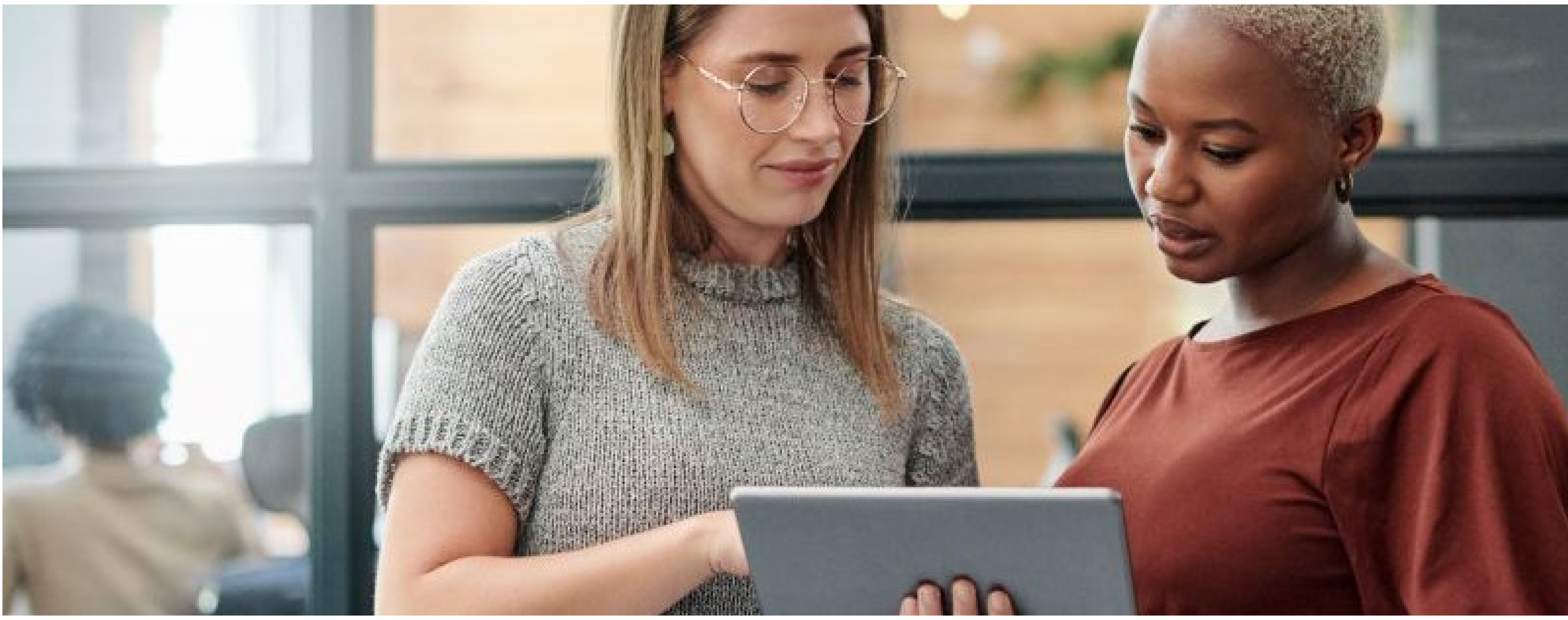

Insurance regulation newsletter
Issue 5 – April 2023

Individual accountability, climate, consumer protection and digitalisation featured prominently on the regulatory radar during Q1 2023.

With another busy financial reporting period coming to a close, spring is traditionally a time that insurers take stock and develop strategic and operational priorities for the year ahead. We increasingly see undertakings recognising the benefit of integrating their regulatory risk and compliance agenda with the wider business planning process. And with the regulatory landscape becoming more sophisticated, adopting this holistic approach is making increased business sense.

The Mazars insurance regulation newsletter helps provides a snapshot of the latest regulatory developments affecting the industry right now.

Q1 2023 marked the first anniversary of Russia's invasion of Ukraine – a sad milestone for the millions of refugees now scattered across Europe. The Russia-Ukraine war, coupled with changing Chinese policy on Covid-19, has triggered significant global macro-economic turbulence, price volatility and record inflation levels. The financial difficulties of Silicon Valley Bank and Credit Suisse served as reminders of the potential fragility of the global financial system.

