credits is modified to ensure that the issues discussed above do not arise.

The High Cost Claims Pool needs to be set to operate at a standardised benefit and cost level based on minimum benefits. This reflects that this is the level the Risk Equalisation Scheme should operate at to support community rating. Any benefits over this level are discretionary add ons by customers (primarily relating to more comfortable hospital accommodation) and should not be taken into account for the purposes of risk equalisation or determining whether a claim is a high cost or not.

Specifically, the following modifications would be needed to the High Cost Claims Pool:

- The High Cost Claims Pool credits should be based on a **standardised room cost** rather than the actual cost incurred by insurers. The standardised room cost should be set at based on Minimum Benefits. This would align to minimum benefits and reduce the risk of inequitable cross subsidies between lower benefit and higher benefit plans. This would also reduce the risk of the High Cost Claims Pool incentivising inefficiencies in the market.
- Similarly, where consultant costs are included in the claims costs, these costs should be included at a **blended market rate** rather than the cost incurred.
- In relation to drug costs, **only drugs approved** for clinical and cost effectiveness **by the National Centre for Pharmacoeconomics** should be included, again to avoid distortions due to different insurers' commercial practices.
- Claims eligible to be included in the High Cost Claims Pool should be for a **standardised set of treatments** which are available in the public system. Similar to the points above, this would avoid distortion due to individual insurers' decisions to cover, for example, new or experimental treatment types.
- **Changes to the stamp duty, age related and hospital utilisation credit rates and structure** need to be considered to ensure overcompensation does not arise and that the credits in relation to individual lives are appropriate. At a minimum, any claims included in the High Cost Claims Pool should not be eligible for hospital utilisation credits.
- **Enhancements to the overcompensation test** are critical in any case (as discussed further below) but the risk of overcompensation will be further exacerbated by a High Cost Claims Pool.

- **Certainty in relation to the calibration of the 40% share and how it might be changed should be set out.**
- **Review triggers:** There should be triggers to review the High Cost Claims Pool during the term of the new Risk Equalisation Scheme. For example if an insurer moved further into healthcare provision, there would be a conflict of interest in setting hospital rates and receiving credits for high claims.

Our views on the proposed High Cost Claims Pool are set out in more detail in Section 4.

Overcompensation

The current overcompensation test is not fit for purpose, has not proven effective over recent years and will almost certainly never detect overcompensation because of the scope that entities have to adjust their financial position over the 3 year assessment period.

Irish Life Health's view is that the overcompensation test needs to be modified as follows:

- The overcompensation test should be based on **Solvency II results** rather than insurers' financial statements. Solvency II follows EU-wide rules, applies consistently to all insurers and must be disclosed publicly in each insurer's Solvency and Financial Condition Report. A key principle of Solvency II is that reserves are calculated on a best estimate basis. This would reduce the risk that the test could be distorted by differences in reserving practices between the Solvency II and financial statements basis.
- It must **adjust the expenses deducted in the calculation of profits to a market average level**. This would ensure that inefficiency is not incentivised. The market average expense level should be determined by the Central Bank of Ireland which receives data from all insurers as part of their Solvency II returns.
- It must include a provision for the HIA to **identify and adjust for items which do not relate to core health insurance business**. Impacts of reinsurance and investment performance are removed but this should also include additional/ad hoc payments to customers and other discretionary payments which do not relate to the cost of claims or the level of risk that an insurance company carries. Otherwise, there is a danger that risk equalisation receipts could be used to fund such activities which results in inequity and unfairness between customers of different health insurers.
- It must be conducted on an **annual basis** and in a timely manner after each year-end date.

Our views on the overcompensation assessment are set out in more detail in Section 6.2.

Review of structure of stamp duty

Irish Life Health's view is that the current flat rate stamp duty is socially regressive, inequitable and poses a significant risk to the sustainability of the market by making entry plans expensive and discouraging younger and healthier customers from taking out health insurance.

The current stamp duty structure effectively results in compensation for customers who choose plans with more luxurious accommodation from those on more basic plans. Further the current flat rate stamp duty puts health insurers in conflict with the Financial Services and Pensions Ombudsman and the Central Bank of Ireland and needs to be addressed.

These issues can be addressed by changing the stamp duty to be applied as a percentage of premium paid, without impacting the funding of the scheme. Basing the stamp duty on premiums paid also avoids the current market challenges around dealing with mid term cancellations, will improve competition in the market and lead to better customer outcomes.

A change of the basis for the calculation of stamp duty could be implemented on a phased basis to mitigate the risk of sudden disruption to the market.

Our views on stamp duty are set out in more detail in Section 6.1.

Flexibility to respond to significant events

The current Risk Equalisation Scheme is extremely inflexible and cannot respond to significant market events.

This inflexibility was highlighted in 2020 when no changes were made to the operation of the scheme to respond to the significant impacts of Covid-19 on the health system.

Irish Life Health's view is that this resulted in a significant distortion to the market in 2020 which needs to be reviewed and addressed. The new Risk Equalisation Scheme should include a requirement for the scheme to be adjusted in response to significant events.

Our views on the impacts of Covid-19 and the need for the scheme to be more responsive are set out in more detail in Section 6.3.

Changes to effectiveness measure

Irish Life Health has concerns about how effectiveness of the Risk Equalisation Scheme is currently measured and believe this needs to be changed to improve equity between customers. Under the current scheme, the effectiveness measure includes items which have nothing to do with the risk profile of an insurer's portfolio of lives.

Irish Life Health's view is that when assessing effectiveness, all claims costs should be translated to equivalent minimum benefit level claims costs. This would ensure that the Risk Equalisation Scheme only compensates for differences in risk and not for differences in benefits selected (which mainly relate to the differences in accommodation in different treatment settings).

Our views on the effectiveness measure are discussed in more detail in Section 6.4.

Role of the State/Minister for Health

The Minister for Health acts as the ultimate regulator of the market, owns the largest health insurer in the market and controls the largest hospital network for the provision of private health services in the State. As such, the Minister is fundamentally conflicted in his/her role when making determinations on the market.

Irish Life Health's view is that the Minister for Health should not make determinations on stamp duties and credits, given his/her other roles in the health insurance and healthcare market and regulation of the health insurance market should move to an authority not under the remit of the Department of Health.

