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Insurance Regulation Newsletter
Issue 1

Q1 2022 has been another busy quarter for insurance regulatory developments. Digital and operational resilience, consumer outcomes, and climate continue to dominate the supervisory agenda.

But the main focal point in recent weeks has of course been the devastating events unfolding in Ukraine. While it pales in comparison to the human turmoil, global trade has been shook by the conflict. The Irish and European economies were already facing inflationary uncertainty following Covid disruptions, supply chain issues, and rising energy costs. The outbreak of war has added further uncertainty and most domestic insurers now sight inflation and asset volatility amongst their most prominent risks. Furthermore, global cyber disruption threats are now also viewed a real possibility.

Q1 is traditionally a busy time for the industry with year-end reporting and audit requirements. It seemed as busy as ever this year with many of our clients also grappling with the new Pre-Emptive Recovery regulations and IFRS17 preparatory work.

As we move into summer, there will be a host of other regulatory considerations for insures. In this bulletin we reflect on the CBI’s financial regulation priorities for 2022. There will be continued and increased focus on the resilience of insurers with outsourcing, staffing arrangements, and cyber under the microscope. The aforementioned Pre-Emptive Recovery requirements give regulators a new tool to benchmark resilience levels against. In recent months, there have been very significant, high profile, fines imposed on a some financial service providers for failings in the areas of digital resilience and outsourcing governance.

Consumer outcomes remain in the spotlight with the CBI publishing its Consumer Protection Outlook Report and EIOPA remaining committed to effective application of the Insurance Distribution Directive. The much anticipated Differential Pricing regulations also come into effect from 1 July and will have significant implications for home and motor insurers in the domestic market.

From a governance perspective, we anticipate that Climate, Diversity, and the highly publicised Individual Accountability Framework, will dominate Board room discussion for much of 2022.

As ever, we look forward to guiding you through the challenges that the coming year will present.

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Jump to the content

CBI Financial Regulation Priorities 2022

During March, the CBI set out its 2022 regulation priorities for all financial service providers. This includes some insurance specific focus points, such differential pricing. But it also covers a broad range of cross-industry priorities which are equally important to insurance and reinsurance undertakings.

Resilience

In an ongoing trend, the CBI continues to focus on the financial sectors ability to withstand shocks, both financial and operational. Unsurprisingly, Cyber resilience remains a prime area of attention given the potential risks it poses to a firm and its customers. Boards are expected to have robust IT governance frameworks in place.

In 2021, the CBI published cross-industry guidance on both outsourcing and operational resilience. From an insurance specific perspective, guidance was also published on the use of service companies for staffing purposes earlier this year. Finally, with all insurers required to have formal Pre-Emptive Recovery Plans in place since 31 March, all indicators are that resilience will be a recurring theme for insurers during 2022 and beyond.

Consumer Outcomes

The regulator also continues to reinforce its supervisory expectations around fair consumer outcomes. At a cross-industry level, the latest Consumer Protection Outlook Report highlights five key risk areas:

i. Poor business practices and weak processes;
ii. Ineffective disclosures;
iii. The changing operational landscape;
iv. Technology driven risks to consumer protection;
v. The impact of shifting business models.

Specifically to insurance the CBI have confirmed the much anticipated differential pricing rules will come into effect during 2022, dramatically changing the landscape of the home and private motor market.

A ‘root and branch’ review of the Consumer Protection Code has also been promised with a Discussion Paper to be published during the summer months.

Individual Accountability

It is evident that the CBI views the Individual Accountability Framework (‘IAF’) as critical tool in its planned approach to strengthening governance. With the proposed Bill expected to be enacted in Q2 2022, there will likely be plenty of Board level discussion on IAF throughout the course of the year.

Mazars in Ireland have recently conducted a cross-industry survey on IAF preparedness levels which can be found here.

Climate

In November 2021, the CBI issued an industry letter outlining its expectations for financial service providers with regards to climate change. This has been reaffirmed in their 2022 regulatory priorities with the Bank adapting their supervisory approach to ensure firms adequately address this risk.

We recently published an article to assist insurers adapt their risk frameworks to a more ESG compliant model.