Nevertheless, the domestic and European insurance market has remained reasonably robust throughout these challenging times. But it is no surprise that resilience continues to feature high on the priority list for EIOPA and the CBI.

The CBI has recently issued a “Dear CEO” letter outlining its regulatory and supervisory priorities for the coming year, while the 2023 Consumer Protection Outlook Report was also published.

Climate expectations continue to be emphasised by both regulators. March saw the publication of the CBI’s Guidance for (Re)Insurance Undertakings on Climate Change Risk. Meanwhile, EIOPA continues to advance its research on climate risk posed to insurers and has also advocated for further refinement of the Sustainable Finance Disclosure Regulations (SFDR).

The regulatory to-do list remains lengthy for most domestic (re)insurers, and the availability of skilled resources remains an issue. But whatever the challenge, the **Mazars in Ireland Insurance Team** looks forward to supporting our clients in delivering continued business success into summer 2023 and beyond.

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CBI priorities 2023

CBI 2023 regulatory & supervisory priorities

A "Dear CEO" letter was issued to all regulated financial service providers during Q1, with the CBI setting out their regulatory and supervisory priorities for 2023.

The communication emphasises the CBI's risk-based approach and highlights several regulatory focus areas. From an insurance perspective, this includes:

- Providing a clear, open and transparent authorisation process.
- Continued focus on financial and operational resilience, particularly in the face of a more volatile macroeconomic environment.
- Consulting and engaging on reviews of Consumer Protection Code and Individual Accountability Framework.
- Implementation of new EU regulations, such as DORA (Digital Operational Resilience).
- Strengthening the resilience of the financial system to climate change risks.

Separately, in a recent interview Domhnall Cullinan, Director of Insurance Supervision, outlined his views specific to (re)insurance. Mr Cullinan remarked on several supervisory priorities and key risks, such as:

- Individual accountability.
- Climate change.
- Consumer interests.
- Operational resilience.
- Inflation and market volatility.
- Cyber risks.

Individual Accountability Framework

After much anticipation, the Central Bank of Ireland ("CBI") has launched its public consultation on the implementation of the Individual Accountability Framework ("IAF"), which of course, includes the Senior Executive Accountability Regime ("SEAR").

SEAR is pertinent to all "in-scope firms" (i.e. all insurance companies including third-country branches but excluding reinsurance companies, captives and SPVs).

From an insurance perspective, the proposed new PCF role "Head of Material Business Line" will be relevant for certain large undertakings.

A 31 December 2023 timeline has been proposed for implementing conduct standards, including accountability of senior individuals, and for inclusion of Holding Companies into the F&P regime. Regulations around responsibility mapping are expected to apply from 1 July 2024.

The CBI have also published extensive draft regulation and guidance documents in conjunction with the Consultation Paper.

The consultation period will run to 13 June 2022.

Individual accountability has only become more topical in recent weeks following a CBI Prohibition Notice relating to an insurance executive's suspension from holding any control function in any CBI-regulated financial service provider, for five years.

Climate & sustainability

Guidance for (Re)Insurance Undertakings on Climate Change Risk

Following a consultation period, March saw the final publication of the Guidance for (Re)Insurance Undertakings on Climate Change Risk.

The final guidance presents few surprises compared to the initial consultation paper, which introduced several overarching principles and expectations for (re)insurers:

- Climate risk governance frameworks are expected to be Board led and designed to effectively identify and manage all of the key risks posed to the undertaking.
- Remuneration policies are expected to be aligned with climate objectives.
- Regular materiality assessments and scenario testing should be carried out.
- The ORSA should play a central role in climate risk management.
- Climate risk appetite, policies and reporting mechanisms are required.

Climate risk considerations are expected to be well-engrained into business critical activities such as investment decisions, reserving, underwriting, pricing, capital modelling and reinsurance selection.

CBI's steps toward combating climate change risk

Also in March, the CBI published its first annual climate-related financial disclosures of its investment assets along with its Climate Action Roadmap.

The regulator has set out information on the impact of its investment assets while increasing transparency and awareness about its climate-related risks and environmental footprint.

The CBI's equity portfolio excludes the following:

- Tobacco companies.
- Entities deriving 1% or more of their revenues from coal-based activities.
- Companies that violate the principles of corporate sustainability.
- Companies involved in the manufacture of prohibited/controversial weapons.

