Society of Actuaries in Ireland

Cross Practice Regulatory Working Group Newsletter

November 2024

Introduction

Dear Member,

This newsletter has been produced by the regulatory working group. This group creates and distributes a cross-practice regulatory newsletter to all committees and members of the Society of Actuaries in Ireland (SAI) on a bi-annual basis.

This newsletter provides a high-level summary of regulatory developments, links to more detailed information, and identifies the relevant committees or audiences that the regulation is more specifically applicable to. Detailed analyses are not conducted by this working group but rather the Newsletter aims to highlight to members material that might be off interest and for which they may wish to explore further.

This newsletter is sub divided into the following headings and has an effective date 30 November 2024 and covers new material since the last published newsletter in July 2024:

- Life Insurance
- Pensions
- General Insurance
- Sustainability
- Operational Resilience
- Solvency II
- Conduct and Customer
- Healthcare

Committee Members

Stuart Redmond (Chair)
Sean Burke
Francis Furey
Brendan McCarthy
Fergal O'Shea
Mark Sheridan
Michael Sharpe (Exec. Support)

Life Insurance

Funds Sector 2030: The taxation of investment funds and life assurance policies

In April 2023, Minister Michael McGrath initiated a review of Ireland's funds sector to strengthen its position in asset management and support economic resilience. The review also included the taxation of investment funds and life assurance policies. The Review Team undertook extensive consultation, conducted numerous meetings and events with industry stakeholders and launching a consultation paper which the Society of Actuaries in Ireland responded to. Their report offers key recommendations to future-proof the industry and align it with EU Capital Markets Union goals. Submitted in July 2024, the report's recommendations were presented to the Government in October 2024 for approval and implementation.

The Review Team recommends several reforms to align the taxation of Irish-domiciled life products with other savings and investment products.

Key recommendations include:

- Removing the eight-year deemed disposal rule.
- Aligning the Investment Undertaking Tax (IUT) and Life Assurance Exit Tax (LAET) with the Capital Gains Tax (CGT) rate of 33%.
- Introducing limited loss relief.
- Repealing the 1% Life Assurance Levy.

Additionally, the review team suggests phasing out the Life Assurance – Old Basis Business regime, with a consultative transition involving the Department of Finance, Revenue Commissioners, and industry to protect policyholders from potential negative impacts.

Pensions

Automatic Enrolment Update

On October 10, Minister Humphries signed a commencement order to initiate the new Auto Enrolment (AE) retirement savings scheme, which will take effect on 30/09/2025. This new AE retirement savings initiative will be called "My Future Fund". The new governing body for AE, the National Automatic Enrolment Retirement Savings Authority (NARESA) will be established on 31/3/2025, and have responsibility for overseeing the implementation of Auto Enrolment. A significant communications campaign will be launched to educate the public about the system and its implications.

Tata Consultancy Services has been appointed as the administrator for My Future Fund, with contracts signed for a duration of 15 years. A tender will be issued to select up to four investment managers to manage the assets for My Future Fund.

Income and gains generated from investments within My Future Fund will be exempt from taxation. Upon retirement, participants will be able to withdraw 25% of their fund as a tax-free lump sum (subject to standard limits), while the remaining amount will be subject to income tax under the PAYE system. In the event of death, the value of the deceased's fund will be subject to income tax.

Finance Bill 2024

The 2024 Finance Bill introduced a number of taxation changes relevant to the pensions industry. These are:

- An employer limit has been introduced in relation to contributions by employers to employee's PRSAs / Pan-European Personal Pension Products (PEPPs), the contribution cannot exceed more than 100% of the employee's emoluments in the year. The excess amount over the limit will be treated as a taxable Benefit-in-Kind in the hands of the employee.

- The standard fund threshold (SFT") limit for pensions will increase from 1 January 2026 on a phased basis from €2m to €2.8m over the years 2026 to 2029, with a formula in subsequent years where the amount exceeds €2.8m.

- Transfers from PRSAs to vested PRSA's are considered a benefit crystallisation event which may give rise to a tax liability if an individual's pension exceeds the SFT.

