


Insurance Quarterly Legal and Regulatory Update

Period covered:
1 July to 30 September, 2010

DILLON  EUSTACE

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▣ INSURANCE QUARTERLY LEGAL AND REGULATORY UPDATE

Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

The Third Anti-Money Laundering Directive was transposed into Irish law on 5 May 2010 by the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the “CJA Act 2010”) and has been effective as of 15 July 2010.

The CJA Act 2010 introduces the following important changes for designated persons –

- ▣ the definition of money laundering has widened to include the proceeds of any criminal conduct, however minor;
- ▣ the terminology of “Know Your Customer” has been replaced by “Customer Due Diligence” (“CDD”);
- ▣ the level of CDD required will be determined using a risk based approach. This can range from “simplified” where there is a low risk of money laundering or terrorist financing to “enhanced” where there is high risk of money laundering or terrorist financing;
- ▣ there are enhanced obligations to identify the “beneficial owner” whereby the designated person must ensure that they take reasonable measures to understand the ownership and control structure of the client;
- ▣ there is a new requirement to identify non domestic politically exposed persons (“PEPs”) i.e. those persons in a prominent public position and their families or close associates;
- ▣ those persons who meet the definition of “trust and company services provider” will need to be authorised;
- ▣ a guard at superintendant level or higher and/or a District Court judge has the power to direct a designated person not to carry out a specified service for a specific timeframe where a customer is subject to investigation;
- ▣ the number of offences that can arise under the CJA Act 2010 are significantly greater than under the old legislation; and
- ▣ the Minister for Justice and Law Reform, in conjunction with the Minister for Finance, can approve the Guidance Notes to be used by designated persons. A Court can

have regard to these Guidance Notes when determining if a designated person took all the appropriate measures.

In relation to the Guidance Notes, the Financial Regulator is collectively meeting with the various industry representative bodies on a weekly basis to review the draft Core Guidance Notes, which are expected to be finalised by the end of October 2010. Any changes made in the Core Guidance Notes will then be reflected in the Sectoral Guidance Notes and the Financial Regulator will engage with the various industry representative bodies to finalise same.

If you would like further information on anti-money laundering requirements Dillon Eustace regularly advises on all aspects thereof and provides training sessions on this topic. Training can be held either at Dillon Eustace's office at 33 Sir John Rogerson's Quay, Dublin 2 or in house training can be provided at a venue of your choosing.

Solvency II Framework Directive - 2009/138/EC

On the 17 December 2009, the definitive text of the Solvency II Directive (2009/138/EC) ("Solvency II") was published in the Official Journal. The Directive aims to strengthen the supervision and prudential regulation of insurance and reinsurance companies, particularly through the imposition of new solvency and governance requirements. It also establishes a new framework for EU regulation through the recasting of 13 insurance directives into a single text.

Solvency II is to be implemented by Member States with an effective date of 1 January 2013.

The Financial Regulator wrote to all insurance/reinsurance undertakings on the 6 July 2010 enclosing a questionnaire which was to be completed and returned to the Financial Regulator by 30 July 2010. This questionnaire sought a progress update on the status of each firm's gap analysis in implementing Solvency II. In this letter, the Financial Regulator also advised that the Head of the Retail Insurance Supervision is Fiona McMahon while the Head of Wholesale Supervision is Colette Drinan.

On the 1 August 2010, the Financial Regulator issued its first edition of the Solvency II newsletter as a means of keeping insurance and reinsurance undertakings informed and up-to-date on Solvency II policy developments, implementation and activities events. The newsletter provides an overview of the Financial Regulator's work to date on Solvency II, an update on the Internal Models and refers to the Fifth Quantitative Impact Study ("QIS5")

workshops scheduled in September 2010. The newsletter is available on www.financialregulator.ie and will be issued on a quarterly basis going forward.

A Solvency II Forum for Independent Non-Executive Directors (“INEDs”) is scheduled to take place in the Central Bank of Ireland on the 21 October 2010 between 10am and 12am. The intention of the forum is to highlight the new responsibilities attaching to INEDs under the impending Solvency II regime. A panel of speakers will present and discuss examples of questions an INED should be asking in relation to Solvency II and there will be an opportunity for participants to put questions to the panel. Registration is limited to INEDs who did not attend the June 2010 forum. Details are available on the Financial Regulator’s website.