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Differential Pricing Regulations

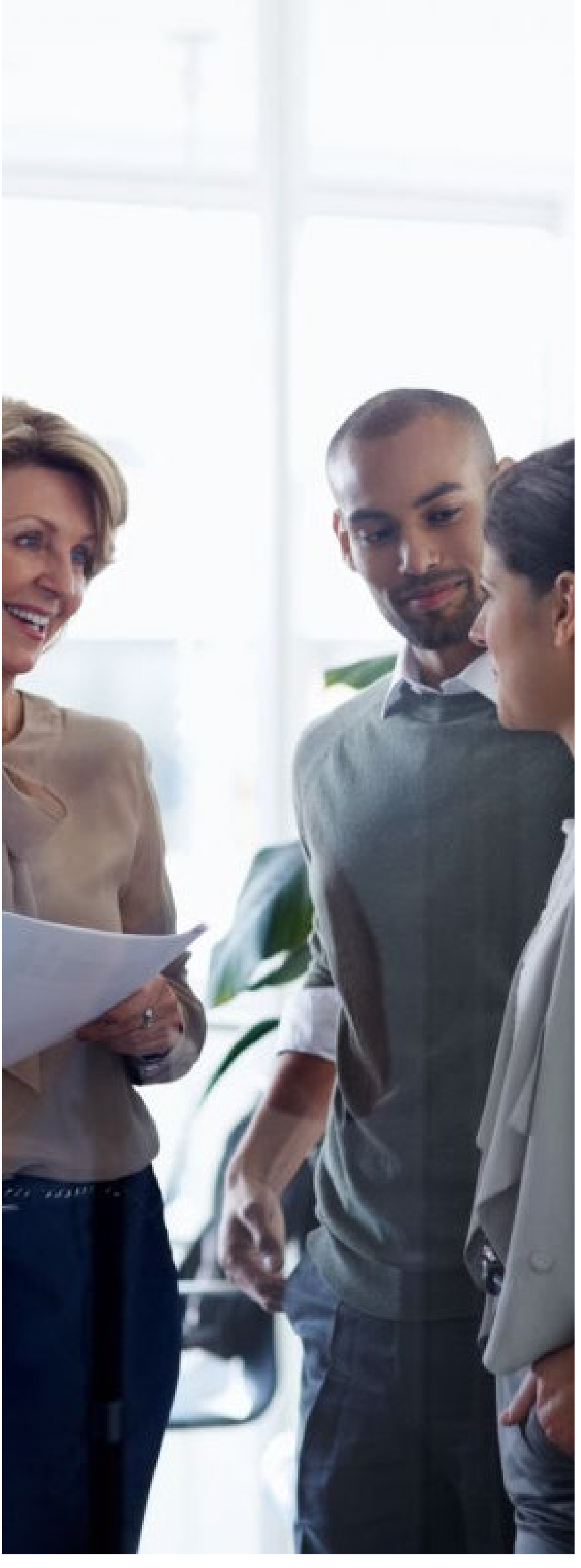
On 15 March, the CBI published the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022 which will apply to insurance undertakings and insurance intermediaries from 1 July 2022.

Following on from publication of a review into differential pricing in July 2021, new regulations will come into effect on 1 July 2022. Most notably, a ban on 'price walking' will apply to home and private motor insurance renewals. However, new customer discounts will still be permitted.

In addition, insurance undertakings and insurance intermediaries will be required to carry out an annual review of motor and home insurance pricing policies and processes to ensure sound practices.

The regulation also sets out information that must be provided to customers in advance of automatic renewal including the right the cancel. The overall aim here being the promotion of improved consumer awareness of options available upon renewal.

The latest regulations are perhaps the most significant new piece of pricing legislation to come into effect since the ban on gender based pricing nearly a decade ago. There will no doubt be some additional challenges and uncertainties for insurers and intermediaries as they adapt their pricing and underwriting practices in the coming months.



Other CBI Developments

Diversity

On 8th March, International Women's Day, the CBI reaffirmed its commitment to improving diversity across financial services, particularly in senior positions. It was revealed that 34% of insurance sector Pre-Approval Control Function ("PCF") applications were for female candidates in 2021. 66% were male. At Board level, the split was 31% to 69%. While there have been gradual improvements over the past decade, the CBI have been clear that they expect the gap to close at a faster pace.

Guidance on the Use of Service Companies for Staffing Purposes in the Insurance Sector

Over recent years, many insurers have placed increased reliance on group companies or third-parties for the provision of staffing solutions. While such arrangements are permissible, the regulator is keen to ensure that insurers only outsource the activity rather than outsourcing responsibility.

The latest guidance should serve as a prompt for insurers to ask the following questions:

- Does the Board approve and monitor Service Company usage?
- Are staffing arrangements integrated in the overall risk framework?
- Are contractual agreements with service providers fit for purpose?
- Are there any compliance gaps against legal or regulatory obligations?
- Is there a robust due diligence process for staffing arrangements?
- Are conflicts of interest well managed and has the Board maintained control?
- Is Operational Resilience & Business Continuity core to staffing arrangement decisions?
- Are there documented plans for an orderly transition when the arrangement ends?