Flood Protection Gap

The "Flood Protection Gap" refers to the portion of flood-related property damage not covered by insurance.

In October the CBI published a report outlining the results of their recent flood insurance availability analysis.

The analysis considered JBA flood scores at each residential and commercial address in the Republic of Ireland, via the Eircode system, to estimate the extent of flood insurance availability. These scores factored in coastal, pluvial (rainfall), and fluvial (river) flood risks.

Headline results from the analysis indicate that approximately 1 in 20 properties across the country may have difficulty obtaining flood insurance.

In addition to the CBI publication, there were two other regulatory publications on the topic of flood risk management which may be of interest to the reader:

- The Actuarial Association of Europe submitted their response to the Consultation on the 2023/2024 (re)assessment of natural catastrophe risk in the standard formula, of which the SAI has contributed to. In relation to flood risk, the consultation proposed parameters for Irish flood risk for the first time, these parameters excluded allowance for coastal flooding risks.

- EIOPA have also released papers exploring the demand-side and supply-side factors which may be contributing to the protection gap which can be seen across Europe.

Natural Catastrophe Modelling Thematic Review

The CBI published results relating to their recent Natural Catastrophe Modelling Thematic review, outlining good and weak practices observed across the insurance and reinsurance market.

The thematic review consisted of two phases.
- The first looked at market-wide exposure, limitations, and approaches taken.

- The second phase was a deep dive into governance and risk management frameworks.

It was noted that good practices included: detailed model change logs, strong documentation of Standard Formula appropriateness and communications of limitations, local representation on Group NAT CAT modelling committees, detailed information being provided to Board members to enable appropriate challenge, and NAT CAT topics being included in Board training plans.

Motor Insurance Levy

The Motor Insurers' Insolvency Compensation Fund (MIICF) levy, introduced in 2018 to cover claims arising from insurer insolvencies, is set to conclude in 2025. The Motor Insurers' Bureau of Ireland (MIBI) announced that the fund will meet its target of €200 million by that time, meaning the levy contribution will no longer be required to support the fund's reserves.

The levy contribution was reduced from 2% of motor premiums to 1% starting in January 2024, and now will be reduced to 0% after 2025, as the target for the fund is expected to be reached.

National Claims Information Database

In October, the Central Bank of Ireland published its sixth annual Private Motor Insurance Report.

The report analyses data from 2009 to 2023 across several areas, including premium trends, claims, income, and expenditure. The report highlights a 2% increase in the average premium in 2023, a 5% rise in claims costs in 2023, with a 67% loss ratio in 2023.

It also discusses the impact of Personal Injuries Guidelines on claims settlements, showing cost reductions for claims settled under the Guidelines compared to the previous Book of Quantum.

The 2023 report includes a new section analysing the contribution of reserve movements to profitability over time.

EU Sustainability Reporting - Corporate Sustainability Reporting Directive ("CSRD ")

The CSRD Regulations were transposed into Irish law through European Union (Corporate Sustainability Reporting) Regulations 2024 which amended the Companies Act 2014.

A further amendment was enacted in October (the European Union (Corporate Sustainability Reporting) Regulations 2024 (No.2)) which clarified that EU subsidiaries of a third country undertaking may report on a consolidated basis at EU level from the date of operation of the regulations.

In addition, the Department of Enterprise, Trade and Employment has published a FAQ on the Corporate Sustainability Reporting Regulations which may of interest to actuaries working in this area.

An overview of CSRD was included in the June 2024 Cross-Practice Regulatory Newsletter.
Added this section in.

CBI Feedback on Climate Materiality Assessments

The Central Bank published its Guidance for (Re)Insurance Undertakings on Climate Change Risk (the Guidance) in March 2023, to support firms by clarifying expectations of how they consider climate change risk within their business. The Guidance sets out that the assessment of the materiality of a firm's exposure to climate change risk is the first step to understanding the potential impact of climate change risk on its business model.

The CBI September 2024 Newsletter, set out the results of the Central Bank's thematic review of the materiality assessments of 29 (re)insurers which was completed. The review encompassed firms from non-life, life, and reinsurance sectors and spanned all PRISM impact ratings.

