

Insurance Regulatory bulletin

PwC Ireland

Q2 2022



Executive summary

Welcome to this edition of our Insurance Regulatory bulletin which aims to keep you up to date with the most significant regulatory changes and developments that have occurred within the insurance industry during Q2 2022.

As the global economy continues to recover from the impact of COVID-19 and the fall out from the ongoing war in Ukraine, the Insurance industry and its regulators continue to adapt and accelerate for post pandemic growth.

From a domestic perspective, Conduct continues to be an area of focus for the Central Bank. Off the back of the introduction of regulations designed to address the practice of price walking in the home and motor markets in Q1, the CBI issued a Q&A document on these regulations, to provide insurers and intermediaries with further clarity of what is required of them. This demonstrates the CBI's focus on this area and expectations of firms to adhere to the requirements set out in the regulations.

At a European level the ongoing review of Solvency II and sustainability continue to be at the forefront of regulatory developments as evidenced from the European Commission proposals to amend the existing Solvency II framework and to introduce new elements, especially on environmental risks, resolution and macro-prudential tools.

We hope you enjoy reading this bulletin, which contains further details on the issues outlined above, and more!

Please remember that clicking on the red headlines will bring you to the underlying source material in each case.

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Insurance regulatory developments

Conduct

EIOPA consults on draft Guidelines on integrating the customer's sustainability preferences in the suitability assessment under the IDD

On 13 April EIOPA launched a public consultation on draft Guidelines on integrating the customer's sustainability preferences in the suitability assessment under the IDD. The Guidelines aim at promoting a coherent application of the Delegated Regulation, Restricting the potential for the mis-selling and promoting a more convergent approach by National Competent Authorities ("NCAs") in the supervision of insurance undertakings and insurance intermediaries.

The deadline for stakeholder feedback closed on 13 May and it is envisaged that EIOPA will issue the results of the consultation in August 2022.

European Union Member States adopted a partial agreement on the Regulation to establish AMLA

On 13 April EU Member States discussed the governance and funding of the to be newly created EU Anti-Money Laundering Authority. The most contentious issue, which was deferred, was the location of the future Authority.

Member States adopted a partial agreement on the Regulation to establish AMLA on 29 June. This is a partial agreement given Member States have carved out the decision where the authority should be located. It was agreed that initially AMLA should identify 40 obliged entities for direct supervision. These should include at least one financial institution per Member State. Member States agreed that priority should initially be given to credit institutions.

The CBI Publish Insurance Regulations 2022 Questions & Answers

On 6 May the CBI published Q&A on the Insurance Regulation 2022 to assist insurance undertakings and insurance intermediaries' understanding of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022. These Regulations, which amongst others things, introduces a ban on price walking, took effect from 1 July 2022. While the Q&A guidance does not intend to be an exhaustive list of all potential queries firms may have, it does provide guidance on several queries under the following headings:

- General Queries;
- Pricing;
- Annual Review and Record Keeping; and
- Automatic Renewal Arrangements.

EU Commission came forward with a proposal for a Directive on distance marketing of financial services

On 11 May EU Commission came forward with a proposal for a Directive on distance marketing of financial services. The proposal seeks to modernise the rules regarding distant marketing of financial services, especially in light of the increased digitalisation of the sector. It specifies specific pre-contractual information to be provided to the consumer. It provides for a right of withdrawal from a contract within 14 calendar days, including through the use of a 'withdraw button'. It also introduces the right for the consumer to obtain human interaction and seeks to ensure that traders do not benefit from consumer biases.



→ **EIOPA opened consultations on exclusions arising from systemic events and on non-affirmative cyber**

On 20 June EIOPA opened a consultation process on exclusions arising from systemic events and on non-affirmative cyber. On systemic exclusions, EIOPA sets out general principles for communication on exclusions with customers and their treatment under the Product Governance and Oversight Regime. On non-affirmative cyber, EIOPA sets out expectations around underwriting exposures.

The deadline for responding to the consultation closed on 18 July 2022.