The CBI also invests in green, social and sustainable bonds and participates in "Bank for International Settlements", green bond funds for central banks.

The CBI has reported its main metrics under Eurosystem's common minimum disclosure framework:

- Weighted average carbon intensity.
- Total carbon emissions.
- Carbon footprint.

The Bank's additional metrics include 'Carbon Intensity', 'Thematic Bond Share' and 'Green Bond Avoided Emissions'.

While the publication does not constitute a formal regulatory requirement or guidance, the initiative is a clear "lead-by-example" move by the regulator which should give financial service providers plenty of food for thought.

Implementation of climate related adaption measures in non-life underwriting practices

EIOPA has undertaken a pilot exercise to better understand the industry's current underwriting practices regarding climate change adaptation.

The report identifies a considerable insurance protection gap, with most European exposure to extreme weather events uninsured.

Risk-based insurance premiums will likely rise in response to increasing climate change risks in the coming years. However, the report also discussed several adaptation measures which could help mitigate damage risks posed by extreme weather events.

Despite this, the European insurance market appears to be at an early stage regarding climate-related adaptation measures, particularly in the context of retail insurance business.

EIOPA intends to focus on raising public awareness about climate risks and related prevention measures and will promote the use of open-source modelling and data about climate risks.

European Supervisory Authorities propose amendments to sustainability disclosures

The three European Supervisory Authorities (EIOPA, EBA and ESMA – “the ESAs”) have published a consultation paper proposing amendments to the Delegated Regulation of the Sustainable Finance Disclosure Regulation (SFDR).

The proposed changes aim to address several issues emerging since the introduction of SFDR. The consultation period runs until 4 July 2023.

Separate from the consultation paper, the three ESAs and the ECB have jointly called for further development of climate-related disclosures in respect of structured finance products.

Consumer protection

Consumer Protection Outlook Report 2023

The CBI's 2023 Consumer Protection Outlook Report provides an insightful overview of what the regulator perceives to be the key drivers of potential consumer detriment.

Poor business practices & processes
Businesses are expected to place the best interests of consumers at the heart of their commercial activities.

Unfair pricing strategies, such as the recently prohibited price walking in home and motor insurance, will continue to remain a focus area for the regulator.

Clamping down on inadequate and ineffective internal processes and controls resulting in consumer detriment is also an ongoing priority.

Inadequate disclosures
Firms should ensure initial and ongoing communications are clear and helpful to consumers in making well-informed financial decisions.

Dynamic operational landscape
The pandemic and continuing war in Ukraine have resulted in a rather unstable macroeconomic landscape. Firms are advised to actively identify and address risks to consumers that may potentially emerge.

Technology-driven risks
Insurers are to expected to have well-defined, comprehensive information technology and cybersecurity risk management frameworks in place. Prevention of consumer detriment and positive service experiences should be fundamental to this.

Shifting business models impact
The regulator has also highlighted the risk of undertakings failing to keep their product suites up to date and fit for purpose in the face of wider economic and social developments.

Consumer Trends Report 2022

January saw the publication of EIOPA's latest Consumer Trends Report, which looks at developments and emerging risks in insurance and pension products, services and schemes. The report also looks at the changing relationship between consumers and providers.

Some of the latest trends include:

- The current economic environment is impacting consumer's financial health, in some instances resulting in cessation of voluntary contributions to pension schemes or delayed purchase of insurance products.
- There are increased examples of disruptive technology and artificial intelligence in pricing and customer service practices.
- Insurance based investment products were found to offer poor value for money in many instances, while there were also reports of miss-selling due to conflicts of interest and high commissions.
- There has been an increase in consumers' appetite for sustainability related investments which in turn has led to more products being offered by providers. While this is positive, it also leads to increased greenwashing risk and hence additional supervision needs.