Our views on the role of the Minister for Health are discussed in more detail in Section 6.5.

3. Principles of the Risk Equalisation Scheme

Given that Ireland has a voluntary community rated market for health insurance, do you agree with the principle and overall substance of the Risk Equalisation Scheme?

3.1 Risk Equalisation to support a community rated health insurance market

Irish Life Health supports community rating and intergenerational solidarity. Irish Life Health agrees that an appropriate Risk Equalisation Scheme is necessary to support a community rated health insurance market. However, it is critical that health insurance is attractive to younger and healthier customers in order to ensure the sustainability of the market and that insurance remains affordable for the maximum number of people.

It is also critical that a Risk Equalisation Scheme operates effectively and equitably. Irish Life Health has consistently provided inputs to the HIA in relation to issues with the current operation and structure of the scheme and has proposed solutions to address these. It can be expected that a Risk Equalisation Scheme will have issues and it is imperative that these are considered and addressed when opportunities arise, such as the design of a new scheme. It is disappointing that, despite many of these issues having been raised on previous occasions there does not appear to be any focus on addressing them.

Irish Life Health's view is that it is critical that the Risk Equalisation Scheme is designed to provide sufficient focus on all of the following objectives:

- **Supports Community Rating.** Is effective in distributing funds between insurers with different levels of risk by age and health status which supports Community Rating;
- **Equitable.** Only compensates for differences in risk by age and health status and not for differences in benefits selected (which primarily relate to lifestyle choices on types of hospital accommodation) or other non claims related items;
- **Promotes sustainability of the health insurance market.** Encourages younger and healthy lives into the market to support the ongoing sustainability of the market in the interests of all. It is also important that the maximum number of people can access affordable health insurance;
- **Promotes efficiency.** Is structured such that efficiency is incentivised in the market in the interest of lowering prices for all current and potential customers;
- **Avoids overcompensation of any insurer by other insurers**. Has a robust approach to determining parameters to reduce the risk of overcompensation and an adequate mechanism to quickly detect and address overcompensation when it does arise;
- **Promotes competition.** Promotes fair and open competition considering the specific nature of the health insurance market and in particular the existence of a dominant player;

- **Balances stability with flexibility.** Maintains a reasonable level of stability in the market while being flexible enough to respond and adjust to significant changes in circumstances relative to expectations.

Irish Life Health acknowledges that it is necessary to strike a balance between the many different objectives for the Risk Equalisation Scheme. Careful consideration with sufficient focus on all these objectives and judgement is required in designing the scheme and operating it.

In this context, it is critical that the Risk Equalisation Scheme is subject to robust independent governance and oversight to ensure that the scheme meets the objectives of the Health Insurance Acts, EU State Aid Rules and Competition Law not to mention the principles of fair competition and a customer oriented market.

3.2 Adequacy of current Risk Equalisation Scheme

Irish Life Health's view is that the current Risk Equalisation Scheme is not meeting many of these objectives. Irish Life Health believes a comprehensive review of the scheme is required ahead of the new Risk Equalisation Scheme being introduced.

The new Risk Equalisation Scheme is intended to commence in 2022 for a period of five years.

Implementing a new scheme following a narrow review as suggested in the Consultation Paper is a serious concern as this is likely to exacerbate the existing flaws with the current Risk Equalisation Scheme, which Irish Life Health has previously raised with the HIA and European Commission.

In particular, Irish Life Health's view is that the current Risk Equalisation Scheme has the following shortcomings:

- **Socially regressive.** The current Risk Equalisation Scheme results in an unfair subsidy from customers who choose lower benefit plans to customers who choose higher benefit plans, due to the current flat rate stamp duty. This is socially regressive and inequitable. Further, this limits the ability of the health insurance market to attract younger and healthier lives which creates a risk to the sustainability of the market.
- **Inflexible.** The current Risk Equalisation Scheme is extremely inflexible and has no mechanism to respond to emerging trends and sudden shifts in the market, such as occurred in 2020 and will continue through 2021 due to Covid-19. This significantly exacerbates the inequity within the scheme and will result in further adverse consequences for customers and the overall Irish health insurance market.
- **Ineffective at detecting overcompensation.** The mechanism for assessing and addressing overcompensation is fundamentally flawed and overcompensation is not being detected or addressed when it does arise. In our view, there is some evidence of some players in the market seeking to use excessive payments from the Risk Equalisation Scheme to gain competitive advantage which should not be facilitated by the scheme.

- **Effectiveness measure is inappropriate.** The measure needs to be adjusted to allow for differences in claims costs which are purely driven by differing accommodation costs in different treatment settings rather than underlying risk differences. This measure also needs to promote efficiencies in claims costs management. To do this the measure needs to ensure that are not shared between insurers.

The issues discussed above mean that the Risk Equalisation Scheme is distorting competition in the market, resulting in inequity between customers of different insurers and not effectively promoting competition and the sustainability of the market.

Irish Life Health believes that it is critical for the future sustainability of the health insurance market that these shortcomings are addressed in the review of the scheme.

4. View on the proposed changes

Would the changes proposed affect your involvement in the private health insurance market?

4.1 Proposed introduction of High Cost Claims Pool

The only proposed change for the new Risk Equalisation Scheme is the introduction of a High Cost Claims Pool. It is stated that the introduction of the High Cost Claims Pool is intended to increase the element of risk sharing based on actual claims experience as opposed to using risk indicators such as age and gender and that this should increase the effectiveness of the Risk Equalisation Scheme.

Irish Life Health agrees that the age related credits are based on relatively crude predictors of claims and supports the aim of achieving improvements to the Risk Equalisation Scheme that meet the objectives in Section 3.1.

We can see how the introduction of a High Cost Claims Pool may, in theory, align with the aim to improve effectiveness based on the current measure of effectiveness. However, our view is that the introduction of a High Cost Claims Pool as currently set out will result in a number of issues and exacerbate issues which currently exist within the scheme.

Affordability of insurance plans is key for the continued sustainability of the market. The introduction of a High Cost Claims Pool as currently set out is likely to again drive up the costs of health insurance plans impacting those who can least afford increases most. Compounding this, it has the potential to share inefficiencies across the market and increase claims costs to the detriment of all consumers. The current proposal for a High Cost Claims Pool will not achieve the stated aim of the scheme but may actually cause further instability within the market.

