



# Society of Actuaries in Ireland

## **Consultation on Changes to the Domestic Actuarial Regime and Related Governance Requirements under Solvency II**

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***Response to Central Bank of Ireland Consultation Paper (CP 122)***

**September 2018**

## Preface

The Society of Actuaries in Ireland (“Society”) is the professional body representing the actuarial profession in Ireland.

We welcome the opportunity to submit this response to the Central Bank of Ireland Second Consultation Paper CP 122, “Consultation on Changes to the Domestic Actuarial Regime and Related Governance Requirements under Solvency II”.

The proposed changes relate to

- (i) The governance of With-Profits funds, and
- (ii) The format of the Actuarial Opinion on the Technical Provisions (“AOTP”) as outlined in the Domestic Actuarial Regime.

The Central Bank (CBI) is outlining proposals for a number of additional requirements on (re)insurance undertakings and on the Head of Actuarial Function (“HoAF”) of (re)insurance undertakings in relation to With-Profits business, and we comment on these in Section 1 of this paper.

The second amendment proposed to the Domestic Actuarial Regime provides for certain amendments to the format of the AOTP, as outlined in the Appendix of the Domestic Actuarial Regime. We comment on the format of the AOTP in Section 2 of this paper.

We would be happy to respond to any questions on this response – please contact Philip Shier, Actuarial Manager, at [Philip.Shier@actuaries.ie](mailto:Philip.Shier@actuaries.ie).

## Section 1

### The governance of With-Profits funds

The Domestic Actuarial Regime and Related Governance Requirements under Solvency II (DAR) sets out the requirements for actuarial functions and related governance arrangements within all Irish domiciled (re)insurance undertakings which are subject to Solvency II. Consequently, the work of a significant proportion of the membership of the Society is impacted by the DAR either through direct employment in an Actuarial Function/as a Head of Actuarial Function (HoAF) or indirectly as a Reviewing Actuary or, in some cases, both.

We broadly welcome the proposed clarifications and amendments to the DAR as set out in CP122. We outline below recommended amendments and further clarifications for consideration by the CBI.

#### 1. *Scope of application*

##### **With-profits business directly written with policyholders**

In respect of the proposed changes for with-profits business, we recommend that the scope of its application is limited to such business directly written with policyholders thus making clear that it is not applicable to any such inwards reinsurance business. We recommend including a definition similar to that included in the PRA Rulebook Glossary to describe *‘with-profits insurance business’* (means the business of effecting contracts of insurance or carrying out contracts of insurance that are with-profits policies).

##### **With-profits business in scope**

We note that the definition of ‘with-profits’ within CP122 (*contract of long-term insurance, which provides benefits through eligibility to participate in discretionary distributions based on profits arising from a (re)insurance undertaking’s or from a particular part of a (re)insurance undertaking’s business*) aligns with that of ‘with-profits policy’ within the PRA Rulebook Glossary.

We understand that the CBI’s intent is that both traditional / conventional with-profits and unitised with-profits policies are included in the scope of CP122. We recommend clarifying this within CP122. We also recommend adding in a definition of ‘with-profits fund’ and suggest that the PRA Rulebook Glossary could provide a good starting point for this.

We understand that the CBI’s intent is that business on which distributions are not discretionary are out of scope and they do not meet the definition of with-profits specified in CP122, regardless of any legacy naming conventions which might indicate otherwise. We recommend stating this explicitly in CP122 to avoid the need for companies to submit and the CBI to opine on unnecessary exemption applications.

## Geographies

Currently, CP122 does not confine the geographical scope of its paper to domestic Irish policyholders only.

We note that the UK FCA's COBS20 envisages certain governance elements e.g. compliance with the UK equivalent of the WPOP principles, applying to UK and non-UK policyholders. However, COBS20 does not require communications with non-UK policyholders (only UK policyholders). We view this distinction as consistent with the fundamental principle that policyholder communication is a conduct of business consideration and, therefore, the domain of the host country (i.e. subject to local regulation).