The Central Bank noted that it was apparent from the review, that firms have taken a variety of approaches in carrying out their materiality assessments. This emphasises that there is no one-size-fits-all approach to assess potential risks. They were pleased to see that the majority of firms reviewed made some efforts to meet the Guidance, acknowledging the principle of iteration set out in the Guidance, as firms build capacity, expertise and experience, and further integrate climate change risk into their governance and risk management frameworks.

To support the industry with this, they provided some key feedback from their review, highlighting areas of stronger and weaker practice.

Areas of stronger practice:

1. Using the baseline scenario as a clear, coherent foundation for the work.
2. Analysis of potential exposures to climate change risk in all risk categories and over all time horizons.
3. Clear conclusions on the materiality of climate change risks.

Areas of weaker practice:

1. Firms should understand the known limitations of publicly available scenarios.
2. Where the baseline indicates that a risk is immaterial, firms should assess the need for additional baseline scenarios and give further consideration to second-order risks / indirect exposures.
3. Firms should challenge the reasonableness of conclusions reached.
4. Firms should consider climate change risks in ongoing strategic decision-making and integrate into business models.

The Central Bank encouraged firms to continue to build on their analysis of climate change risks. This will help to enhance their understanding of material risk exposures, and facilitate firms in considering what implications the results might have for its current and planned strategy and business model.

EIOPA report on greenwashing and opinion on sustainability claims

Insurance and pension providers are adjusting their products and services to be more sustainable. This helps the shift to a greener economy, but problems arise when providers falsely present themselves and their products/schemes as eco-friendly by making false claims about sustainability, resulting in greenwashing.

EIOPA recognises the importance of accurate and substantiated sustainability claims to prevent greenwashing. They issued their Opinion on sustainability claims and greenwashing in the insurance and pensions sectors in April 2024. The aim of the Opinion was to establish a common way of overseeing sustainability claims and greenwashing in the insurance and pensions sectors.

The document sets out four key principles for National Competent Authorities to consider when probing insurer's sustainability claims:

1. **Accuracy and Consistency**: A provider should only make accurate, precise, and fair sustainability claims about itself and/or its product(s).

Sustainability continued

1. **Accuracy and Consistency**: A provider should only make accurate, precise, and fair sustainability claims about itself and/or its product(s).
2. **Substantiation**: Sustainability claims should be substantiated with clear reasoning, facts and processes.
3. **Accessibility**: Sustainability claims and their substantiation should be accessible by the targeted stakeholders.
4. **Timeliness and Disclosure**: Sustainability claims should be updated regularly, and any changes should be disclosed in a timely manner with a clear rationale.

These principles aim to make sustainability claims clear, honest, and verifiable, which helps prevent greenwashing and boost consumer confidence in the insurance and pensions sectors.

The document also provides examples of good and bad practices for each principle to demonstrate how greenwashing can occur in practice.

EIOPA Final Report on the Prudential Treatment of Sustainability Risks

EIOPA issued their final report on the prudential treatment of sustainability risks on 7 November 2024. The report assesses the potential for a dedicated prudential treatment of assets or activities associated with environmental or social objectives, or those that harm such objectives. This assessment is mandated by Article 304c of the Solvency II Directive.

The document outlines several key areas of focus and is divided into three main areas:

Final Report on the Prudential Treatment of Sustainability Risks for Insurers - EIOPA

1. **Market Risk of Assets Exposed to Climate Transition:** The report highlights the high risks associated with fossil fuel assets on European insurers' balance sheets. EIOPA recommends additional capital requirements for these assets to reflect their increased risk.

2. **Impact of Climate Risk-Related Prevention Measures on Non-Life Underwriting Risks**: The report discusses how climate risk-related prevention measures can impact non-life underwriting risks. It does not recommend changing the prudential treatment of premium risk in context of climate-related adaptation measures.

The policy implications outlined in the report include:

1. **Additional Capital Requirements for Fossil Fuel Assets**: EIOPA recommends that insurers hold additional capital against fossil fuel assets to reflect the high risks associated with these investments.