Furthermore, we believe that the introduction of a High Cost Claims Pool in isolation will result in further overcompensation.

We note that the new Risk Equalisation Scheme is intended to commence in 2022 for a period of five years. In this context, it is our view that it is extremely important that all aspects of the scheme (i.e. stamp duties, credits and the operation of the scheme) are considered and adjusted appropriately as part of this review and that the implications of the High Cost Claims Pool on the achieving all the Risk Equalisation Scheme's objectives are considered thoroughly.

There are many complexities in terms of the detail of how a High Cost Claims Pool might operate. The Public Consultation document provides limited detail on the proposed High Cost Claims Pool. Our views are based on how we understand the High Cost Claims Pool will operate. Irish Life Health believes that if it is decided to proceed with the introduction of the High Cost Claims Pool, a further consultation should be conducted with a more detailed proposal. In particular, further clarity is required on how the High Cost Claims Pool will interact with the other aspects of the Risk Equalisation Scheme, the projected impact the changes will have on stamp duties and credits across the market and the flexibility of assumptions in the event of a financial downturn post-Covid.

Overall, our current assessment is that the introduction of a High Cost Claims Pool would likely lead Irish Life Health to review our plans for innovation and how we approach and invest in the market.

In the following Sections we discuss our views on the proposed High Cost Claims Pool further.

4.2 Views on proposed High Cost Claims Pool

As set out in the Public Consultation document, the proposed initial calibration of the High Cost Claims Pool is to compensate 40% of the cost of claims that are in excess of €50,000 in respect of a specified period of cover.

Our understanding from the Public Consultation is that:

- The intention is that the cost of claims calculations would be completed on a per life basis, and the period of cover would be equal to the term of the policy.
- Amounts payable from the High Cost Claims Pool would be based on cost of claims incurred by insurers for each life.

Our comments below are based on this understanding.

Our observations on the proposed High Cost Claims Pool are set out below.

a) Increased subsidy for those on higher benefit plans

In the existing Risk Equalisation Scheme, the current flat rate stamp duty results in a significant unfair subsidy to those on higher benefit plans by those on lower benefit plans (as discussed further in Section 6.1 below). Those choosing lower benefit (lower average premium) plans will part subsidise those choosing higher benefit (higher premium) plans, irrespective of age and health status.

This element is not supporting community rating. Community rating ensures that '*people who are old or less healthy do not have to pay more than the young healthy for the* ***same product'***.

This cross-subsidisation will be exacerbated by the introduction of a High Cost Claims Pool which does not make any adjustment for significantly higher claims costs incurred on health insurance plans with a high level of benefits. For example, the High Cost Claims Pool will lead to further subsidisation of those who choose higher benefit plans, which provide access to hospital accommodation in the most expensive private hospitals, by those on lower-benefit plans. If two cardiac patients are treated privately (often by the same consultant) but one is in a semi-private room in a public hospital and the other is in a private room in a hi-tech hospital receiving the same treatment, why should one claim be shared for incurring a higher cost for the same treatment?

The premiums for higher benefit plans are set to take into account the higher claims costs to be incurred by the more expensive hospital settings. They should not be further compensated through a mechanism such as a high cost claims pool. While older persons may choose higher cost plans, this is often to access differing hospitals and accommodation levels; it does not alter access to treatment. In fact, the range of treatments available privately in public hospitals is more extensive than those in private hospitals.

In the Public Consultation document the HIA noted the €2,000 orthopaedic excess that is applied to policies, inferring that older persons needed to purchase higher level plans to access full cover for this benefit. However, this failed to state that the same treatment is fully covered privately in public hospitals across the State.

b) Impact on efficiency within the market

It is important that the Risk Equalisation Scheme does not remove incentives for health insurers to be as efficient as possible in managing claims costs.

Irish Life Health's view is that the introduction of a High Cost Claims Pool would significantly reduce incentives for insurers to contain costs, as a significant portion of costs on large claims would be recoverable from the High Cost Claims Pool.

This essentially means insurers that are more efficient and effectve in managing claims costs will subsidise less efficient insurers. This will lead to a reduced incentive for efficiency and containment of medical inflation by insurers, one of the biggest risks to the market. This will ultimately result in increases in prices and be detrimental to health insurance customers.

As such, the introduction of a High Cost Claims Pool based on the cost of claims incurred by insurer is not in the best interests of customers.

There is also no proposal on how the 40% ratio was set and how it might vary over time. Insurers need to be able to plan and have some certainty on how the market operates in developing and pricing plans.

c) Overlap with existing risk equalisation credits

Under the current Risk Equalisation Scheme insurers receive age related credits for customers over 65 and hospital utilisation credits which vary based on the actual claims experience of insurers.

For high cost claims, under the current scheme insurers will receive hospital utilisation credits and potentially also age related credits for older customers.

Unless changes are made to the age related credits and/or hospital utilisation credits, there could be a significant overlap with existing credits for some high cost claims. Furthermore, depending on the nature of the high cost claims and the age/gender of the claimant there could be a significant difference in the credits received by an insurer.

For example, the following table illustrates some potential scenarios for claims costs totaling €70,000 depending on the nature of the claims and the patient's age and gender:

Example:	**A**	**B**	**C**
Customer's details	Male age 60	Male age 60	Male age 65
Claims over specified period	€70,000	€70,000	€70,000
No. of nights in hospital	5	60	60
High Cost Claims Pool credit *40% * (€70,000 - €50,000)*	€8,000	€8,000	€8,000
Hospital utilisation credit	€500	€6,000	€6,000
Age credit (advanced plan)			€1,025
Total credits	€8,500	€14,000	€15,025

The variation in the total credits received in this example would not be commensurate with differences in the level of risk or costs. In some circumstances (e.g. very long hospital stays) the difference could be more significant.

Therefore, changes to the other credits within the scheme would be needed at the same time as introducing the High Cost Claims Pool.

d) Increased risk of overcompensation

Introducing a High Cost Claims Pool without other changes to the Risk Equalisation Scheme will result in a significant increase in the amount transferred to insurer(s) with large claims, irrespective of the benefit plans chosen by that insurer's customers.