→ **Second Employers' Liability, Public Liability and Commercial Property Insurance Report of the NCID published**

On 22 June the CBI published its second Annual Employers' Liability, Public Liability, and Commercial Property Insurance Report of National Claims Information Databases ("NCID"). The report includes information on costs, expenses, income, premiums, claims, and settlement channels for the period ending in the year 2020.

It highlighted key statistics on Employers' Liability, Public Liability, and Commercial Property Insurance in Ireland. The report showed that on average, employers' liability and public liability claims settled through litigation cost more and take longer to settle than claims settled directly or via the Personal Injuries Assessment Board ("PIAB"). According to the report, Insurers' income and expenditure on Employers' Liability, Public Liability, and Commercial Property insurance showed an operating loss of 11% of total income in 2020.

→ **A Speech by Gerry Cross, Director of Financial Regulation: Policy and Risk on the Individual and Senior Executive Accountability Framework**

On 24 June the CBI published a speech that was delivered at an industry event by Gerry Cross, Director of Financial Regulation: Policy and Risk, on the Individual and Senior Executive Accountability Framework.

The speech highlighted some of the key aspects of the framework together with the CBI's approach and strategy for implementing the legislation. Mr. Cross emphasised how embedding individual accountability within firms is key to moving from a regulatory approach which relies more on prescription, direction, compliance and checking; to one of requirement, responsibility, and holding to account. The speech also highlights that the CBI intend on implementing its enhanced supervisory approach to culture and behaviour within firms at roughly the same time new Individual Accountability framework will be rolled out.

Insurance (Miscellaneous Provisions) Act 2022 signed into law

On 27 June the President approved the Insurance (Miscellaneous Provisions) Act 2022. The Act results in a number of changes to existing legislation, including the:

- Amending the Consumer Insurance Contracts Bill to allow for the introduction of an obligation on insurers to disclose deductions from claims settlements to consumers and to grant additional powers to the CBI to collect data about the deduction of state payments from settlements of certain insurance claims for the purposes of the National Claims Information Database.
- Amending Solvency II Regulations to give proper effect to the operation of the Temporary Run-off regime for insurance undertakings authorised in UK and Gibraltar.

Under the provisions of the Act the CBI is required to submit a report to the Minister of Finance outlining the steps it has taken to address the practice of price walking in home and motor insurance.

The majority of the Act came into effect on 8 July 2022, however section 7 and part of section 8, which amends to mutual duties of disclosure in relation to information supporting or prejudicing the validity of insurance claims under the Consumer Insurance contracts Act, will come into effect on 1 October 2022. The remainder of section 8, which stipulates the requirement for insurers to disclose to consumers certain deductions made from claims settlements, will come into effect on January 2023.



Supervision

EIOPA published its fourth report on the costs and past performance of insurance and pension products

On 5 April EIOPA published its fourth report on the costs and past performance of insurance and pension products. The report showed higher risk classes delivered higher net returns for unit-linked and hybrid products while longer holding periods continued driving higher performance of profit participation products. Certain lower-risk products posted particularly low – and, at times, even negative – net returns. Analysis of sample of products reported as presenting sustainability-related features showed a clear over-performance compared to other IBIPs included in the analysis.

EIOPA consults on IORPs reporting rules

On 26 April EIOPA opened a public consultation on the revision of IORPs reporting rules. The aim of the public consultation is to improve IORPs reporting focusing on emerging risks and new challenges and issues observed by National Competent Authorities (“NCAs”) and pensions industry since its first implementation in 2018. EIOPA is proposing to include the following information in the reporting rules:

- Information on derivatives;
- Cash flow, high-level look through data on investments in UCITs;
- Cross-border data; and
- Detail on the NACE codes.

The Consultation period closed on 18 July 2022.

The European union published latest round of Member State discussions on the Solvency II revision

On 27 April the EU published the latest round of Member State discussions on the Solvency II revision. The Commission proposes to amend the existing Solvency II framework and to introduce new elements, especially on environmental risks, resolution and macro-prudential tools. Most issues, such as proportionality, disclosure, macroprudential tools and the treatment of ESG criteria have largely been closed. The main open issues are proposed changes to group supervision and technical details related to the long-term guarantee package and the risk-free rate.