2. **Adaptation of Underwriting Processes**: Insurers are encouraged to adapt their underwriting processes to account for climate risk-related prevention measures. This includes considering the impact of climate change on non-life insurance underwriting.

3. **Comprehensive Approach to Social Risks**: The report suggests that social risks should be integrated into the prudential framework through a comprehensive approach that includes quantitative requirements, governance and risk management processes, and disclosure requirements.

Operational Resilience

Digital Operations Resilience Act (DORA)

DORA is an EU regulation that will apply from 17 January 2025. It aims to strengthen the financial sector's resilience to IT related incidents and applies to insurers, banks and investment firms. It is intended to ensure that companies and the financial sector as a whole can prevent, adapt, respond to, recover, and learn from operational disruptions.

Following on from the overview of DORA provided in the last newsletter there have been a number of recent developments.

The European Supervisory Authorities (EIOPA, EBA and ESMA) have published detailed implementation requirements in the form of Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS). The majority RTS and ITS documents have now been adopted by the European Commission, just still awaiting adoption are denoted by an asterix below.

Batch 1

- Regulatory Technical Standards (RTS) on ICT risk management framework and on simplified ICT risk management framework;

- RTS on criteria for the classification of ICT-related incidents;

Operational Resilience continued

- RTS to specify the policy on ICT services supporting critical or important functions provided by ICT third-party service providers (TPPs);
- Implementing Technical Standards (ITS) to establish the templates for the register of information*.

Batch 2
- RTS and ITS on the content, format, templates and timelines for reporting major ICT-related incidents and significant cyber threats;
- RTS on threat-led penetration testing (TLPT);
- RTS on the harmonisation of conditions enabling the conduct of the oversight activities;
- RTS specifying the criteria for determining the composition of the joint examination team (JET)*;
- Guidelines on oversight cooperation;
- Guidelines on the estimation of aggregated costs/losses caused by major ICT-related incidents;
- RTS on subcontracting*.

The CBI held a DORA industry briefing 6 November 2024; further details of this (including a recording of the session) are available on the CBI's DORA web page here.

Solvency II

European Council signs off on Solvency II and IRRD

On November 5th, the EU Council officially adopted the amendments to the Solvency II Directive and introduced the new Insurance Recovery and Resolution Directive (IRRD). The new rules on Solvency II are intended to boost the role of the insurance and reinsurance sector in providing long-term private sources of investments to European businesses. At the same time, they are intended to make the sector more resilient and prepared for future challenges in order to better protect policyholders. The aim of the IRRD is to make insurers and relevant authorities in the EU better prepared for situations of significant financial distress, so that authorities can intervene early and quickly, including across borders.

The directives will be published in the EU's Official Journal shortly and will enter into force 20 days after publication. Their application will start two years later, meaning the first year-end exercise is expected to be YE 2026.

Please see previous regulatory newsletter in June 2024 for a summary of the proposed Solvency II and IIRD Directives.

Official EU Press Release

EIOPA Consultations on technical standards

In early October, EIOPA launched a series of consultations on Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) regarding changes that are expected to be introduced to the regulatory framework as part of the Solvency II review process.
The five consultations launched – four on RTS and one on ITS – cover topics ranging from cross-border supervision and the liquidity management of insurers to the criteria for identifying exceptional sector-wide shocks. These standards, once adopted, will guide the implementation of the new features within the Solvency II framework to improve supervisory effectiveness, risk management and financial stability in the EU's insurance sector.

EIOPA has invited stakeholders to provide their feedback on the Consultation Papers below by responding to the questions via the online surveys no later than **2 January 2025**. All responses will be published on EIOPA's website unless otherwise requested.