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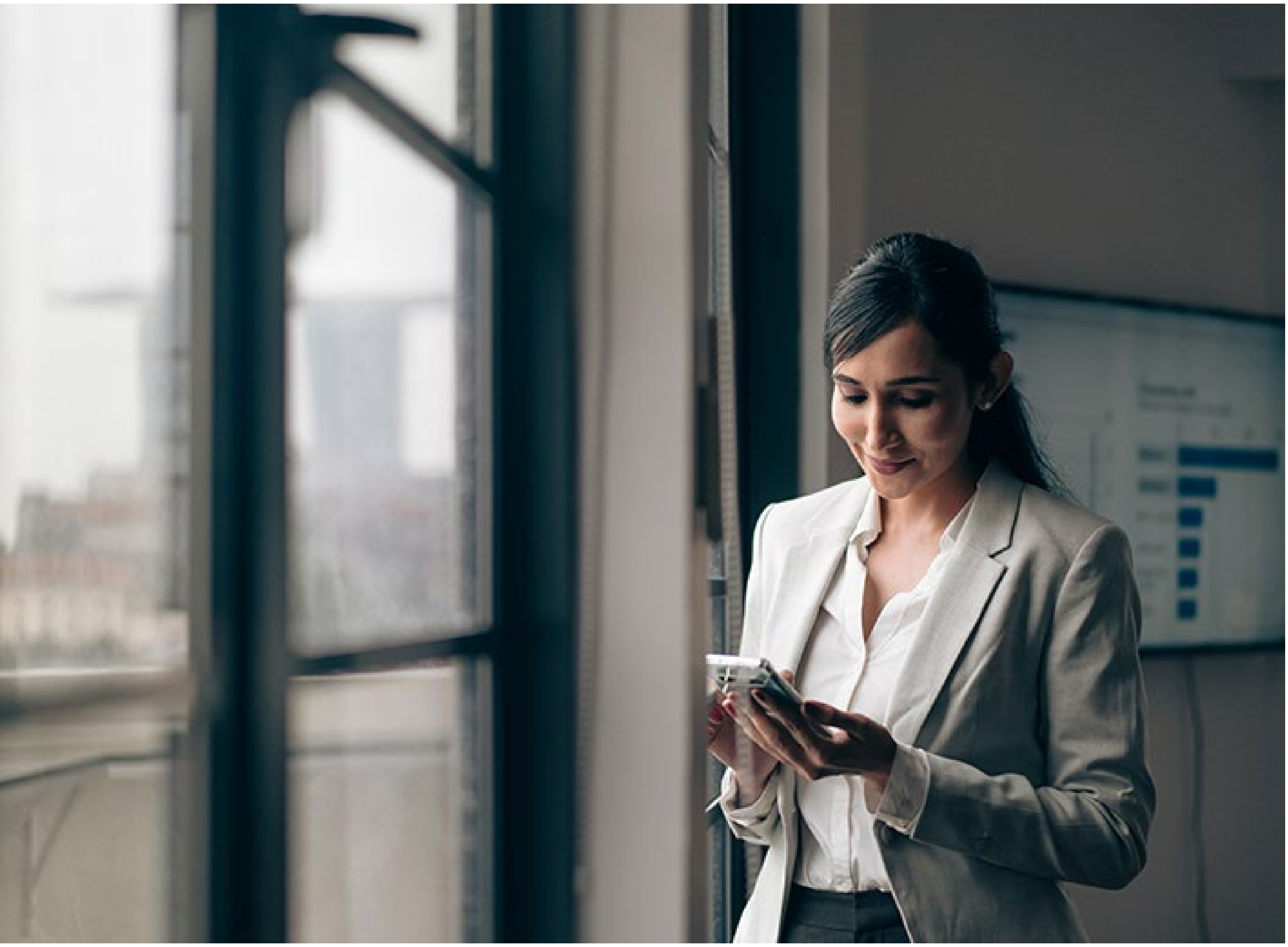
Price walking

In March, an EIOPA statement took aim at 'unfair price walking' practices, reminding insurers of their obligations under the Insurance Distribution Directive.

The increased use of differential pricing practices, further propelled by the development of AI, has triggered supervisory and regulatory activities or studies in several EU Member States.

Insurance manufacturers should demonstrate effective Product Oversight and Governance ("POG") measures throughout the product's lifecycle to ensure that practices do not unfairly affect customers within the identified target market. Price should form part of the POG process, whereby insurance manufacturers should assess whether pricing practice aligns with the target market's characteristics, needs and objectives.

Price walking and similar practices should not result in unfair outcomes, particularly for vulnerable customers.



Other CBI developments

CBI's guidance for (re)insurance undertakings on Intragroup Transactions and Exposures

Following a publication consultation in 2022, the CBI has published its final Guidance for (Re)Insurance Undertakings on Intragroup Transactions and Exposures.