Solvency II CEIOPS Update

In June 2010, the European Commission (“the Commission”) wrote to the Committee of European Insurance and Occupational Pensions Supervisors (“CEIOPS”) requesting advice on which third country (i.e. non-EU) supervisory regimes might be deemed equivalent under Solvency II.

Solvency II envisages that equivalence assessments should be made in relation to –

- ▣ reinsurance supervision (Article 172);
- ▣ the group solvency calculation (Article 227); and
- ▣ third country group supervision (Article 260).

In the light of the various criteria set out by the Commission, CEIOPS have proposed that Switzerland and Bermuda be included in respect of all the three equivalence articles (Articles 172, 227 and 260) and Japan in respect of article 172.

Although CEIOPS recognised that the United States met various equivalence criteria, because of the current difficulties in making any assessment of the United States as a whole and in the light of limited resources, the US has not been proposed as a candidate for the first wave. However, the Commission may yet decide that the US should be included.

On the 8 July 2010, CEIOPS issued its Report on the preparedness of supervisors to implement Solvency II. This presents the results of a detailed and extensive review exercise undertaken by CEIOPS in the first half of 2010. This includes feedback from Ireland. The aim of this exercise was to provide CEIOPS and its Members with a clear and comprehensive overview of current levels of supervisory preparedness for Solvency II. CEIOPS also sought

to identify areas where action is still needed in order to ensure the proper level of convergence of supervisory practices in the new solvency framework. The main conclusions are –

- ▣ Implementation of Solvency II is well underway in all surveyed supervisory authorities though the level of advancement differs amongst supervisory authorities;
- ▣ Supervisors' transition to the new solvency framework is proceeding at an increasing pace involving changes in mentality and competences, covering all the different areas/sectors of the supervisory authorities, demanding increased resources and often implying re-organisation. This is applicable even for Members whose current regime already envisages forms of risk and principle based supervision;
- ▣ Surveyed supervisors have acknowledged the strong role of CEIOPS in ensuring its Members are fully prepared for the new solvency regime. The Solvency II Working Groups, CEIOPS' training of staff, the different QIS exercises and the pre-application for internal models were identified as the main drivers of the overall process of Solvency II implementation within supervisory authorities;
- ▣ CEIOPS review exercise has also revealed that further changes are still needed to bring supervisory methodology, tools and procedures in line with the demands of Solvency II.

On the 24 August 2010, CEIOPS published the main spreadsheet to be used by solo undertakings and groups to complete their Fifth Quantitative Impact Study ("QIS5") submission due by the end of October 2010 (solo) and mid-November 2010 (groups). The QIS5 exercise is a milestone for the Commission, supervisors and industry as its results will provide the essential input for the implementation of Solvency II, including the final calibration of the new solvency capital requirements. The Commission has emphasised the importance of a high level of participation by insurance and reinsurance companies in the QIS5 exercise and aims for a participation rate of at least 60% of EU insurance and reinsurance companies and 75% of EU insurance groups.

CEIOPS released on the 28 September 2010 its Consultation Paper no. 82 on the Draft Methodology for equivalence assessments by CEIOPS under Solvency II. CEIOPS has invited stakeholders to send comment on this Consultation Paper on or before the 22 October 2010 via e-mail to secretariat@ceiops.eu.

EU Financial Supervision Reform

Following political agreement between Member States and EU legislators across Europe, the European Parliament passed a vote on the 22 September 2010 endorsing the EU financial supervision reform package.

The Level 3 Committees, comprised of the Committee of European Securities Regulators (“CESR”), the Committee of European Banking Supervision (“CEBS”) and the Committee of European Insurance and Occupational Pensions Supervisors (“CEIOPS”) (“the 3L3 Committees”) have welcomed this landmark decision.

The new European System of Financial Supervisors (ESFS) integrates the three European Supervisory Authorities (ESAs) and the European Systemic Risk Board (ESRB), establishing the key pillars of a new institutional infrastructure which aims to ensure a stable, reliable and robust Single Market for financial services.