As discussed above, the Risk Equalisation Scheme already provides compensation to insurers for larger claims through the hospital utilisation credit, as well as age related credits for older customers. To add additional credits without other adjustments would almost certainly result in overcompensation.

Furthermore, the additional subsidisation between those on lower benefit plans and those on higher benefit plans would add to this overcompensation, particularly given that for higher benefit plans the insurer also collects a higher premium.

As the current Risk Equalisation Scheme does not have an adequate overcompensation test (as discussed further in Section 6.2 below) it is likely that this additional overcompensation would not be detected, may be used to distort competition in the market and may be unfair for those lives with a lower risk profile and claims experience.

e) Impact on effectiveness of the Risk Equalisation Scheme

Irish Life Health understands and supports the aim to achieve improved effectiveness of the scheme.

As discussed in more detail in Section 6.4, Irish Life Health has concerns about how effectiveness is currently measured in the Risk Equalisation Scheme and fundamentally believes this need to be changed, to improve equity between customers, ensure strong levels of competition and protect the sustainability of the market.

Notwithstanding our concerns about the measure of effectiveness, it is not clear how the introduction of a High Cost Claims Pool will improve the effectiveness of the scheme.

In assessing how to improve effectiveness by more accurately capturing health status in the scheme, it is useful to consider experience from other jurisdictions which operate risk equalisation schemes. The Dutch and German risk equalisation schemes used a High Cost Claims Pool feature for a period of time as a crude health status measure before abolishing this for a more accurate health status measure (diagnostic-related groups or morbidity based risk adjustment).

Currently the Irish risk equalisation scheme uses hospital utilisation credits as a crude health status measure.

In the absence of an ability to include an accurate health status measure, Irish Life Health's view is that introducing another crude health status measure, such as a High Cost Claims Pool, to the scheme will not improve effectiveness and will create a number of other issues as discussed throughout this Section.

It would appear that an alternative such as changing the balance between hospital utilisation credits and age related credits to weight more towards the risk based hospital utilisation credits would be at least as effective and would avoid many of the issues discussed above.

f) Impact on insurer incentives to attract older lives

In the Public Consultation paper, it is noted that even with the existing scheme there is a commercial incentive for insurers to avoid insuring risky customers. One of the stated aims of the High Cost Claims Pool is to reduce this incentive.

The paper mentions products designed so that orthopaedic care has high excess payments and directs higher risk individuals to purchase higher benefit (and higher premium plans). However, these higher excess payments (also known as co-payments) only apply in private hospitals. There is full coverage of the same orthopaedic procedures (often by the same consultant/doctor) within public hospitals with no financial shortfall to the patient. As orthopaedic treatments are in many cases cheaper within public hospitals, insurers design lower cost plans which direct treatment to these facilities rather than to private hospitals.

In this way, insurers are designing plans which meet the needs of different groups of customers. This is in the interest of customers who choose to access those lower cost plans, many of whom could not afford the higher cost plans. To ensure access to health insurance is affordable for as many people as possible, it is essential that lower cost plans are available. Furthermore, younger people in general are more likely to have affordability constraints. The offering of plans which are affordable and attractive to younger customers is critical for the overall sustainability of the health insurance market. In accordance with market requirements, these plans are available for all customers.

Where a customer elects to purchase a higher benefit plan that provides full orthopaedic cover in private hospitals, those plans will typically have higher premiums (all else being equal). However, the increase in premium is largely down to the customer's choice to access the same treatment in a more comfortable setting. Therefore, it is appropriate that those customers would pay a higher premium, regardless of their age. Needless to say, there are many other benefits covered by these plans which should not be discounted in any analysis.

Minimum benefits regulation has been set to ensure that insurers cannot design plans that would only be attractive to lower risk groups.

4.3 High Cost Claims Pool: Changes that need to be considered

As discussed earlier, Irish Life Health's view is that the introduction of a High Cost Claims Pool would have a number of implications and would not improve the Risk Equalisation Scheme.

However, if a High Cost Claims Pool is to be introduced, Irish Life Health's view is that this should only be done alongside other changes as discussed in Section 6 and adjustments made to the High Cost Claims Pool as discussed further below.

The High Cost Claims Pool would need to be set to operate at a standardised benefit and cost level based on minimum benefits. This reflects that this is the level the Risk Equalisation Scheme should operate at to support community rating. Any benefits over this level are discretionary add-ons by customers (primarily relating to more comfortable hospital accommodation) and should not be taken into account for the purposes of risk equalisation.

Specifically, the following modifications would be needed to the High Cost Claims Pool:

- The High Cost Claims Pool should be based on a **standardised room cost** rather than the actual cost incurred by insurers. The standardised room cost should be based on Minimum Benefits. This would align to minimum benefits and reduce the risk of inequitable cross subsidies between lower benefit and higher benefit plans. This would also reduce the risk of the High Cost Claims Pool incentivising inefficiencies in the market.
- Similarly, where consultant costs are included in the claims costs, these costs should be included at a **blended market rate** rather than the cost incurred.

- In relation to drug costs, **only drugs approved** for clinical and cost effectiveness **by the National Centre for Pharmacoeconomics** should be included, again to avoid distortions due to different insurers' commercial practices.
- Claims eligible to be included in the High Cost Claims Pool should be for a **standardised set of treatments** which are available in the public system. Similar to the points above, this would avoid distortion due to individual insurers' decisions to cover, for example, new or experimental treatment types.
- **Changes to the stamp duty, age related and hospital utilisation credit rates and structure** need to be considered to ensure overcompensation does not arise and to ensure that the credits in relation to individual lives are appropriate. At a minimum, any claims included in the High Cost Claims Pool should not be eligible for hospital utilisation credits.
- **Enhancements to the overcompensation test** are critical in any case (as discussed further in Section 6.2) but the risk of overcompensation will be further exacerbated by a High Cost Claims Pool.
- **Certainty in relation to the calibration of the 40% share and how it might be changed should be set out.**
- **Review triggers:** There should be triggers to review the High Cost Claims Pool during the term of the new Risk Equalisation Scheme. For example if an insurer moved further into healthcare provision, there would be a conflict of interest in setting hospital rates and receiving credits for high claims.

4.4 Effectiveness of proposed changes to meet the aims of the Risk Equalisation Scheme.

The proposal to introduce a High Cost Claims Pool does not, in our view, meet many of the aims set out in Section 4 of the Public Consultation document (or the objectives set out in Section 3.1 above).