The guidance, applicable from 30 January 2023, is issued with the aim of establishing more transparent and robust governance arrangements in response to group-related risks. The CBI expects such risks to be monitored and managed with the same rigour as third-party exposures.

The guidance focuses on

- Governance and Risk Management for intergroup arrangements generally.
- Key specific exposures include:
  - Intragroup assets.
  - Intragroup reinsurance.
  - Cash pooling/treasury function arrangements.

While the guidance is addressed to (re)insurance undertakings authorised by the CBI, which are part of a group, the guidance explicitly states that this includes captives and third country branches authorised by the CBI.

Inflation easing but expected to remain elevated

The CBI released its first quarterly bulletin in March 2023, with inflation, unemployment and Modified Domestic Demand as the main headline topics of focus.

CPI remains high but is showing signs of slowing. Annual headline inflation has fallen from 9.6% to 8.0% in the last seven months. Energy prices on international markets have fallen notably.

Overall Modified Domestic Demand is forecasted to grow by 3.1% in 2023, 2.9% in 2024 and 2.6% in 2025. This expected growth is partially due to the rebound of consumer spending following the pandemic and continued investment by muti-nationals in Ireland.

The unemployment rate is expected to remain low, averaging 4.4% out to 2025, with tight labour market conditions continuing.

Changes to Russia-Ukraine regulations

One year on from Russia's invasion of Ukraine, the EU has adopted its 10th package of economic and individual sanctions, including amendments to already existing sanctions.

The CBI has a dedicated page setting out measures and sanctions. Firms are expected to take steps to ensure they remain compliant with these mandatory restrictions.

Outsourcing register

The CBI has recently confirmed that the 2022 Outsourcing Register requirements, initially scheduled for submission in February 2023, are now instead due for submission in Q4 2023. Further communication is expected from the regulator in Q2 2023.

Change to Fitness & Probity application process

In April 2023, the CBI's application process to become a holder of a Pre-Approval Control Function (PCF) changed, with all new applications to be submitted via the "Central Bank Portal" rather than the existing ONR system.

More information can be found via the following link.

2022 demographic analysis of PCF applications to the CBI

In March the CBI published its seventh annual demography report revealing mixed results with regards to gender diversity in senior roles within Financial Service Providers (FSPs).

32% of all new PCF applications in 2022 were in respect of female candidates – up slightly on the 31% recorded in 2021. This is double the 16% recorded when the CBI began tracking such data in 2012.

Focusing specifically on insurers, 34% of all new applicants were female. However, only 32% of Board level applicants were female with management level applications at 37%.

Across all sectors, however, it is worrying to learn that only 19% of applications for revenue-generating roles were female. However, almost half of the second-line roles (Compliance, AML & CTF) were female.

More generally, the CBI expects to see *"much deeper and sustained progress than this on diversity in all its forms: Age, ethnicity, sexual orientation, education, nationality, disability, beliefs and more."*

Diversity improvements will remain a key regulatory priority for the CBI.

General Insurance pricing discipline

In its most recent insurance newsletter, the CBI has highlighted the need for robust pricing mechanisms in response to a more dynamic environment and transforming consumer behaviours. A solid pricing framework should oversee the overall rate adequacy, pricing assumptions, policyholder behaviour and changes in business risk profile.

The regulator's publication specifically calls out the following areas:

Board oversight of business lines
Boards are expected to set the tone from the top in promoting a consumer-focused culture, ensuring appropriate training for staff in response to emerging technology risks, enhanced pricing reporting in line with risk appetite and robust challenge on group influence where relevant.

Dynamic pricing reporting
Firms are also expected to establish timely pricing controls enabling swift actions to be taken in the event of an experience deviating from expectations. This should be supplemented by appropriate performance KPIs and feedback loops from other areas of the business.

Transparency of current & emerging risks
Allowances for evolving risks should be transparently stated from the outset to avoid ambiguity. In contrast, any new risks emerging post-pricing should be promptly analysed and communicated to relevant stakeholders. Inflationary pressures and hardening reinsurance markets are two examples of current topical risks. Such pricing risks are expected to be fully integrated into risk management frameworks and the ORSA. Unsurprisingly, the regulator has also called for transparent allowance of climate change and transition risks.