Fines & Reprimands

In March, a major fund service provider was fined €10.8m for repeated governance and control failings relating to outsourcing arrangements. It is the largest monetary penalty imposed on a fund service provider to date. The failings were reported to span a period of several years but the announcement comes just a few months after the CBI published its Cross-Industry Guidance on Outsourcing (CP138).

Also in March, an insurance intermediary was fined €8,400 and reprimanded for failing to comply with the Fitness & Probity regime. The CBI have pointed to the 'Dear CEO' letters issued in 2019 and 2020 to highlight expectations for regulated firms around PCF appointments.

Russia & Belarus Sanctions

The CBI have published a dedicated page on their website with the most up to date sanctions related to Russia and Belarus. Firms are advised to ensure their compliance in this rapidly evolving situation. A 'Dear CEO' letter was issued on 28 February to reinforce this point.

Ukraine Conflict

The CBI spoke at length about the threats posed by the current conflict in its latest quarterly insurance newsletter. In addition to compliance with the sanctions already noted, cyber threats, underwriting exposures, and asset volatility risks were all called out as areas of concern.

Specific to underwriting risk, firms should take note of the CBI's previous instructions around clear and unambiguous policy terms and conditions. Any insurers who plan to sight war or terror clauses, would be wise to ensure such clauses are fair and unequivocal.

Counterparty exposures have also been explicitly called out, in particular group related counterparty exposures such as cash-pooling arrangements. Insurers are expected to assess and understand, not just their own exposures to the Ukraine conflict, but that of the group as a whole.

Reading between the lines, all (re)insurers would be well advised to conduct a thorough risk assessment, scenario analysis and risk register review. Frequent reviews of the situation, as it evolves, are also advised.

Digital Risk Management

The rapidly transforming digital landscape has been noted as a key priority for regulators in the coming years. Digitalisation presents enormous potential benefits for consumers and insurers alike, streamlining sales, distribution, claims processing and improving the consumer experience as a whole.

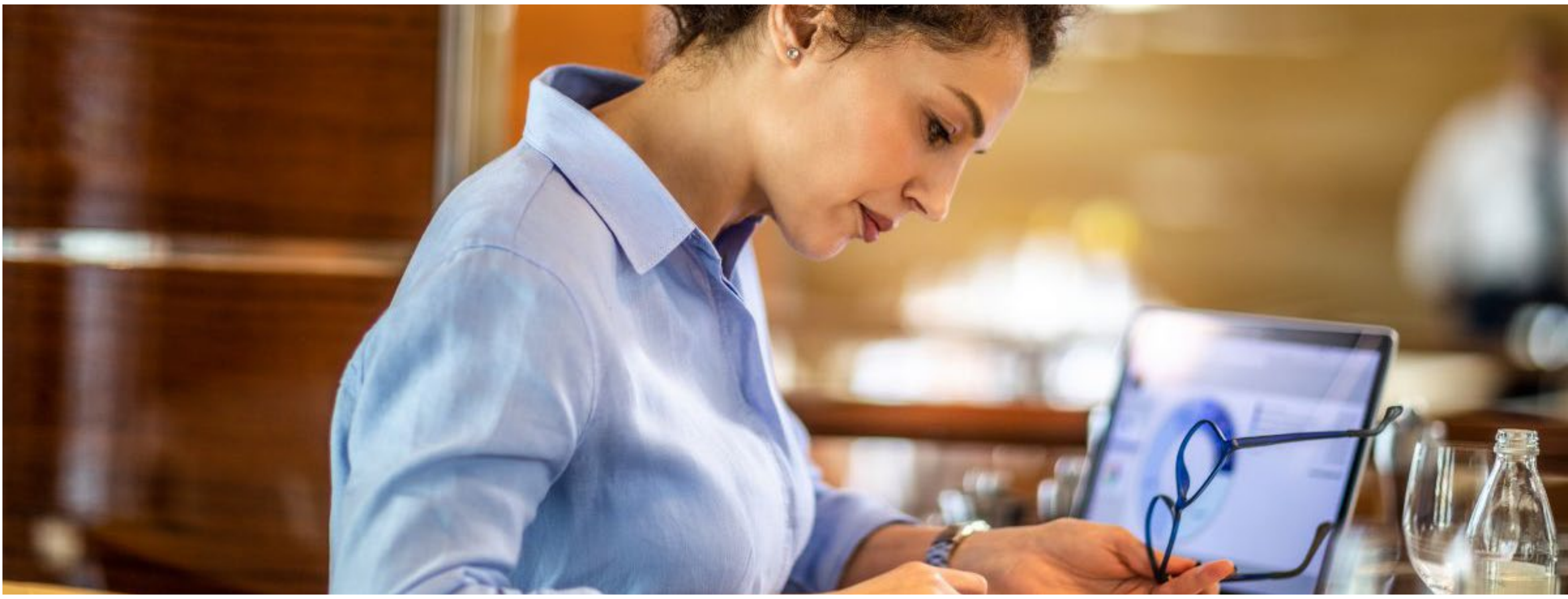
But with opportunity, digitalisation also brings risks. Firstly those who are slow to react may see their business models become irrelevant and surpassed by the competition. Those who are quicker off the mark expose themselves to increased operational, data security, and consumer detriment risks.