ESMA makes recommendations for disclosures of expected impacts of IFRS 17 application

On 13 May ESMA issued a Public Statement on the Transparency on implementation of IFRS 17 Insurance Contracts. ESMA expects management and supervisory boards' members and auditors to take into account these recommendations, when fulfilling their respective obligations relating to the issuer's interim and annual financial statements 2022.

ESMA publishes letter of support to IFRS Interpretations Committee's tentative agenda decision on Transfer of Insurance Coverage under a Group of Annuity Contracts (IFRS 17)

On 23 May ESMA submitted a letter to the IFRS Interpretation Committee, ESMA expressed support for the Tentative Agenda Decision on Transfer of insurance coverage under a group of annuity contracts. ESMA believes such a decision would provide the necessary clarity and improve the consistent application of principles and requirements of IFRS 17.

→ European Union published its final report on the operation of the European Supervisory Authorities

On 23 May EU published its final report on the operation of the European Supervisory Authorities which focuses on the main areas under review:

- Supervisory convergence;
- Governance;
- Direct supervision; and
- Funding.

It also includes a section on the single rulebook, as announced in the Commission's 2020 action plan on Capital Markets Union.

The Commission considers that more time is needed to assess the full impact of the latest review before considering any new amendments to the ESA Regulations.

→ EIOPA published its June 2022 Financial Stability Report

On 22 June EIOPA published its June 2022 Financial Stability Report highlighting in particular the impact of the Ukraine war, the interest rate environment and low growth. EIOPA indicated that sustainable finance will continue to be a strategic priority citing that climate risk remains one of the focal points, with Environmental, Social and Governance (ESG) factors increasingly shaping investment decisions of insurers and pension funds but also affecting the underwriting of the latter.



Prudential

EIOPA launches its first climate stress test to gain insights into the effects of environmental risks on the European occupational pension sector

On 7 April EIOPA launched its first climate stress test to gain insights into the effects of environmental risks on the European occupational pension sector. The 2022 IORP stress test is testing the resilience of European IORPs against a climate change scenario, which was developed together with the European Systemic Risk Board and the European Central Bank. The test focuses on impact on IORPs' investments, yet also addresses the effects on IORPs' financial situation, including the financing by sponsoring undertakings. Participants are expected to complete the exercise and submit the results to their national competent authorities with final results expected to be published in December 2022.

EIOPA calls for changes to stress test disclosure regime

On 12 April EIOPA published an Opinion on the disclosure of individual results in the context of insurance stress tests. EIOPA conducts Union-wide stress test exercises to assess the resilience of the European insurance industry based on aggregated data. EIOPA believes communication of individual stress test results would enhance market discipline, increase participants' commitment and contribute to a level playing field among insurers and across the financial sector, resulting in a healthier insurance industry as a whole. The Authority indicated it considers a change in the legal framework as the only way to obtain the disclosure of individual information and therefore called on European Parliament, the Council and the Commission to take the proposal into consideration in light of the ongoing Solvency II review.

EIOPA published Guidelines on Contract Boundaries and Valuation of Technical Provisions

On 21 April EIOPA published two Final Reports on the revision of the EIOPA Guidelines on Contract Boundaries and Guidelines on the Valuation of Technical Provisions.

This revision introduces new Guidelines and amends current Guidelines on Contract Boundaries where it was assessed whether a cover or financial guarantee has a discernible effect on the economics of the contract and the identification of the contracts which can be unbundled and valuation of best estimate, including the use of future management actions and expert judgment, the modelling of expenses and the valuation of options and guarantees by economic scenarios generators and modelling of policyholder behaviour.

The European Supervisory Authorities' (ESAs) presents technical advice to the Commission on Regulation (EU) No 1286/2014

On 29 April ESAs published joint Technical Advice on the PRIIPs review. The review will serve as input to the Commission's work to develop a strategy for retail investments and to make appropriate adjustments to the PRIIPs legislative framework. The Report focuses on a number of areas, including:

- An assessment of effectiveness of sanctions;
- The content structure, accessibility and provision of the Key Information Document ("KID");
- The scope of PRIIPs Regulation;
- The various approaches to take into account different types of PRIIPs;
- Potential enhancements to the information provided as part of performance scenarios and past performance analysis;
- The inclusion of ESG information in the KID; and
- Alignment between information on costs in the PRIIPs KID with other disclosures; and successive transactions.