We, therefore, recommend that the scope of the WPOP policyholder communication elements of CP122 be explicitly restricted to domestic Irish policyholders.

We note that there are situations where UK entities may have been communicating with non-UK policyholders. Where entities transfer such business from the UK to Ireland, we expect that entities should take into account past practice in making decisions around the continuance or otherwise of such communications. We expect that the Scheme of Transfer should deal with expectations on such communications and that this aspect would not, therefore, need to be explicitly included within CP122.

### 2. WPOP principles

We note that the list of principles set out in sub-bullets in section 3.1.4 aligns with what is called out within COBS20 in relation to what it considers to be 'principles' vis-à-vis 'practices' in its 'Guidance on with-profits principles and practices' table. However, we note below the sub-bullets the inclusion of the following sentence '*(Re) insurance undertakings shall ensure that for each of these principles the WPOP also provides further detail on how the undertaking manages its With-Profits business.*' This sentence appears to infer a discussion on practices and is unhelpful in terms of what we understand your 'intent' to be i.e. to outline the 'principles' only and, consequently, we would recommend removing it. In the context of 'principles' being your intent, using the terminology of 'enduring statements' at the beginning of 3.1.4 makes sense but does not otherwise.

### 3. HoAF Opinion on compliance with the WPOP

CP122 references four proposed statements from the HoAF in respect of compliance with the WPOP:

- Section 3.1(2) – The Actuarial Report on Technical Provisions (ARTP) to include the HoAF's opinion on the compliance of the TPs with the principles in the WPOP.
- Section 3.1(6) – An annex to the Board's report to members on consistency with the WPOP which contains the statement from the HoAF on his/her opinion on the compliance with the WPOP.
- Section 3.1(7a) – A report to the Board, at least annually, on the ongoing compliance of the with-profits funds with the principles in the WPOP.

- Section 3.1(7b) – An annual written statement to fund members in relation to the HoAF’s opinion on the ongoing compliance of the with-profits funds to the principles in the WPOP

We do not agree that the HoAF should have a role that directly communicates with policyholders, as is envisaged currently. Therefore, we recommend the following:

- Maintain section 3.1(2). For the sake of clarity, this would be applicable to all with-profits business (Irish and non-Irish).
- Maintain 3.1(7a). For the sake of clarity, this would be applicable to all with-profits business (Irish and non-Irish).
- With respect to the annex to the Board report referenced in section 3.1(6) and outlined in terms of the requirement on the HoAF in section 3.1(7b), in our opinion, it is not appropriate for such statements / reports to be provided by the HoAF directly to policyholders. We recommend that such statements should come from the Board and the Board should take appropriate advice from, and/or opinion of, the HoAF into consideration in its production of its report and subsequent communications with policyholders. This would be consistent with the current approach taken in respect of the ARTP and other HoAF opinions required by the DAR. Thus, we recommend removal of the HoAF statement / report requirements outlined in section 3.1(6) and 3.1(7b).

#### 4. *Method and timing of communication with policyholders*

##### **Method of communication**

We note that COBS 20.4.10, in relation to where the UK is the *State of the commitment*, states that *‘a firm should make the annual report available to with-profits policyholders within six months of the end of the financial year to which it relates. A firm should notify its with-profits policyholders in any annual statements how copies of the report can be obtained.’*

We recommend that CP122 is changed to reflect practice currently in the UK.

Therefore, we recommend that:

- for all policyholders, the annual report is made available on an entity’s website; and
- for Irish domestic policyholders only, they are made aware in their annual statements of how it can be obtained from the website.

This approach also aligns with the paper reducing, environmental stance adopted by most entities and expected by most policyholders.

##### **Timing of communication**

CP122 specifies that the annual written report is provided to policyholders within 6 months of the financial year-end. This is different to that required under COBS 20.4.10. Under that, the annual report is made available on an entity’s website within 6 months of the financial year-end and policyholders are notified via their annual statements where to find any such reports.