RTS on liquidity risk management plans
RTS on criteria for exceptional sector-wide shocks

EIOPA has published a Consultation Paper on proposed regulatory technical standards for liquidity risk management plans under the Solvency II Directive. This guidance applies to life and general insurance companies as well as enterprise risk management (ERM) professionals. The consultation seeks to introduce a standardised framework for liquidity risk management, requiring insurers and reinsurers to develop and report to supervisors comprehensive liquidity risk management plans, containing quantitative and qualitative information, that include both short-term (up to three months) and long-term (at least one year) cash flow projections. The proposal also mandates regular updates to ensure robust monitoring and preparedness for liquidity risk. Once finalised, these standards aim to ensure that insurers maintain adequate liquidity under normal and stressed conditions, ultimately supporting financial stability and policyholder protection. The SAI working group (WG) provided feedback to the AAE. The AAE will collate all responses from EU actuarial associations and submit a consolidated response to EIOPA. Link to EIOPA Consultation: RTS on liquidity risk management

RTS on undertakings under dominant or significant influence

EIOPA has published a Consultation Paper proposing regulatory technical standards for identifying factors that indicate dominant or significant influence within insurance and reinsurance groups under the Solvency II Directive. This guidance is relevant for insurance companies, supervisors, and enterprise risk managers engaged in group supervision. The proposed standards offer a framework for identifying when an entity has control or influence over another through central coordination or unified management, considering factors such as shared strategies, dependencies, and interlinked decision-making structures. This framework intends to strengthen group-level oversight and foster financial stability by recognising complex influence structures within insurance entities.

Link to EIOPA Consultation: RTS on undertakings under dominant influence

ITS on simplification of valuations for life insurance obligations

EIOPA has published a Consultation Paper proposing Implementing Technical Standards (ITS) on the methodology for scenario generation for the prudent deterministic valuation of life insurance obligations with options and guarantees. This guidance applies to small and non-complex insurance entities, allowing them to calculate technical provisions without a full stochastic model. The proposed methodology aims to ensure adequate valuation of the time value of options and guarantees while keeping computational complexity manageable. These standards aim to improve transparency and consistency in valuation, balancing simplicity with a robust assessment of financial risks in life insurance obligations.

Link to EIOPA Consultation: ITS on valuation simplification for SANCUs

RTS on enhancing the supervision of cross-border activities

EIOPA has published a Consultation Paper proposing RTS to guide the assessment of whether cross-border insurance and reinsurance activities are of relevance to the host Member State's market. These standards apply to supervisory authorities and provide criteria to assess the impact of cross-border activities, particularly focusing on large undertakings with significant operations across EU borders. Key factors include the concentration of activities and potential impacts on policyholders and beneficiaries, addressing areas such as market share, substitutability, and consumer protection in the host Member State. This framework will enable more targeted and coordinated supervision of cross-border activities, promoting enhanced consumer protection and financial stability across the EU.
Link to EIOPA Consultation: RTS on cross-border activities

Pipeline of planned S2R consultations

We can expect an extensive list of consultations from December 2024 through October 2025. The SAI will provide feedback on relevant consultations through ad hoc WGs.

EIOPA Consultation on mass-lapse reinsurance agreements and reinsurance agreement termination clauses

On the 8 October, EIOPA issued a Consultation Paper on regulatory standards for mass-lapse reinsurance agreements and reinsurance agreement termination clauses, focusing on their use as risk mitigation techniques under Solvency II. This consultation addresses two key areas, outlined in annexes, with the purpose of ensuring that such reinsurance agreements provide genuine risk transfer, align with capital requirements, and ultimately protect policyholders.

The first annex provides guidance on **Mass-Lapse Reinsurance**, specifically designed to help insurers manage lapse risk, particularly in the life insurance sector where lapse scenarios can significantly impact capital requirements. This annex offers criteria for structuring mass-lapse reinsurance treaties, such as setting appropriate attachment and detachment points, defining measurement periods, and reducing basis risk from restrictive terms or exclusions. These standards aim to ensure that such treaties offer meaningful risk mitigation and accurately reflect the insurer's risk profile.

The second annex focuses on **Termination Clauses in Reinsurance Agreements**, addressing the potential impact of termination rights on effective risk transfer. It highlights the risks associated with clauses that might allow the reinsurer to unilaterally terminate the contract under specific conditions, potentially undermining policyholder protection. The guidance recommends that such clauses be structured to maintain risk transfer integrity, ensuring capital relief aligns with the insurer's needs and regulatory expectations.