→ European Union Council reached General Approach on Solvency II

On 17 June EU Council reached general approach on amendments to the Solvency II directive. The final agreement does not fundamentally diverge from the European Commission's proposal though reduces some onerous requirements of reporting against internal models and SCR, as well as clarifications on the proportionality rules. The review will make the insurance and reinsurance sector more resilient and prepared for future challenges, whilst stabilising insurers' capital requirements, giving them room to manoeuvre in the short term.

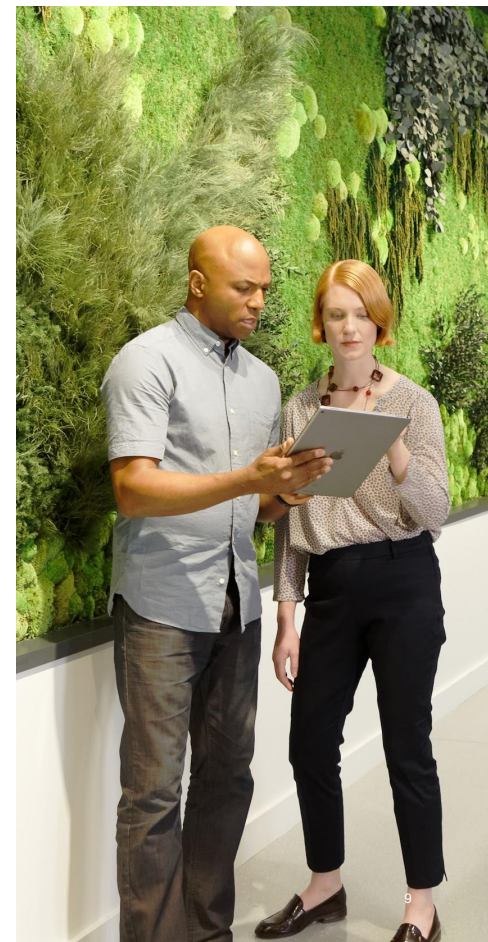
According to the Council, the review improves the protection of insurance policyholders through enhanced cooperation between supervisory authorities, and continues to prevent insurer failure, thus contributing to stability in the financial sector.

→ EIOPA holds a roundtable on the consultation on the review of the securitisation prudential framework

On 22 June EIOPA held a roundtable on the consultation on the review of the securitisation prudential framework. EIOPA considered the investment behaviour of insurance and reinsurance undertakings and assessment of the securitisation framework under the provisions of Solvency II. EIOPA does not recommend recalibrating risk factors for either STS or non-STS securitisation though is open to introducing more tranches into the treatment under Solvency II.

→ EIOPA publishes a study on impact of EU-wide stress tests on Insurers dividend policy

On 28 June EIOPA published a study on whether EU-wide stress tests affect Insurers' dividend policies. The study acknowledged the positive influence of stress tests on risk management of insurance companies. The study focussed on the EU wide insurance stress test conducted in 2018 and 2021. The results of the estimated model reveals that EIOPA insurance stress test in 2018 and 2021 had no significant impact on insurers' dividend distributions including share buybacks.



Sustainability

The European Commission adopt its Delegated Act on the disclosure of sustainability-related information under the Sustainable Finance Disclosures Regulation (SFDR)

On 6 of April the European Commission adopted a technical standards to be used by financial market participants when disclosing sustainability-related information under the Sustainable Finance Disclosures Regulation (SFDR). The implementation of the standard which is scheduled for January 2023 will require financial market participants to provide detailed information about how they tackle and reduce any possible negative impacts that their investments may have on the environment and society in general.