We recommend that the same approach is followed by the CBI. In particular, we recommend that while the report can be made available in the website within 6 months of the financial year-end, the timing of any direct policyholder communication should be aligned with the timing of the policyholder’s annual statement (which would not necessarily be within 6 months of the financial year-end) in order to avoid policyholders receiving multiple communications.

5. *Practicalities*

We note that entities may have existing governance and communication practices in place that more than meet the WPOP requirements. We recommend that CP122 recognises this fact and does not ‘prescribe’ the need to formally require separately named documents. For example, there are entities transferring business from the UK who currently provide PPFMs to their respective policyholders. As such PPFMs cover both principles and practices (whereas WPOP covers principles only), our expectation is that CP122 will not require the separate preparation of two documents – one PPFM and one WPOP. It would be helpful if this matter could be clarified within CP122.

6. *Terminology*

In the interests of clarity, we recommend that the following changes to the terminology used in CP122:

- All references to “members”, “fund members” or “with-profit fund members” to be replaced with “with-profits policyholders invested in a with-profits fund”. The existing terminology could be interpreted to apply to non-profit policyholders.
- All references to “amount payable” to be replaced with “benefits”.
- Section 3.1.3, the sentence “undertakings shall establish and maintain a WPOP in relation to all of its With-Profits business” to be replaced with “undertakings shall establish and maintain a WPOP in relation to each of its With-Profits funds”.

7. *Separation of responsibilities*

In the interests of clarity, we consider the following separation of responsibilities to be an appropriate and proportional approach to the governance of with-profits business in Ireland.

Responsible party	Task
Board	Preparation of the WPOP and all content therein
	Opinion on Compliance with the WPOP communicated to policyholders
	Fair treatment of policyholders
HoAF	Report and Opinion on Compliance with the WPOP communicated to the Board

#### 8. *CBI Approval of HoAF Appointment*

The CBI will need to be satisfied that HOAFs who will now have responsibility for opining on WPOPs have the appropriate experience and expertise i.e. are “fit” to do so. This can be built into the CBI pre-approval process for new HoAF appointments but it is likely that, in some cases, existing HoAFs will be taking on these additional duties. We note that, in the UK, a With Profits Actuary must hold a With Profits Actuary practising certificate issued by the Institute and Faculty of Actuaries, but there is no requirement under the DAR for a HoAF to hold a practising certificate issued by the Society (and we are not proposing that there should be).

#### 9. *Other*

Whilst outside the scope of CP122, we note that section 3.1.2a of the DAR make bonus recommendations part of the ARTP. However, bonus recommendations can happen multiple times during the year. Therefore, their timing does not lend to their inclusion in an annual report. We recommend that the CBI considers amending 3.1.2a to require that the HoAF make recommendations to the Board in respect of discretionary allocations of profits and removes the requirement that this be in the ARTP (other than perhaps reference to a summary of the bonus recommendations made).

## **Section 2**

### **Format of AOTP**

The Society's comments on the format of the AOTP template are shown on the marked-up version below. Each amendment incorporates a hyperlink to an explanatory note in the table

A clean version is also provided for ease of reading.



**Format of Actuarial Opinion on Technical Provisions and Recoverables (“AOTPRs”)**

**To: Central Bank of Ireland**

**Actuarial Opinion on Technical Provisions and Recoverables – [Name of (Re)Insurance Undertaking] as at [Financial Reporting Date]**

**Identification**

I, [Name of Actuary], am an actuary employed by [Name of (Re)Insurance Undertaking] (“the Undertaking”).

Or

I, [Name of Actuary], am associated with [Name of Actuarial Firm] who have been retained by [Name of (Re)Insurance Undertaking].

**And**

I was approved by the Central Bank of Ireland on [date of approval] to act in the Pre-Approval Controlled Function of Head of Actuarial Function for [Name of (Re)Insurance Undertaking].