Specifically, it is believed that the High Cost Claims Pool would have the following adverse consequences:

- Further reduce incentives for younger and healthier lives to enter the market, by exacerbating the cross subsidies between lower benefit and higher benefit plans which currently exists.
- Create inefficiencies in the market which will ultimately increase prices for customers, creating further challenges for customers and the overall market.
- Increase the risk of overcompensation within the market which will further distort competition and lead to inequity between customers of different insurers.

5. Risks and Vulnerabilities

Are there risks or vulnerabilities that do not feature and should be included, and why

The key risk which does not appear to have been considered in the review of the Risk Equalisation Scheme is the risk to the future sustainability of health insurance market.

To date, we believe insufficient focus has been put on ensuring that this risk is addressed such that the Risk Equalisation Scheme supports a sustainable health insurance market that delivers for all customers both now and over time.

Importance of intergenerational support

For the market to survive and thrive, health insurance (including the risk equalisation scheme) must be attractive to all customers including both existing and potential customers. This means that the market must be considered equitable and that plans must be provided which are attractive to and affordable for younger and healthier lives.

This will facilitate the intergenerational support which is vital for the success of the health insurance market. If the market does not attract sufficient younger lives, the aging of the insured population will make health insurance unaffordable for all.

This could ultimately result in the demise of health insurance which would have a number of adverse consequences including putting increased pressure on the public health system.

Intergenerational support and community rating are in place so that persons on similar plans pay similar premiums regardless of age or health status. Intergenerational support should not however facilitate persons on cheaper plans (be they young or old) subsidising person who chose to pay for more expensive plans (regardless of their age or health status).

Risks to affordability of health insurance

From a customer point of view, an individual will purchase health insurance based on his/her own assessment as to the value placed on "peace of mind" coupled with consideration of any claims he/she might incur.

For younger/healthier lives a key consideration will often be affordability and they may not place a significant value on having full access to expensive private hospitals. This is particularly important for those with young families and a number of dependent relatives where one individual could be paying premiums for multiple individuals.

Medical cost inflation and aging of the market is likely to increase health insurance premiums which will increase the risk that health insurance becomes unaffordable to some younger, healthier and lower income lives. This will create significant challenges for the health insurance market and it is essential that insurers and the Risk Equalisation Scheme take actions to address this risk.

It should be noted that during the financial crisis where affordability within the market was at its lowest, the health insurance stamp duty grew expediently and more than doubled, driving up premiums and accelerating the exit of younger, healthier lives. These younger healthier age cohorts have never returned to their pre-financial crisis level. This exit from the market in turn increased costs for all insurance consumers. The revised scheme needs to be more cognisant of market forces and not be an accelerator of decline by needlessly increasing claims costs.

Risks due to economic uncertainty

Over the term of the new Risk Equalisation Scheme, there will be economic uncertainty due to the impacts of Covid-19 on the economy.

During economic recessions, it is more challenging for customers who are struggling financially to afford health insurance. Those most affected tend to be younger lives but there are a wide range of young, middle aged and older customers who suffer financial difficulty in times of economic stress.

Customers with affordability challenges, who tend not to select higher benefit (higher premium) plans, are forced to leave the health insurance market and may never return. This trend will also put increased pressure on the public health care system as more people will then exclusively dependent on it.

An exodus of younger lives from the market is a significant risk to the sustainability of the market and this risk is heightened in times of economic uncertainty. This risk was amply observed during the financial crisis where the health insurance market shrank substantially at all age cohorts under 45.

It is critical that the Risk Equalisation Scheme is amended to better address this risk and support the sustainability of the market.

Affordability challenges exacerbated by current Risk Equalisation Scheme

The Risk Equalisation Scheme needs to appropriately manage the size of the subsidy from lower risk customers to higher risk customers in order to deliver on its objectives. For the scheme to be equitable between customers, those who choose higher benefit plans should not be subsidised by those on lower benefit plans, for the extra claims cost caused by benefit differences.

Milliman published a report earlier in January 2020 called “How to equalise risk in healthcare systems” which noted inter alia that:

"Benefit richness can also result in higher claims costs. In some health insurance markets, particularly mandatory insurance markets, there is a standardised benefit package and the

risk equalisation system reflects the standard basket of benefits. However, in many private health insurance markets, the level of benefit is variable. Individuals have an opportunity to choose richer or poorer benefit packages with difference in the types of services cover, the hospitals or providers covered, the level of accommodation, the level of co-payment required etc. For a risk equalisation system this can raise challenges. The system may aim to equalise differences in risk due to the health status of the insured lives, ***but would typically not wish to equalise differences caused by richness of benefits. It may be unfair to a low-risk person to cross-subsidise the extra claims costs of a higher-risk person if the higher risk person has a much richer benefit package driving part of the claims costs differences.****" (emphasis added).*

The current Risk Equalisation Scheme results in significant subsidies from those on lower benefit plans to those on higher benefit plans.

As well as being inequitable (as discussed further in Section 6.1) this exacerbates the risk that health insurance will become unaffordable and unattractive for younger and healthier lives.

Changes needed to address these risks

Irish Life Health believes that more needs to be done for all customers to make health insurance affordable for more customers, sustainable in the medium term and give customers choice. Encouraging more lower risk lives into the market to support the ongoing sustainability of the market is key to the survival of the health insurance market.

Historically, we believe the focus of the Risk Equalisation Scheme has been too narrow, mainly motivated by 'improving effectiveness' with not enough focus on all customers (including potential customers) and not enough focus on promoting competition and innovation by insurance providers

In Section 6 we discuss the changes to the Risk Equalisation Scheme we believe are required to address these issues in order to better meet the Principal Objective of the Health Insurance Act and to protect the future sustainability of the market in the interests of all current and future health insurance customers and the wider public interest.

6. Additional changes needed to the Risk Equalisation Scheme

Do you have additional suggestions for refinement of the Risk Equalisation Scheme in Ireland?

Irish Life Health's view is that a comprehensive review of the Risk Equalisation Scheme is required in advance of introducing a new Risk Equalisation Scheme. That review should consider stamp duty, credits and the adequacy of the mechanism for assessing overcompensation. This review should be informed by experience on the Risk Equalisation Scheme since it has been in existence, and refinements should be introduced to address the shortcomings of the existing scheme.