The CBI expect insurers to deploy strong governance and sound strategy to carefully manage this double-edged sword. A Digitalisation Survey is expected to be issued by the Bank later this year.

Exempt Ancillary Insurance Intermediaries (EAIIs)

The CBI recently conducted a review of Ancillary Insurance Intermediaries which are exempt from the Insurance Distribution Regulations. Typical EAIIs include the likes of airlines that sell travel insurance, electronic device retailers that sell gadget insurance, and motor dealers that provide warranty cover. In most cases they sell add-on insurance to supplement of a non-insurance core business model. Given the exempt nature of these intermediaries, there is increased emphasis on insurers to provide appropriate oversight.

In it’s review, the CBI found weaknesses around oversight of remuneration arrangements with EAIIs, failure to capture reasons for cancellation of cover, and inadequate procedures around onboarding of new EAIIs and audit of existing EAIIs.



EIOPA Updates

EIOPA issue recommendations from its 2021 Insurance Stress Tests

These recommendations are likely to sculpt the manner in which national authorities supervise insurers. The recommendations are:

- To reduce reliance on Solvency II transitional measure now that the regime has been operational for several years;
- To further assess the risks, that may cause large SCR ratio drops, to ensure they are adequately managed;
- To ensure risks not covered under Solvency II reporting receive sufficient resource allocation (such as liquidity risk);
- To further assess the need for, and viability of, management actions;
- To understand the speed to which firms can respond to adverse situations, gather information and make decisions;
- EIOPA also encourages national authorities to conduct on-site inspections as necessary.

Undertakings impacted by some or all of the above would be wise to take pro-active measures to address any potential shortcomings. Pre-Emptive Recovery Plan documents may be an appropriate place to consider some of these items.

Climate

In January, EIOPA published its third paper on methodological principles of insurance stress testing on climate risks. More generally, and similar with the CBI, ESG matters are quickly becoming part and parcel of supervisory process and are likely to continue to receive attention throughout 2022.

EIOPA Q&A on regulation

Despite Solvency II and IDD being in force for several years, many insurers continue to grapple with interpretations of the directives. During Q1, EIOPA issued a further 41 responses to add to the Q&A on regulations archive. 28 responses related to Solvency II and 13 to IDD. These are all available on EIOPA's website.

Insurance Distribution Directive (IDD)

IDD has been in application since October 2018. In January of this year, EIOPA published its first report on the application of the directive, reflecting some of the practical challenges faced in bedding in the directive. Some of the common issues included:

- Application of the demands and needs test;
- Concerns around the sales of unit-linked life products and mortgage & consumer credit protection policies;
- Keeping pace with a digital environment: for example, the directive requires, by default, certain disclosures to customers be made on paper.

EIOPA have committed to reviewing the application of IDD again in three years time.

Supervisory Converge Plan 2022

Building a common supervisory culture across the EU remains a key goal for EIOPA and it has indicated three main priority areas for the coming year:

I. Common supervisory culture and tools: this include approaches to conduct, ESG and proportionality;

II. Achieving a level regulatory playing field: calculation of technical provisions and treatment of reinsurance undertakings with head offices in third countries were called out specifically;

III. Supervision of emerging risk: Digital and cyber risks remain a focus with continued efforts to implement the Digital Operational Resilience Acts (DORA). There is also expected to be increased attention applied to the evolving field of Cyber Underwriting. A finalised statement on supervision of run-off undertakings is also expected in the coming months.

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- Tax;
- IT.

IFRS 17

- Transition support;
- Systems development;
- PAA eligibility testing;
- Yield curve assessment;
- Disclosures advice;
- Training programmes.

Regulatory

- Board training and governance;
- IAF & SEAR preparation;
- GDPR compliance;
- ESG gap analysis;
- CBI licence applications.

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- Risk framework and internal control reviews;
- ORSA support;
- Recovery & Resolution;
- Outsourced Risk Function Services.

Solvency II

- Capital management;
- Pillar II governance;
- Pillar III support (QRTs, NSTs, SFCR, RSR);
- Third-country branch services.

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