European Commission adopts the Proposal for Corporate Sustainability Reporting Directive (CSRD)

On 21 April, the European Commission adopted the proposal for a Corporate Sustainability Reporting Directive (CSRD) that will revise and expand the existing reporting framework under the Non-Financial Reporting Directive. With the new CSRD, in-scope companies will be required to report in compliance with mandatory European Sustainability Reporting Standards (“ESRS”) to be adopted by the European Commission as delegated acts, on the basis of technical advice provided by the European Financial Reporting Advisory Group (“EFRAG”).

European Financial Reporting Advisory Group (EFRAG) Published public consultation on the draft sustainability reporting standards under the Corporate Sustainability Reporting Directive (CSRD)

On 28 April EFRAG Sustainability Reporting Board held a last meeting before opening the public consultation on the draft sustainability reporting standards under the Corporate Sustainability Reporting Directive (CSRD). The public consultation is in line with a request from Commissioner McGuinness for EFRAG to provide Technical Advice to the European Commission in the form of fully prepared draft standards and/or draft amendments to Sustainability Reporting Standards. EFRAG indicated that consultation will be opened until the beginning of August and will include questions on both the overall architecture of the standards and the relevance of them on a single basis.

ECON adopts its position on the European Green Bond standard proposal

On 16 May the European Parliament's Committee on Economic and Monetary Affairs (ECON) adopted its position on the European Green Bond standard proposal and agreed to enter into interinstitutional negotiations. According to MEPs' report, the standard remains voluntary but the Regulation will include disclosure requirements for all bonds marketed as sustainable.

EIOPA Publishes discussion paper on physical climate change risks

On 20 May EIOPA launched a follow-up exercise on physical risks in the second half of 2021. The discussion paper presented the first results of the exercise which included a large data collection from industry focused on property, content and business interruption insurance against windstorm, wildfire, river flood and coastal flood risks. The key findings of the exercise include that all property related lines of business, such as property, motor, crop etc., are expected to be impacted by physical climate change risk. The exercise also found that the risk of reputational damage for insurers may be elevated as insurers raise premiums or change the level of cover being offered to offset potential losses.

The report also notes that 50% of participants have not undertaken any climate change analyses yet.

EIOPA publishes a discussion paper on European insurers' exposure to physical climate change risk and potential implications on non-life business

On 23 May EIOPA published a discussion paper on European insurers' exposure to physical climate change risk and potential implications on non-life business. The paper looked at some elements influencing physical risk for the insurance sector and the potential negative consequences of physical climate change risk on the Non-Life insurance business. Companies were well placed to handle claims from selected climate events but premiums are expected to rise which will have a negative impact on policyholders.

IFRS Request Feedback on the draft Sustainability Disclosure Taxonomy

On 25 May IFRS Foundation published a staff request for feedback on the draft IFRS Sustainability Disclosure Taxonomy, with recommendations to the International Sustainability Standards Board (ISSB) for the future development of a taxonomy enabling the digital reporting of sustainability information prepared using ISSB Sustainability Disclosure Standards. The stakeholder feedback on staff recommendations are due by 30 September 2022 and it will support initial research to help the ISSB develop a proposed IFRS Sustainability Disclosure Taxonomy for public consultation in accordance with the IFRS Foundation Due Process Handbook.

Financial Institution Net-zero Transition Plans

On 15 June the Glasgow Financial Alliance for Net Zero ("GFANZ") launched a consultation on an interim report that aims to offer non-binding advice and recommendations to financial institutions and the public sector on net-zero transition plans.

The Council and European Parliament reaches a provisional political agreement on the corporate sustainability reporting directive (CSRD)

On 21 June EU published temporary political agreement between the European Parliament and the Council of the EU on the Corporate Sustainability Reporting Directive (the "CSRD"). The CSRD will revise the Non-Financial Reporting Directive to help add more specific reporting obligations for sustainability problems like environmental rights, social rights, human rights, and governance aspects.



Other updates

CBI Publishes its Insurance Newsletter for June 2022

On 24 June the CBI published its insurance newsletter for June 2022. The newsletter looked at issues like the impact of Russia-Ukraine war, CBI's stakeholder engagement and publications, and revised guidelines on technical provisions and contract boundaries from EIOPA.





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