Irish Life Health believes the following changes should be made in the new Risk Equalisation Scheme:

- **Apply stamp duty as a percentage of premium.** This would be more equitable to all stakeholders. *Discussed in Section 6.1.*
- **Changes to increase the flexibility of the Risk Equalisation Scheme to respond to significant market changes.** In 2020 there was significant disruption to the health system due to Covid-19 and the Risk Equalisation Scheme was unable to adjust to respond to this. The scheme needs to be more flexible to allow it to respond to significant sudden changes. *Discussed in Section 6.2.*
- **Overcompensation test changes.** The current overcompensation test is not fit for purpose and changes are needed to ensure overcompensation can be promptly detected and addressed. *Discussed in Section 6.3.*
- **Effectiveness measure used in calibrating the Risk Equalisation Scheme parameters**. This measure needs to be adjusted to ensure there is an incentive for efficiencies in claims cost and to allow for risk differences due to those who choose higher benefit plans over those who chose lower benefit plans. *Discussed in Section 6.4.*
- **Changes are needed to the Minister for Health's role in the scheme.** There are inherent conflicts of interest between the Minister for Health's roles as ultimate regulator of the health insurance market, owner of the largest health insurer in the market and controller of the largest hospital network for the provision of private health services in the State. These conflicts of interest need to be addressed. *Discussed in Section 6.5.*

In our view, these changes would make the Risk Equalisation Scheme more equitable for customers and would support the sustainability of the health insurance market into the future. This would allow the Principal Objective of the Health Insurance Act to be better met.

6.1 Stamp duty as a percentage of premium

Stamp duty – current structure

Under the current Risk Equalisation Scheme stamp duty is currently calculated as a fixed monetary amount per life insured (which varies between advanced plans and non-advanced plans with a reduced stamp duty for insured lives age 17 and under). Within the voluntary health insurance market approximately 10% of customers have non-advanced plans and 90% of customers have advanced plans.

For the Irish health insurance market overall stamp duty amounts to approximately 30% of premium income.

Issues with current structure: not equitable

In a community rated health insurance market lower risk customers (i.e. younger and healthier) support higher risk customers (i.e. older and sicker). This intergenerational solidarity ensures that older and sicker customers can continue to have access to health insurance. The Risk Equalisation Scheme is critical to support community rating.

However, the stamp duty structure means that the current Risk Equalisation Scheme also results in subsidisation based on richness of benefits (i.e. those who choose lower benefit plans are subsidising those who choose far more expensive plans with richer benefits).

This is not equitable and reduces the attractiveness of health insurance for lower risk lives who are critical to maintaining the sustainability of the market.

The tables below show the unfair gap caused by a flat rate stamp duty on differently priced plans.

Non-Advanced Plans	Premium Payable	Stamp duty charged	Stamp duty as a percentage of Premium
Lowest Cost Plan	€489.11	€157	32.1%
Highest Cost Plan	€1,744.30	€157	9.0%

Advanced Plans	Premium Payable	Stamp duty charged	Stamp duty as a percentage of Premium
Lowest Cost Plan	€729.23	€449	61.6%
Highest Cost Plan	€9,037.14	€449	5.0%

Within the advanced plans range (approximately 90% of the market) customers have the opportunity to choose from a wide range of plans with for example differences in the types of treatments covered, hospitals and providers covered, the level of accommodation and the level of co-payment required.

The level of premium paid varies by plan, with plans offering higher benefits having higher premiums. However, the same fixed monetary stamp duty is charged in respect of all customers purchasing advanced plans.

The two flat stamp duties are a crude attempt to assist with the cross-subsidy challenge between plans, the enormous differential within the benefits offered by the various advanced plans (and that 90% of the market have advanced plans) makes this distinction meaningless.

This structure results in customers on lower cost plans cross subsidising the extra claims costs of customers on higher benefit plans. Therefore, those who can least afford it, in effect, subsidise the more expensive plans. This is not equitable and is not in line with the aims of a risk equalisation scheme which supports community rating.

This fixed monetary stamp duty also creates an entrance barrier for those wishing to purchase health insurance. It also disadvantages lower income customers and those who are paying premiums for multiple lives by making health insurance less affordable.

An enhanced mechanism is required such that the stamp duty is collected in a more equitable way.

Issues with current structure: threatens sustainability in the market

The issue discussed above artificially increases the premiums on lower benefit plans.

This significantly reduces the attractiveness of health insurance for younger and healthier customers. As discussed in Section 5, it is vital for the health insurance market to continue to attract significant numbers of younger and healthier customers.

This significantly exacerbates the risks relating to the sustainability of the market.

Issues with current structure: implications for customers switching plans

Applying stamp duty as a flat amount payable for all contracts causes significant distortion to the operation of the market when it comes to customers' options to switch providers mid-term or to exit their contracts mid-term.

Insurers become liable for the stamp duty when a policy is issued and the stamp duty is not recoverable if the contract is cancelled mid-term. As a result, insurers are required to apply mid-term cancellation charges to collect the cost of the stamp duty not yet collected from customers' premiums at the time of cancellation.
If a customer is forced to cancel mid-term, for example due to financial difficulties, this charge is an additional financial penalty which the customer likely cannot afford and which is unjustifiable as there is no reason why a customer should be required to contribute a full

year of stamp duty to the risk equalisation fund if they are on risk for less than the full contract term.

This charge is significant and acts as a significant disincentive for customers to switch or cancel the contract mid-term which undermines competition across the market.

If a customer does decide to switch mid-term there is a significant penalty. For example, if a customer switches from Insurer A to Insurer B, Insurer A is required to charge a mid-term cancellation charge (to recover the stamp duty already paid) and Insurer B is required under community rating rules to charge a full premium to the customer when they join.

These rules are unfair and detrimental to customers. Furthermore, following the current requirements puts health insurers into conflict with the Financial Services and Pensions Ombudsman and the Central Bank of Ireland as this could potentially be perceived as unfair treatment of customers, notwithstanding that it is what is required by regulations.

Alternative: Applying stamp duty as a percentage of premium

Irish Life Health's view is that the stamp duty should be changed to be determined as a percentage of premium received by insurers.