The European Parliament vote also launches the 3L3 Committees’ institutional transformation. This is a complex process, requiring the existing Committees (CESR, CEBS and CEIOPS) to evolve quickly into European Authorities by January 2011. This work is now well underway in each of the Committees, in close cooperation with the European Commission.

European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations, 2010

In late May, 2010 Directive 2006/43/EC (the “8th Company Law Directive”) was transposed into Irish Law by Statutory Instrument Number 220 of 2010 entitled the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations, 2010 (the “Regulations”).

Regulation 91 of the Regulations states that “public-interest entities” shall, within 6 months of the Regulations being made (i.e. by 20 November, 2010), establish an audit committee in respect of it.

Public-interest entities are defined as in the Regulations as –

- ▣ companies or other corporate bodies governed by the law of a Member State whose transferable securities are admitted to trading on a regulated market of any Member State;
- ▣ credit institutions; or
- ▣ insurance undertakings.

Exemptions to the Regulations are set out in Regulation 91 thereof. For example, a subsidiary undertaking can be exempt from the Regulations where the parent undertaking has established an Audit Committee in accordance with the Regulations. To avail of an exemption, it may be necessary to insert appropriate wording in the annual report.

Please contact the author or your usual contact in Dillon Eustace should you require further information on the Regulations.

Irish Stock Exchange adopts New Rules in relation to Corporate Governance

The Irish Stock Exchange (“ISE”) issued its Consultation Paper, on the 1 July 2010, on the implementation of a revised corporate governance code for Irish listed companies. The Consultation Paper proposes that the code applicable to Irish listed companies should mirror all aspects of the UK Corporate Governance Code (regarded internationally as being one of the pre-eminent codes on corporate governance). There are also proposals to implement the recommendations of the Report commissioned by the ISE and the Irish Association of Investment Managers (“IAIM”).

The ISE issued a press release on the 29 September 2010 setting out that the ISE requires Irish listed companies to comply or explain against the provisions of the UK Corporate Governance Code issued in May 2010 and that additional corporate governance provisions arising from recommendations contained in the ISE/IAIM commissioned Report will come into force later this year. Consultation on the exact nature of these additional provisions is ongoing, but these new provisions, which will be included in the ISE Listing Rules, will apply to Irish listed companies with financial year’s commencing on or after 1 January 2011.

Central Bank Reform Act 2010

On the 29 September 2010, the Minister for Finance, Mr Brian Lenihan, TD, signed a Commencement Order bringing the Central Bank Reform Act 2010 (“the Act”) into law with effect from 1 October 2010.

The Act is the first of a three-stage legislative process to create a new fully-integrated structure for financial regulation.

A second Bill, to be published during the autumn legislative session, will enhance the powers and functions of the restructured Central Bank in relation to –

- ▣ the prudential supervision of individual financial institutions;
- ▣ the conduct of business, including the protection of consumer interest; and
- ▣ the overall stability of the financial system.

A third Bill will consolidate the existing statutory arrangements for the Central Bank and financial regulation in the State.

The Act creates a single, fully-integrated, Central Bank of Ireland with a unitary Board – the Central Bank Commission – chaired by the Governor of the Bank. The Irish Financial Services Regulatory Authority is being dissolved and most of its existing functions merged into the new structure. The Act also provides for –

- ▣ the application of a fitness and probity regime to those occupying key positions within financial service providers; and
- ▣ a relaxation of the lending limits set out in section 35 of the Credit Union Act 1997 in an effort to facilitate borrowers who have run into difficulties in repaying their loans and need to have them rescheduled to allow for repayment over a longer period of time. The new lending limits are accompanied by measures to balance the increased flexibility in relation to rescheduling.

Certain provisions of the Act are not being commenced at this stage –

- ▣ The application of the fitness and probity regime to Credit Unions will not commence until a separate order is made by the Minister. This will await the report on the Strategic Review of the Credit Union Sector in Ireland which is currently underway; and

- ▣ The commencement of a small number of provisions has been deferred until early 2011: the transfer of consumer information and education functions to the National Consumer Agency; and provisions relating to the preparation of the Central Bank's Strategic Plan.