Or

I was appointed by [Name of (Re)Insurance Undertaking] as the Head of Actuarial Function on [date of appointment] and my appointment was notified to the Central Bank on [date of notification] via the Central Bank’s “In-Situ” process. I am approved to the role of Pre-Approval Controlled Function of Head of Actuarial Function for [Name of (Re)Insurance Undertaking].

**Scope**

I have examined the technical provisions listed below for [Name of (Re)Insurance Undertaking] as at [Financial Reporting Date], as reported in the Undertaking’s annual quantitative reporting templates to the Central Bank.

<b>Line of Business</b>	<b>Gross Best Estimate Liability</b>	<b>Risk Margin</b>	<b>Gross Technical Provisions (calculated as a whole)</b>	<b>Recoverables from Reinsurance contracts and SPVs</b>	<b>Total Technical Provisions net of Recoverables</b>
LOB 1					
LOB 2					
...					
<b>Total</b>					

<u>Line of Business</u>	<u>Gross Best Estimate Liability</u>	<u>Risk Margin</u>	<u>Gross Technical Provisions (calculated as a whole)</u>	<u>Total Technical Provisions</u>	<u>Recoverables from reinsurance contracts and SPVs</u>	<u>Total Technical provisions net of #Recoverables</u>

<a href="#">LOB 1</a>						
<a href="#">LOB 2</a>						
...						
<a href="#">Total</a>						

## Opinion

In my opinion, the technical provisions of [\[Name of \(Re\)Insurance Undertaking\]](#) as at [\[Financial Reporting Date\]](#) identified above by line of business, gross and net of reinsurance, totalling [\[Xm\]](#) and recoverables totalling [\[Ym\]](#), as at [\[Financial Reporting Date\]](#) **comply in all material respects with all relevant Solvency II requirements.**

More specifically, in my opinion, within the context of the Solvency II requirements,

- a) the calculation of the technical provisions is reliable and adequate,
- b) the data used in the calculation of the technical provisions is [sufficient, appropriate, complete and accurate, and I have assessed the sufficiency of the data, and](#)
- c) in aggregate, the methodologies, models and assumptions used in the calculation of the technical provisions are appropriate.

### **[\[Material-Key Reliances\]](#)**

[\[In providing the opinion above, I have listed below my key reliances, including reliances on the opinions of others...I have materially relied on the opinion of others as follows...\]](#)

[\[I have listed other reliances made in the associated 'Actuarial Report on Technical Provisions' as at \[Financial Reporting Date\] \]](#)

### **[\[Key Limitations and Uncertainties\]](#)**

[\[In providing the opinion above, I note the following key limitations...\]](#)

[\[I have listed other limitations and uncertainties in the associated 'Actuarial Report on Technical Provisions' as at \[Financial Reporting Date\] \]](#)

### **[\[Recommended Improvements\]](#)**

[\[In providing the opinion above, I have made the following recommendations for significant improvements to the undertaking...\]](#)

[\[I have detailed other recommended improvements in the associated 'Actuarial Report on Technical Provisions' as at \[Financial Reporting Date\] \]](#)

### **[\[Post Balance Sheet Events\]](#)**

An actuarial report, supporting this Actuarial Opinion on Technical Provisions, has been [\[will be\] provided to the Undertaking. Readers of this document should not make any decisions based on this opinion alone without reading the associated 'Actuarial Report on Technical Provisions' as at \[Financial Reporting Date\]](#)

**Signed:**

**Name:**

**Date:**

**Address:**

Format of Actuarial Opinion on Technical Provisions and Recoverables (“AOTPRs”)

**To: Central Bank of Ireland**

**Actuarial Opinion on Technical Provisions and Recoverables – [Name of (Re)Insurance Undertaking] as at [Financial Reporting Date]**

**Identification**

I, [Name of Actuary], am an actuary employed by [Name of (Re)Insurance Undertaking] (“the Undertaking”).