The percentage could be set at a level that would keep the revenue neutral relative to the current approach and would alter how stamp duty is collected within the market to be more socially equitable.

We note that when the HIA has previously considered changing stamp duty to be levied as a percentage of premium at the same time as initially considering the High Cost Claims Pool in late 2018. This review was conducted following a request by the Department of Health to investigate the feasibility of introducing a High Cost Claims Pool and of changing the stamp duty so that it was levied as a percentage of the premium.

Our understanding from the report the HIA issued in April 2019 following this review is that the HIA had noted that if a High Cost Claims Pool was introduced that the stamp duty might be amended at the same time to a percentage of premium income. In this report, the HIA noted that the two changes were likely to have opposite impacts and that introducing both changes at the same time would support the stability of the market.

It is not clear why only the High Cost Claims Pool has been taken forward by the Department of Health in the proposed changes to the Risk Equalisation Scheme set out in the Public Consultation document.

Stamp duty as a percentage of premium: more equitable and supports sustainability

In the report referenced above, the HIA outlined that stamp duty calibrated at 30.6% of premium income would be revenue neutral.

Using an example of two adult advanced plan policies, one with a €3,000 premium and one with an €800 premium:

- Currently stamp duty of €449 is payable on both policies – this is 56% of the premium for the €800 policy and 15% of the premium for the €3,000 policy.
- Applying stamp duty as 30.6% of the premium would result in a stamp duty of €918 for the €3,000 plan €245 for the €800 plan.

Applying stamp duty as a percentage would be much more socially equitable. All else being equal, this change would result in the price of the cheaper plan reducing and the price of the more expensive plan increasing. The differential in price would more equitably reflect the differential in benefits.

Furthermore, this change would reduce the entrance barrier for new customers, make the lower benefit plans more affordable and accessible to younger customers which would support the sustainability of the market in the interests of all customers.

Stamp duty as a percentage of premium: impact on higher premium plans

In its 2019 Report recommending risk equalisation rates to the Minister for Health, the HIA notes that 15% of consumers are on 'higher-cover' products (which provide cover for private accommodation in private hospitals), yet they pay the same stamp duty as those on Level 2 products (which only provide cover for semi-private accommodation in private hospitals).

These 'higher-cover' products are the more expensive plans with luxury benefits such as full access to private accommodation in the most expensive private hospitals. These products tend to attract older customers, who can afford and value these benefits over and above minimum benefit levels.

The HIA's assessment as set out in their report aligns with our view that the differences between plans largely relates to differences in accommodation and not differences in treatment.

Changing stamp duty to be a percentage of premium would likely result in increases in prices for these plans. However, this difference in price would more equitably reflect the differences in accommodation offered, as discussed above. There is of course no reason why any impacted customers could not switch to plans with more modest accommodation costs. At the end of the day, ensuring good medical outcomes should be the objective of the Risk Equalisation Scheme.

All customers have equal access to all health insurance plans under community rating and open enrolment rules. Minimum benefit regulations ensure that all health insurance plans offer a minimum level of cover.

Stamp duty as a percentage of premium: Conclusion

Overall, Irish Life Health's view is that the current flat rate stamp duty is socially regressive, inequitable and poses a significant risk to the sustainability of the market.

These issues can be addressed by changing the stamp duty to be applied as a percentage of premium. In summary, the benefits of switching to a percentage based stamp duty are as follows:

- **Lower premiums on entry level plans:** The flat stamp duty places a significant and unjustified burden on lower cost policies. A percentage stamp duty will help the overall sustainability of the health insurance market by retaining and attracting more young/healthier customers.
- **More stable premiums:** Flat stamp duty changes can lead to sudden price hikes. These may deter potential new customers from purchasing health insurance, along with being detrimental to current customers. A percentage stamp duty would eliminate such increases.
- **No need to distinguish between advanced and non-advanced plans**: This could give entry level plans more access to private hospitals. This adds value to these plans so costumers are more likely to subscribe. Many claims from younger/healthier customers will be side-room/day cases which they will be able to access quicker via private hospitals.
- **Fairer treatment for customers seeking to switch mid-term:** Stamp duty would be charged as a percentage based on premium paid so customers would have more flexibility to switch mid-term without incurring significant additional costs.

A change of the basis for the calculation of stamp duty could be implemented on a phased basis to mitigate the risk of sudden disruption to the market.

6.2 Changes to overcompensation test

With any state intervention in the health insurance market such as a risk equalisation scheme, there is a risk of overcompensation for the dominant state owned insurer and hence tests have been implemented across the EU to ensure that the beneficiaries of state aid do not unduly benefit from any subsidy they receive and hence alter competition.
Overcompensation will distort competition in the market and can result in inequity between customers of different insurers.

It is vital that a robust and objective overcompensation test is in place for a risk equalisation system to function effectively.

Current Overcompensation Test

Irish Life Health's view is that the current overcompensation test is not fit for purpose and does not effectively assess overcompensation.

Experience over recent years has highlighted the following issues:

- **Potential distortion due to divergences in reserving practices.** There is potential for the profits of health insurers (as reported in their financial statements) to be distorted by their policies in relation to reserving. As there is currently no specified basis for calculating reserves reported in insurers' financial statements, significant divergences exist in practice. The scope for such divergence in reserving approaches leads to a significant risk that the profit reported in financial statements could be distorted. These applies particularly for those companies that are state owned and not subject to normal shareholder oversight.
- **Impact of discretionary payments.** The profits used in the overcompensation test needs to be adjusted to reflect items not directly relating to the provision of health insurance. The current Risk Equalisation Scheme attempts to do this by removing reinsurance impacts and investment impacts. However, additional ad hoc or discretionary payments to customers, refunds or expenses which are excessive or not relating to the core health insurance business such should also be added to profits for the purpose of assessing whether overcompensation has occurred. Otherwise, there is a danger that risk equalisation receipts could be used to fund such activities which results in inequity between customers of different health insurance providers.
- **Lag in identifying overcompensation.** Overcompensation is assessed using profits over a three-year period and it can take a considerable amount of time after the relevant year-end date for the assessment to be completed. As a result, even if overcompensation were to be detected, there would be a significant lag in identifying this which makes it more difficult to rectify appropriately.