Data Protection

In July 2010 the Data Protection Commissioner approved the Personal Data Security Breach Code of Practice ("the Code") under Section 13(2) (b) of the Data Protection Acts, 1988 and 2003.

In summary the Code, which is available on the Commissioner's website, states that where there is a loss of control of personal data by a data controller it must be reported to the Commissioner within **two working days** of the data controller becoming aware of the incident, except in a limited number of circumstances.

The exceptional circumstances include –

- ▣ where the data has been securely encrypted;
- ▣ the incident has been reported without delay to the affected data subject(s) and the loss of personal data affects less than 100 data subjects and does not include sensitive personal data or personal financial data that could be used to carry out identity theft.

Data controllers, subject to the reporting requirements, must provide a detailed report of the incident setting out –

- ▣ the amount and nature of the personal data that has been compromised;
- ▣ what action is being taken to secure and / or recover the personal data that has been compromised;
- ▣ what actions are being taken to inform those affected by the incident or reasons for the decision not to do so;

- ▣ what actions (if any) are being taken to limit damage or distress to those affected by the incident;
- ▣ a chronology of the events leading up to the disclosure and
- ▣ details of the measures being undertaken to prevent repetition of the incident.

All incidents of loss of control of personal data in manual or electronic form by a data processor must be reported to the relevant data controller as soon as the data processor becomes aware of the incident.

The Code applies to all categories of data controllers and data processors to which the Data Protection Acts 1988 and 2003 apply.

Extension of the short term guarantee

The Minister for Finance, Mr Brian Lenihan, TD announced on the 7 September 2010 that the Government guarantee for short term bank liabilities, including corporate and interbank deposits as well as debt securities will be extended from its current expiry date of 29 September to 31 December 2010. The amending regulation to give effect to this extension was approved by both Houses of the Oireachtas on the 29 September 2010.

The Minister reiterated that this announcement does not affect retail deposits of up to €100,000 as these deposits continue to be guaranteed under the ordinary Deposit Guarantee Scheme and that Scheme is not time limited.

The Financial Regulator

Annual Report and Strategic Plan

On the 16 July 2010, the Central Bank published its 2009 Annual Report and Strategic Plan for 2010 to 2012.

To reflect the new Central Bank Reform Act, which will formally create a new single unitary organisation, the 2009 Annual Report incorporates the annual reports of both the Central Bank and Financial Regulator in one publication. The report outlines how the Central Bank

proposes to deal with three key policy issues to address the failures in the banking system namely –

- ▣ stabilisation and normalisation of the banking sector;
- ▣ consolidation of the public finances; and
- ▣ restoration of the economy's competitiveness position.

The major new measures and initiatives featured in the Strategic Plan include –

- ▣ A refocused approach to strengthening the financial system including a new approach to financial stability assessment;
- ▣ The development of a new regulatory model with an enhanced supervisory capacity for the detection and correction of problems with an active and challenging approach;
- ▣ Interacting with new EU supervisory bodies, such as the European Systemic Risk Board and the European System of Financial Supervisors;
- ▣ Building on consumer protection including a review of the Consumer Protection Code;
- ▣ Greater attention in our economic research on the functioning of the financial system and fuller collaboration with the universities, ESRI and the wider public service; and
- ▣ Moving towards a 100% charge back arrangement on the costs to industry to reduce the cost to the taxpayer.

Findings of Inspection of Insurance Intermediaries Compliance with Client Premium Account Regulations

The Financial Regulator published on the 20 July 2010 the findings of an examination of compliance by insurance intermediaries with the rules governing the handling of client premiums and the operation of client premium accounts as set out in the Consumer Protection Code (“the Code”).

The examination, which commenced in 2009, inspected a sample of insurance intermediaries. While the majority of firms inspected were found to be in compliance with the requirements of the Code, a number of issues were identified during the course of the inspection. Compliance issues identified during the inspection are subject to separate engagement by the Financial Regulator with the individual firms concerned.