Stakeholders are invited to submit feedback by 7 February 2025. (The SAI have a working group (WG) working to provide feedback). Once finalised, these standards will provide a robust framework for assessing and using reinsurance agreements as effective risk mitigation tools, supporting financial stability and enhancing policyholder protection across the EU.
Full details are available in the EIOPA Consultation Paper on Mass-Lapse Reinsurance.

'Dear CEO' Letter on Consumer Protection Risk Assessments

The CBI published a "Dear CEO" letter to insurance firms in late August following the completion of a Consumer Protection Risk Assessment (CPRA) to evaluate how companies manage consumer protection risks.
The review considered the effectiveness of their risk management frameworks and the promotion of a consumer-focused culture, with a specific focus on the following elements:

- Consumer Protection Risk Management
- Control Functions/Consumer Monitoring; and
- Consumer Reporting

In respect of each element, the letter discusses the CBI's expectation, summarises the findings from the review and provides examples of good practice.

The assessment revealed varying levels of maturity across firms' consumer protection frameworks. While some firms have made significant progress, others are very much still in the early stages, with inconsistent effectiveness in linking frameworks to positive consumer outcomes.

Insurers were required to complete an analysis, identifying the gaps and weaknesses that exist in the design and/or effectiveness of their consumer protection risk management framework in respect of all elements set out in the assessment, and develop improvement plans to be presented to their boards by 30 November 2024, with implementation by 30 June 2025.

Value for Money (VfM)

After a public consultation held at the beginning of this year, EIOPA issued the final Methodology on Value for Money Benchmarks which is meant as a supervisory tool to enable EIOPA and the national regulators (National Competent Authorities or NCAs) to adopt a more informed and risk-based approach to the supervision of VfM as part of Product Oversight and Governance (POG) Supervision. As such, the paper is addressed to the NCAs who will use the benchmarks in their regular supervisory process, however, it does give the European life industry some guidance as to what will be scrutinized by the regulators when assessing the VfM risks.

The new Value for Money (VFM) Benchmark Methodology introduces a standardised approach to the evaluation of the value for money offered by unit linked and hybrid products across the EU. EIOPA's goals are to ensure transparency, fairness, and high standards in the market with the aim of ultimately benefitting consumers by enhancing competition and the value of products offered.

The VFM benchmark evaluates products on the following key elements:

- **Cost transparency**: how clearly providers communicate their fees and charges to consumers.
- **Performance measurement**: assesses whether the returns offered by the product are competitive and aligned with the risk appetite of consumers.
- **Consumer outcomes**: whether the methodology ensures that products provide consumers with a fair return relative to the costs and risks they incur over the long term.

The benchmark methodology relies on grouping products according to a set of common characteristics known as 'clusters'. The benchmark will serve as a tool for supervisors to identify products offering poor value for money. The methodology does not set out consequences for providers in writing products identified as high risk from a VFM perspective nor does it suggest that alignment with the benchmark should be interpreted as a safe haven from a value for money perspective.

EIOPA will initially collect data as part of the annual Costs and Past Performance (CPP) exercise including entry points that would allow further assessment of data included on Quantitative Reporting Template (QRT) S.14.01 to, where possible, reduce the reporting burden and/or incorporate new indicators. EIOPA will also collect data and inform NCA about features that could justify deviation from benchmarks (e.g. guarantees, digitalisation, risk mitigation). The first benchmark exercise will evaluate the data collection to ensure it remains fit-for-purpose. Regular reviews of the methodology are foreseen.

It can be expected that NCAs will engage in supervisory dialogue with the companies based on the first benchmarks provided by EIOPA.

On 25 September 2024, the Health Insurance Authority held their conference "Empowering Consumers to make Informed Choices". The conference explored the future of health insurance and the ability of consumers to make informed decisions given the large number of plans available in the market. Speakers included representatives from the Health Insurance Authority, international experts from the Risk Adjustment Network, the ESRI's Behavioural Research Unit, and the Central Bank of Ireland. There were also panel discussions with representatives from a number of different interested bodies.

A link to the press release can be found here: Press Releases | The Health Insurance Authority