Suggested Modifications

Irish Life Health's view is that the overcompensation test needs to be modified so that:

- The overcompensation test should be based on **Solvency II results** rather than insurers' financial statements. Solvency II follows EU-wide rules, applies consistently to all insurers and must be disclosed publicly in each insurer's Solvency and Financial Condition Report. This would reduce the risk that the test could be distorted by differences in reserving practices.
- It **adjusts the expenses deducted in the calculation of profits to a market average level**. This would ensure that inefficiency is not rewarded. The market average expense level should be determined by the Central Bank of Ireland which receives data from all insurers as part of their Solvency II returns.
- It includes a provision for the HIA to **identify and adjust for items which do not relate to core health insurance business**. Impacts of reinsurance and investment performance are removed but this should also include additional/ad hoc payments to customers and other discretionary payments. Otherwise, there is a danger that risk equalisation receipts could be used to fund such activities which results in inequity between customers of different health insurers and also to potentially distort competition in the market place.
- It is conducted on an **annual basis** and in a timely manner after each year-end date.

6.3 Flexibility to respond to significant market events

The current Risk Equalisation Scheme is extremely inflexible and cannot respond to significant market events in a timely and appropriate fashion.

This inflexibility was highlighted in 2020 when no changes were made to the operation of the scheme to respond to the significant impacts of Covid-19 on the health system.

Impacts of Covid-19 in 2020

In late March 2020, the Irish Government announced that the State would take control of private hospitals for a period of three to five months to help to deal with the expected high influx of patients suffering from Covid-19, and that there would be no distinction between public and private treatment for this period.

This resulted in a significant portion of the benefits purchased by health insurance customers being unavailable for a period of time. As a result, insurers' claims costs were expected to fall significantly.

Insurers responded rapidly to this development with all three insurers announcing on 16 April 2020 that premium rebates would be paid to customers over this period to reflect the reduction in expected claims.

The Risk Equalisation Scheme should also have responded to this in that stamp duty and credits should also have been significantly reduced over this period. However, there was no mechanism for the Risk Equalisation Scheme to be adjusted and no adjustments were made.

This meant that over the three-month period while private hospital treatment was unavailable to customers, stamp duty and credits continued to be paid in full, even though there was no basis for those payments as there was a material reduction in claims and risk for all insurers. This significantly impacted the rebates available to be paid to customers for customers that are net contributors to the scheme.

This is unacceptable from the perspective of health insurance customers. The conditions in 2020 were unprecedented for all parties concerned and insurers also did not have an established mechanism to process premium rebates. However, in the best interests of their customers, insurers ensured that appropriate levels of rebates were paid.

The Central Bank of Ireland ('Central Bank') has been very active in providing oversight to ensure fair treatment of customers by insurers during the Covid-19 pandemic, right across the insurance sector. Irish Life Health is fully aligned with the Central Bank's view in this regard. In Irish Life Health's view this regulatory oversight should also extend to the Risk Equalisation Scheme, which has a significant role in the fair treatment of health insurance customers.

Actions needed to address 2020 issue

In Irish Life Health’s view, it is critical for a retrospective review to take place of the experience in 2020 and how the operation of the Risk Equalisation Scheme impacted the health insurance market during this period.

This review needs to go beyond the standard overcompensation test. As well as profitability, the review should also consider the claims costs over this period for different age bands relative to the credits received and the relative size of the premium rebates paid by different insurers and how those were impacted by risk equalisation transfers over this period.

If this assessment concludes that there has been inequity between customers of different insurers due to the operation of the Risk Equalisation Scheme, then adjustments need to be made to correct that inequity.

Modifications needed going forward

The new Risk Equalisation Scheme should include a requirement for the HIA to ensure that appropriate adjustments are made to the Risk Equalisation Scheme to respond to significant disruptions such as that experienced in 2020.

Such adjustments might be needed relatively rarely but it is important that the provision exists to avoid further distortions to competition and inequity between customers when these situations do arise.

Irish Life Health notes that if stamp duty is changed to be determined as a percentage of premium (as discussed in Section 6.1) and paid in line with premium receipts this would provide a mechanism to automatically provide a stamp duty rebate in circumstances where insurers make rebates. This would automatically mean the scheme would respond to an extent to significant changes (assuming those changes were reflected in customer premiums). However, alongside this, adjustments to the age related credits would still need to be considered.

6.4 Changes to effectiveness measure

Irish Life Health recognises that there are numerous ways to assess and quantify effectiveness of a risk equalisation scheme. We have concerns about how effectiveness is currently measured and believe this needs to be changed to improved equity between customers.

Irish Life Health understands that the current approach is to assess effectiveness in terms of how effective the scheme is at bringing each insurer's projected average net claims cost after risk equalisation for each age band back to the projected market average net claims cost after risk equalisation for each age band.

If the effect of Risk Equalisation Scheme is to bring back the average net claims for each insurer back to the market average net claims for each age band, then:

- Customers on lower benefit plans will unfairly cross-subside the extra claims of customers on richer benefit plans. As discussed earlier, this is socially regressive, inequitable and damaging to the sustainability of the market.
- Incentives for insurers to be efficient and contain claims costs are reduced. This is ultimately to the detriment of all customers as it will be reflected in higher premiums.

The effectiveness measure should be designed to avoid these adverse consequences.

An alternative approach such as translating all claims costs to equivalent minimum benefit level claims costs for assessing effectiveness would avoid these consequences.

6.5 Role of the State/Minister for Health

Currently, the decision on stamp duty and credits is ultimately made by the Minister for Health each year.

The Minister for Health acts as the ultimate regulator of the market, owns the largest health insurer in the market and controls the largest hospital network for the provision of private health services in the State. As such, the Minister is fundamentally conflicted in his/her role when making determinations on the market.

While the HIA carries out an Independent Report and makes recommendations to the Minister on the stamp duty and credits it is ultimately at the discretion of the Minister where these are set and the Minister has on occasion diverged from the recommendations of the HIA. To avoid this conflict of interest arising it would be preferable therefore if decisions on the amounts of stamp duty and risk equalisation credits were not made by the Minister for Health.

Irish Life Health's view is that the Minister for Health should not make determinations on stamp duties and credits, given his/her other roles in the health insurance and healthcare market. Regulation of the health insurance market should move to an authority not under the remit of the Department of Health.