However, the Financial Regulator has written to all insurance intermediaries outlining that firms should be in compliance with the following issues identified –

- ▣ Firms should ensure that they reconcile funds in client premium accounts with amounts owing to regulated entities for insurance policies;
- ▣ Firms must maintain sufficient funds in accounts to prevent accounts being overdrawn. The Code requires that client premium accounts must never be overdrawn;
- ▣ Client premium accounts must be designated as such and must be segregated from insurance intermediaries' other accounts. The Code sets out details of the transactions which can be passed through such accounts;
- ▣ In addition firms were reminded that when handling client premiums firms must ensure that all premiums received are properly receipted and that adequate supervision and control is exercised over the operation of these accounts.

Quarterly Financial Accounts for Ireland: Q1 2002 – Q1 2010

On the 30 July 2010, the Central Bank published its Quarterly Bulletin and for the first time it also published the Quarterly Financial Accounts for Ireland. The accounts present a complete and consistent set of quarterly data for all resident institutional sectors in Ireland providing comprehensive information not only on the economic activities of households, non-financial corporations, financial corporations and Government, but also on the interactions between these sectors and the rest of the world. The data tables show the financial balance sheet and financial transactions of each of these sectors from Q1 2002 to Q1 2010.

Findings of Inspection of Life Insurance Firms Compliance with Minimum Competency Requirements

The Financial Regulator published on the 5 August 2010 the findings of a themed inspection on compliance by life insurance firms with the 'grandfathering' provisions and register maintenance provisions of the Minimum Competency Requirements.

The inspection was carried out earlier this year and found that firms generally had comprehensive procedures in place. The Financial Regulator has notified life insurance firms of the findings of the inspection. The Financial Regulator has set out that all firms should note the following recommendations –

- ▣ Firms must have procedures in place to ensure that 'grandfathered' individuals who are recruited from another firm in the financial services industry have experience that

is relevant to the role they will carry out in the firm. The verification of this must be documented and recorded;

- ▣ Firms must ensure that all staff who are required to meet Continuing Professional Development (“CPD”) requirements are monitored on an ongoing basis to ensure that the required amount of CPD is completed and that the CPD is relevant to the staff member;
- ▣ Firms must ensure that their records are kept up to date and where anomalies exist in CPD records, these must be investigated and addressed as a matter of urgency;
- ▣ Firms must implement procedures to ensure that the register of accredited individuals is kept up to date on an ongoing basis to ensure that consumers are not provided with out of date information.

These findings have been incorporated into the Consultation Paper 45 - Review of Minimum Competency Requirements, which was issued on the 30 June 2010. The closing date for submissions in response to this consultation paper was 13 August 2010.

Recommendations of Mortgage Arrears and Personal Debt Expert Group to be incorporated into Statutory Mortgage Arrears Code

The Financial Regulator published a Consultation Paper on 13 August 2010 on the statutory Code of Conduct on Mortgage Arrears (CCMA), which outlines proposed new regulations for dealing with those in mortgage arrears. CCMA applies to all regulated mortgage lenders, except credit unions.

The proposed new statutory requirements for mortgage lenders under the Code include –

- ▣ Lenders must have in place a Mortgage Arrears Resolution Process (MARP) as a framework for handling arrears and pre-arrears cases;
- ▣ Specific information must be provided to borrowers in a clear customer friendly manner when they go into arrears. A Standard Financial Statement must be used by all lenders to obtain financial information from borrowers in arrears or at risk of going into arrears. Lenders must assess each case on its individual merits and must base their assessment on the completed Standard Financial Statement;
- ▣ Lenders must engage with borrowers who are at risk of going into arrears;
- ▣ Lenders must explore all viable options with borrowers and must examine alternative repayment measures;
- ▣ Borrowers must not be required to change from a tracker mortgage to another mortgage type;

- ▣ Where borrowers are co-operating reasonably and honestly with lenders, lenders must wait at least twelve months before applying to the courts to commence enforcement of any legal action on repossession of a primary residence;
- ▣ Lenders must establish a centralised and dedicated Arrears Support Unit and draw up and implement procedures for dealing with borrowers in arrears or at risk of arrears. Training must also be provided for staff dealing with borrowers experiencing arrears;
- ▣ Lenders must establish an appeals process to consider any appeals submitted by borrowers;
- ▣ An information booklet must be made available to borrowers providing details of a lenders MARP process. The booklet must be drafted in plain English and in a clear and consumer friendly manner.

