January 2016

Solvency II – the Central Bank of Ireland's role under the Supervisory Review Process

Under the new Solvency II rules in Ireland, the Central Bank of Ireland (the "Central Bank") will be subject to new legal requirements.

The supervisory review process under Solvency II includes the evaluation by the Central Bank of strategies, processes and reporting procedures adopted by (re)insurance undertakings to meet their obligations under Solvency II.

Solvency II - Ireland's Regulatory Framework

The Irish State transposed into Irish law the Solvency II Directive (Directive 2009/138/EC) as amended by the Omnibus II Directive (Directive 2014/51/EC) by way of Statutory Instrument, namely the European Union (Insurance and Reinsurance) Regulations 2015 (the "2015 Regulations") which came into effect on 1 January 2016.

The 2015 Regulations will also be supplemented by more detailed technical Commission Level 2 measures and they in turn will be supplemented by Level 3 guidance for national supervisors developed and adopted by the European Insurance and Occupational Pensions Authority (EIOPA).

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The Supervisory Review Process

The Central Bank must, in carrying out the supervisory review process, ensure that it comprises three sub-processes, namely:

(i) the risk assessment framework;
(ii) the detailed review; and
(iii) the supervisory measures.

The Solvency II rules require the Central Bank to discharge its functions under the supervisory review process in a consistent manner. It is a cornerstone of the new regulatory framework that all actions undertaken by the Central Bank as part of the supervisory review process are discharged proportionately throughout all stages of the review process.

To ensure appropriate and effective supervision, the Solvency II rules require the Central Bank to ensure that there is an appropriate level of communication between it and (re)insurance undertakings throughout the entire supervisory review process.

(i) Risk assessment framework

The Central Bank is required under the Solvency II regime to use a risk assessment framework to identify and assess current and future risks that each (re)insurance undertakings encounter or may encounter including the (re)insurance undertaking's capacity to identify, measure, monitor, manage and report on those risks.

In developing the risk assessment framework for each (re)insurance undertakings, the Central Bank should only use this framework for the purposes of conducting effective supervision of (re)insurance undertakings, setting the frequency of the regular supervisory reporting and to determine the scope, depth and frequency of off-site analysis and on-site inspections or other matters needed for the supervision of (re)insurance undertakings.

(ii) Scope of the risk assessment framework

Solvency II requires the Central Bank to apply a risk-based and forward-looking approach to supervision to include an assessment of:

(a) the potential impact of the failure of a particular (re)insurance undertaking would have on its policyholders, beneficiaries and on the market and assign an impact classification to each undertaking;

(b) the information when regular reporting is received by the Central Bank and consider the need (if any) to reconsider the constituent elements of the risk assessment framework;

(c) the potential impact of the failure of an (re)insurance group would have on its policyholders, beneficiaries and on the market and assign an impact classification which would take account of the complexity and inter-connectedness of the (re)insurance group;

(d) the current and future risks that (re)insurance undertakings or insurance groups face or may face such as economic conditions and their potential effect on the solvency and financial position of the undertaking concerned.

The Central Bank should use the outcome of the risk assessment framework together with the risks identified to develop the supervisory plan which will set out the frequency and intensity of the Central Bank's supervisory activities. At all times, the Central Bank throughout the supervisory review process must consider if it is necessary to update the outcome of the risk assessment framework.

(iii) Detailed review

The Central Bank is obliged to carry out detailed review activities based on the supervisory plan and focusing on the areas of risk as identified in the risk assessment framework. The main findings and conclusions of the detailed review should be recorded at all stages by the Central Bank.

If the supervisory plan contains reference to on-site inspections, the Central Bank must carry out regular on-site inspections. Importantly, the Central Bank must have appropriate and adequate governance mechanisms in place which allow it to monitor on-site inspections. Such on-site inspections should follow certain prescribed phases, namely preparation, field work and written conclusions.

The written conclusions of on-site inspections should be communicated by the Central Bank to the (re)insurance undertaking in writing and the undertaking should be afforded all fair procedures and the undertaking concerned should have the right to respond to the Central Bank within a reasonable timeframe.

(iv) Supervisory measures

The Central Bank must, based on the conclusions of the detailed review, identify any weaknesses or actual or potential deficiencies or non-compliance with requirements that could lead it to imposing supervisory measures.

Any supervisory measures adopted by the Central Bank must be appropriate to the level of significance of the weaknesses or actual or potential deficiencies or non-compliance faced by the (re)insurance undertaking.

Importantly, the Central Bank must, at all times, exercise its supervisory powers in a consistent, proportionate and objective manner.

In the event that the Central Bank seeks to impose supervisory measures, it must notify the (re)insurance undertaking concerned in writing and in a timely manner about the specific supervisory measures that the undertaking should implement. This communication should include a timeframe in which the (re)insurance undertaking is to implement the actions necessary to comply with the measures and the Central Bank will monitor whether the measures are appropriately implemented by the (re)insurance undertaking.

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January 2016

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