Or

I, [Name of Actuary], am associated with [Name of Actuarial Firm] who have been retained by [Name of (Re)Insurance Undertaking].

*And*

I was approved by the Central Bank of Ireland on [date of approval] to act in the Pre-Approval Controlled Function of Head of Actuarial Function for [Name of (Re)Insurance Undertaking].

Or

I was appointed by [Name of (Re)Insurance Undertaking] as the Head of Actuarial Function on [date of appointment] and my appointment was notified to the Central Bank on [date of notification] via the Central Bank’s “In-Situ” process. I am approved to the role of Pre-Approval Controlled Function of Head of Actuarial Function for [Name of (Re)Insurance Undertaking].

**Scope**

I have examined the technical provisions listed below for [Name of (Re)Insurance Undertaking] as at [Financial Reporting Date], as reported in the Undertaking’s annual quantitative reporting templates to the Central Bank.

Line of Business	Gross Best Estimate Liability	Risk Margin	Gross Technical Provisions (calculated as a whole)	Total Technical Provisions	Recoverables from reinsurance contracts and SPVs	Total Technical provisions net of Recoverables
LOB 1						
LOB 2						
...						
Total						

## **Opinion**

In my opinion, the technical provisions of [Name of (Re)Insurance Undertaking], totalling [Xm] and recoverables totalling [Ym], as at [Financial Reporting Date] comply in all material respects with all relevant Solvency II requirements.

More specifically, in my opinion, within the context of the Solvency II requirements,

- a) the calculation of the technical provisions is reliable and adequate,
- b) the data used in the calculation of the technical provisions is appropriate, complete and accurate, and I have assessed the sufficiency of the data, and
- c) in aggregate, the methodologies, models and assumptions used in the calculation of the technical provisions are appropriate.

## **[Key Reliances]**

[In providing the opinion above, I have listed below my key reliances, including reliances on the opinions of others.....]

[I have listed other reliances made in the associated 'Actuarial Report on Technical Provisions' as at [Financial Reporting Date] ]

## **[Key Limitations and Uncertainties]**

[In providing the opinion above, I note the following key limitations...]

[I have listed other limitations and uncertainties in the associated 'Actuarial Report on Technical Provisions' as at [Financial Reporting Date] ]

## **[Recommended Improvements]**

[In providing the opinion above, I have made the following recommendations for significant improvements to the undertaking...]

[I have detailed other recommended improvements in the associated 'Actuarial Report on Technical Provisions' as at [Financial Reporting Date] ]

## **[Post Balance Sheet Events]**

An actuarial report, supporting this Actuarial Opinion on Technical Provisions, has been [will be] provided to the Undertaking. Readers of this document should not make any decisions based on this opinion alone without reading the associated 'Actuarial Report on Technical Provisions' as at [Financial Reporting Date]

**Signed:**

**Name:**

**Date:**

**Address:**

The rationale for the substantive changes proposed is set out in the table below:

<b>Change proposal ref</b>	<b>Description of proposed change</b>	<b>Rationale</b>
AOTP_1	Propose changing the title of the opinion to include recoverables.	As per Article 77 of the Solvency II Directive 2009/138/EC, Technical Provisions are defined as the sum of a best-estimate and a risk margin. As per the wording of the opinion section of this AOTP, the CBI requires the Actuarial Function Holder to also opine on the calculation of recoverables from Reinsurance contracts and SPV's.
AOTP_2	We welcome the replacement of the word 'qualification' with 'and' in this section.	
AOTP_3	Propose adding a column to the table, to explicitly state the figures for Gross TP's	Under Solvency II, the HoAF is required to inform the administrative, management or supervisory body of the reliability and adequacy of the calculation of Technical Provisions, defined as a sum of a best-estimate and a risk margin. To avoid ambiguity, the SAI recommends that this figure is quoted in the AOTP.
AOTP_4	Propose removing the reference to identification of TP's by LOB	The current wording is ambiguous as to whether the opinion applies at line of business level or at the total level and is open to various interpretations as to what the actuary is actually opining on. The proposed rewording makes it clear that the HoAF is opining on the total figures noting that: <ul style="list-style-type: none"> <li>- considering materiality at a total level is consistent with the approach taken by the auditors;</li> <li>- considering materiality at a total level allows the HoAF to focus on the matters which are most critical to the solvency of the undertaking;</li> <li>- there are likely to be wider divergences in approaches to assessing materiality when considered at line of business level;</li> <li>- opining on the allocation of risk margin by line of business may be problematic, in that it suggests a requirement for the Risk Margin calculation to be dis-aggregated by Line of Business, which may be computationally challenging.</li> </ul>