Submissions on the proposed changes were required to be made to the Financial Regulator by 3 September 2010 with a view to publishing the revised CCMA by November 2010.

Settlement Agreement between the Financial Regulator and Creation Insurance Ltd

The Financial Regulator entered into a Settlement Agreement with effect from 6 September with Creation Insurance Limited of 4th Floor, Marsh House, 25-28 Adelaide Road, Dublin 2, a regulated financial service provider, in relation to a breach of regulatory requirements.

The breach concerns a failing by the undertaking to comply with Article 13(1) (b) of the European Communities (Non-Life Insurance) Framework Regulations, 1994 which requires non-life insurance entities to maintain a guarantee fund at certain minimum levels.

On 139 diverse dates from 28 March 2008 to 7 January 2009 inclusive, the undertaking failed to hold sufficient assets to meet its requisite minimum guarantee fund of €2,200,000. The greatest shortfall in assets on any one date amounted to €141,000 and the mean shortfall amounted to €31,662.

The Financial Regulator reprimanded Creation Insurance and has required it to pay a fine of €26,600.

The Financial Regulator regards breaches of solvency requirements arising from a lack of prudent management, to be a contravention of important regulatory requirements.

In relation to Creation Insurance, the Financial Regulator confirmed that they believed that the actions of the undertaking were not deliberate and that there was no loss or risk to policyholders. Creation Insurance has been closed to new business since 30 June 2004. The Financial Regulator acknowledged that Creation Insurance fully cooperated with the Financial Regulator at all times during the investigation.

Settlement Agreement between the Financial Regulator and Inveralmond Insurance Ltd

The Financial Regulator entered into a Settlement Agreement with effect from 7 September 2010 with Inveralmond Insurance Limited of 4th Floor, Marsh House, 25-28 Adelaide Road, Dublin 2, a regulated financial service provider, in relation to a breach of regulatory requirements.

The breach relates to a failing by the undertaking to comply with Article 13(1) (b) of the European Communities (Non-Life Insurance) Framework Regulations, 1994 which requires non-life insurance undertakings to maintain a guarantee fund at certain minimum levels.

On 19 diverse dates from 17th December 2008 to 28th January 2009 inclusive, the undertaking failed to hold sufficient assets to meet its requisite minimum guarantee fund of €3,200,000. The greatest shortfall in assets on any one date amounted to €199,853 and the mean shortfall amounted to €84,440.

The Financial Regulator has reprimanded Inveralmond Insurance and has required it to pay a fine of €26,600 , however the Financial Regulator confirmed that they believed that the actions of the undertaking were not deliberate and that there was no loss or risk to policyholders.

Inveralmond Insurance has been closed to new business since 31st March 2008. The Financial Regulator acknowledged that Inveralmond Insurance fully cooperated with the investigation.

Insurance Statistical Review for 2009 Published

The Financial Regulator published the Insurance Statistical Review for 2009 on the 10 September 2010. This publication gives detailed statistics and market data on the insurance industry in Ireland, with the information being primarily sourced from the regulatory returns provided in 2009 by insurance companies to the Financial Regulator.

The Insurance Statistical Review 2009 includes the following key data:

Overview of the Volume of Business Written

Total Gross Premium income received by Head Offices and Branches in Ireland amounted to €40.19 billion compared to €38.39 billion in 2008. In 2009, €28.23 billion of the total was generated by Life companies and €11.96 billion by Non-Life companies.

Life Assurance

Gross Premium written in Ireland by Life Assurance companies decreased by 0.9% to €28.23 billion from €28.50 billion in 2008. It comprised €10.67 billion in Irish Risk business (€12.46 billion in 2008) and €17.56 billion in Foreign Risk business (€16.04 billion in 2008). The breakdown shows that Irish Risk business decreased by 14.4% and Foreign Risk business increased by 9.5%.

Total Net Premium Income in respect of Irish Risk business amounted to €9.77 billion compared with €11.32 billion in 2008, a decrease of 13.7%. Total Foreign Risk Net Premium Income amounted to €16.76 billion compared with €14.95 billion in 2008, an increase of 12.1%.