EIOPA news

EIOPA Supervisory Convergence Plan

Earlier in Q1, EIOPA issued its Supervisory Convergence Plan for 2023. As part of EIOPA's long term mandate to build a common supervisory framework across the EU, three key priority areas have been identified for 2023:

- Implementation of a common supervisory culture and common supervisory tools.
- Managing risks to the internal market and to level the playing field.
- Supervision of emerging risks.

From a practical perspective, this will likely mean continued focus on conduct and sustainability risks while new regulations, such as the Digital Operational Resilience Act (DORA), are to be implemented consistently across all member states.

EIOPA statement on third country branch governance

On 3 February 2023, EIOPA published a Supervisory Statement intended to strengthen the supervision and monitoring of insurance undertakings' and intermediaries' activities when using governance arrangements in third countries.

Weak governance arrangements may lead to poor risk management and ineffective decision making and pose operational, reputational, and financial risks. As such, EIOPA has decided to clarify its supervisory expectations.

Both EIOPA and the CBI expect an appropriate level of corporate substance within the home country office ("hearts and minds" requirement). Both regulators will continue to closely monitor market developments regarding the use of third country governance arrangements.

EIOPA launches financial innovation survey

EIOPA has launched a new Digitalisation Market Monitoring Survey to monitor the development of European insurers' digital transformation strategies. With a rapidly moving technological landscape, regulators seek to ensure that the supervisory framework remains practical and current.

The survey is being distributed via national competent authorities (including the CBI), with the data collection process expected to conclude in June.

EIOPA consults on changes to PI cover required for intermediaries under IDD

In February, EIOPA launched a consultation on proposed amendments to minimum Professional Indemnity (PI) insurance cover required by insurance intermediaries under the Insurance Distribution Directive.

Increases of base cover of circa 20% are proposed under the consultation which runs to 6 May.

While a very specific topic to consult upon, the paper should serve as a more general prompt for insurers to revisit their governance arrangements under the IDD to ensure they continue to remain fit for purpose.

Other industry news

Injury claim numbers down

A publication by the Personal Injuries Assessment Board ("PIAB") shows the number of personal injury claims presented to the body was down in 2022 compared to prior years. 18,453 applications were received during 2022, 14% down on 2021 and over 40% lower than 2019.

While the headline stats are received as positive news by some, there remains much debate across the domestic industry as to what is driving the shift in numbers. Between judicial challenges to the Personal Injury Guidelines and the legacy impact of the pandemic, some uncertainties still exist as affected insurers adapt to the changing landscape.

Enhanced PIAB role

Meanwhile, in February, commencement of legislation was confirmed to significantly expand the role of PIAB.

The enhanced role will empower PIAB to resolve an increased number of cases with the aim of limiting legal and other costs. The legislation also introduces new measures to discourage claimants pursuing court litigation.

Cancer survivor's "Right to be Forgotten"

In April, Insurance Ireland Life Members announced the introduction of a New Code of Practice for Cancer Survivors seeking certain types of life insurance cover. The announcement comes following awareness raised by the Irish Cancer Society around the difficulties survivors face in securing appropriate and affordable life insurance.

The Code sets out a new Framework aiming to bring the waiting period post final treatment to within seven years.

The Society of Actuaries in Ireland has also published a paper setting out the potential impact of the Right to be Forgotten Framework.

Health Insurance Authority (HIA) – Q4 2022 Report on health insurance

The HIA has recently published its Q4 2022 statistics on the state of the domestic health insurance market.

The headline stats reveal that:

- 2.44m people held private health cover at the end of 2022, up c 3% from the prior year. This equates to roughly 48% of the population.
- The market continues to be dominated by VHI (48.4%), Laya Healthcare (27.6%) and Irish Life Health (20.5%).
- There remains a huge variety of choices on the market, with 327 inpatient health plans available to customers.
- The average adult premium is now €1,440, down 1% on the prior year.