AOTP_5	Propose deleting the current reference to gross and net TPs and replacing with revised wording which explicitly states the total TP figure and the total Recoverables figure on which the HoAF is opining.	As per AOTP_1
AOTP_6	Propose to remove the word 'sufficient'	As per Article 48 of the Solvency II Directive 2009/138/EC, the Actuarial Function is required to assess the sufficiency of the data. The wording in the AOTP proposed by the CBI implies that the HoAF is required to opine that the data used in the calculation of TPs is sufficient.  Further, Article 21 of the Delegated Regulations indicates that, in certain instances where the data is insufficient, approximations can be made to calculate the technical provisions.
AOTP_7	Propose to add a sentence into part b) to state that the data has been assessed for sufficiency	This new proposed wording is in line with Solvency II regulations.
AOTP_8	Propose changing 'material reliances' to 'key reliances'	It would be more appropriate to use this wording given the nature of some of the reliances used in opining on the calculation of TPs.
AOTP_9	Propose changing the text under key reliances to 'I have listed below my key reliances, including the opinion of others'	Often this list will include reliances other than opinions of others e.g. 1. accuracy of asset values used in the calculation of TP's for unit linked business; 2. Accuracy of the SCR calculation for the Risk Margin calculation; 3. Accuracy of cedant bordereaux for a reinsurer. Whilst reasonableness check will generally be done, the HoAF's role is not that of an auditor.
AOTP_10	Propose inserting a statement to refer to the ARTP for a full list of reliances	This clarifies that the list included is not an exhaustive list of all reliances made in opining on the compliance of the Technical Provisions with all relevant Solvency II requirements
AOTP_11	Propose changing material limitations to key limitations and adding uncertainties to this section	Key uncertainties would most likely be detailed in the ARTPs and it would be appropriate in most cases to mention these in the AOTP.
AOTP_12	Propose inserting a statement to refer to the ARTP for a full list of limitations and uncertainties	This clarifies that the list included is not an exhaustive list of all limitations and uncertainties associated with the calculation of Technical Provisions.
AOTP_13	Propose inserting a statement to refer to the ARTP for a full list of recommended improvements	This clarifies that the list included is not an exhaustive list of all recommended improvements related to the opinion on TP's.

AOTP_14	Propose introducing a section covering post balance sheet events.	The CBI has clarified its expectations for the treatment of Post Balance sheet events in the AOTP and ARTP. This clarification was provided in the CBI's "Dear HoAF" letter dated 8 December 2017, which stated that the CBI would "expect the HoAF to consider whether any post balance sheet events occurring prior to the finalising of the AOTP and ARTP, are sufficiently material to warrant inclusion".
AOTP_15	Propose inserting a sentence stating that no decision should be made based only on the opinion, without reading the full ARTP.	Not all potential users of the AOTP may be aware of the existence of the ARTP which provides a detailed description of the calculation of TPs including, inter alia, the sufficiency and quality of data used and the appropriateness of the methodologies, models and assumptions. This sentence points the reader to the ARTP which forms the basis of the AOTP.

END



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