Non-Life Insurance

Gross Premium written in 2009 amounted to €11.96 billion (€9.89 billion in 2008). This comprises €3.77 billion Irish Risk business (€3.86 billion in 2008), €2.87 billion in Foreign Risk business written from Ireland on a Freedom of Service basis (€3.09 billion in 2008) and €5.32 billion in Foreign Risk business written by branches located abroad of Irish authorised insurers (€2.94 billion in 2008). Therefore, Irish Risk premium written decreased by 2.3% on 2008; Foreign Risk business written from Ireland on a Freedom of Service basis decreased by 7.1%; and Foreign Risk business written by branches located abroad of Irish authorised insurers increased by 80.9%.

Net Premium Income in 2009 was €7.04 billion (€6.18 billion in 2008); comprising €3.23 billion (€3.33 billion in 2008) for Irish Risk; €1.72 billion (€1.86 billion in 2008) for Foreign Risk business written from Ireland on a Freedom of Service basis and €2.09 billion in Foreign Risk business written by branches of Irish authorised insurers located abroad (€0.99 billion in 2008). Overall the total increased by 14% from 2008, whilst the breakdown shows that Irish Risk business decreased by 3%; Foreign Risk business written from Ireland on a

Freedom of Service basis decreased by 7.5%; and Foreign Risk business written by branches located abroad of Irish authorised insurers increased by 111%.

The Insurance Statistical Review 2009 is available directly for download from www.centralbank.ie.

Statement - Quinn Insurance Ltd (under administration)

The Financial Regulator released a statement on the 13 September 2010 confirming that it has concluded its detailed review of proposals by the administrators of Quinn Insurance Limited (“QIL”) to recommence writing commercial insurance in the United Kingdom.

It has determined that QIL would require additional capital in order to recommence writing business in that market, however this capital is currently unavailable to QIL. As a consequence, the Financial Regulator is not in a position to modify its direction in order to allow QIL write commercial insurance in the UK. The administrators have been informed of this decision as have the Financial Services Authority in the UK.

This decision does not affect QIL’s authorisation to write UK private motor insurance or general insurance business in Ireland, and its settlement of claims on extant UK commercial business will continue unaffected.

Address by Assistant Director General for Consumer Protection at the Outsource Services Group Conference

On the 29 September 2010, the Assistant Director General for Consumer Protection, Brendan Sheridan, gave an address at the Outsource Services Group Conference on the topic of “Insurance – The Customer Experience”. His address refers to –

- The restructure of the Central Bank of Ireland, whereby the roles of consumer information and education previously undertaken by the Financial Regulator will be transferred to the National Consumer Agency (“NCA”). However, the protection of consumers will remain a key priority and this will include building a strong engagement model with other consumer bodies including the Financial Services Ombudsman (“FSO”), the Mortgage Advice and Budgeting Service (“MABS”) and the NCA;
- The proposed changes to the Minimum Competency Requirements including the proposed phasing out of grandfathering arrangements and the proposed

replacement of the current three year Continuous Professional Development (“CPD”) cycle with an annual requirement of 15 formal hours; and

- ▣ The proposed changes to the Consumer Protection Code (“the Code”), whereby a Consultation Paper will be issued in October 2010. Industry will have until December 2010 to make submissions. The aim is to have a revised Code by the end of June 2011. Areas of focus will include –
 - ▣ Sales to the elderly/more vulnerable consumers;
 - ▣ Verbal interaction with the consumer;
 - ▣ Pre-approval process by the Central Bank in advance of new product launches;
 - ▣ Responsibility of product manufacturers;
 - ▣ Remuneration and transparency;
 - ▣ Unsolicited contact; and
 - ▣ Overcharging and personal debt.

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This Insurance Quarterly Legal and Regulatory Update is for information purposes only and does not constitute, or purport to represent, legal advice. It has been prepared in respect of the current quarter and, accordingly, may not reflect changes that have occurred subsequent to the start of such period. If you have any queries or would like further information regarding any of the above matters, please refer to your usual contact in Dillon Eustace.

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