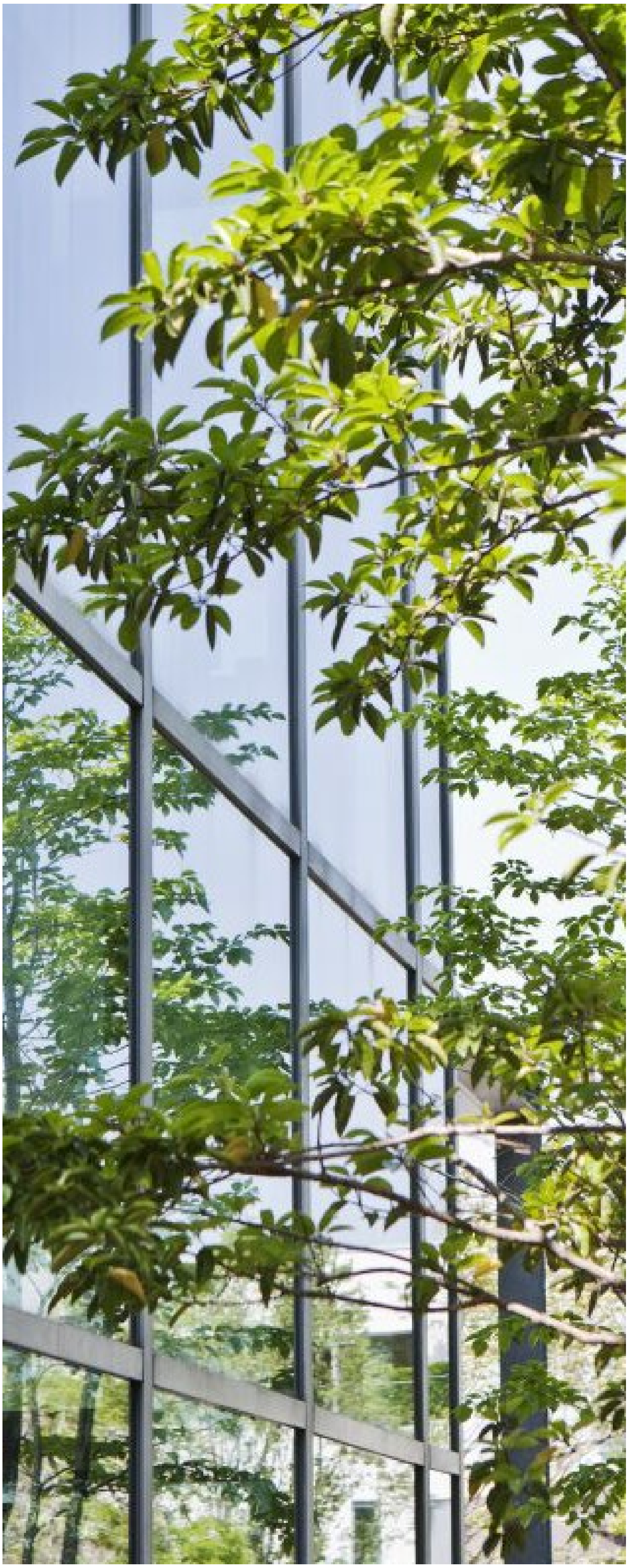
HIA recommendation on Risk Equalisation Credits & associated level of stamp duty

In March, the Health Insurance Authority published its latest recommendation on Risk Equalisation Credits and associated stamp duty for contracts commencing from 1 April 2023.

The key components of the recommendation are as follows:

- An increase in stamp duty for Advanced Products from €406 to €438.
- No change in the level of HUC credits for the high cost claims pool (“HCCP).
- Allocating more credits based on actual health status across all ages.
- A reduction in the Non-Advanced level of stamp duty relative to the Advanced level of stamp duty from 30% to 25%.

The Authority considers that the recommendation have been set so as to strike a balance between sustaining community rating by keeping health insurance affordable for older, less healthy consumers while maintaining market sustainability.



Mazars insurance services

Our local team of insurance professionals have the knowledge and expertise to meet your organisation's needs. Click the hyperlinks below for more information or get in touch.

Actuarial

- Outsourced Actuarial Function services.
- Peer reviews.
- Pricing & underwriting.
- Data analytics.
- Portfolio transfers, mergers and acquisitions.

Assurance

- External Audit.
- Internal Audit support.
- Outsourced Head of Internal Audit.
- 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.

Risk Management

- 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.

Mazars Insurance Regulation Newsletter

Our team are here to keep you abreast of all the latest regulatory developments via our insurance newsletter. Have you missed a previous issue? Check out past publications right here: Mazars Insurance Regulation Newsletter Archive

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