



# European Insights

Insurance Ireland & KPMG Breakfast Briefing

Tuesday, 16 October 2018



# Welcome & Introduction

**John O'Donnell**  
**Head of Insurance Risk & Regulatory, KPMG**

# Insurance Distribution Directive

## European Union (Insurance Distribution) Regulations 2018 (IDR – 27 June 2018)

- Minimum Harmonization - Irish Decisions on Derogations

## Commission Delegated Regulations

- Regulation 2017/1469 – Insurance product information document
- Regulation 2017/2358 – Product oversight and governance requirements
- Regulation 2017/2359 – Rules applicable to the distribution of insurance-based investment products

## EIOPA First set of Q&A on the application of the IDD (July 18)

## Specific Q&A on the additional regulatory requirements for Insurance-based Investment Products

## EIOPA - new Luxembourg Protocol on the collaboration of NCAs in relation to IDD

## Other Issues for Intermediaries (Oct. 18)

- CBI - Revised (Licence) Application form and Guidance for Intermediaries (October 18)
- Brexit planning for Intermediaries



## CHALLENGES

- *IPID*
- *Product Design / Governance*
- *Target Market / Suitability*
- *Product Testing*
- *Product Review*
- *Comprehension Alert / Complex Products*
- *Conflicts of Interest / Inducements*
- *Switching*



# European and International Agenda

## **Incorporating sustainability risks and factors within Solvency II and IDD**

- Environmental, Social and Governance considerations in Investing and disclosures

## **Solvency II Reviews**

- Analysis of 29 elements
- Proposed simplifications

## **Motor Insurance Directive**

- Minimum harmonization of guarantee schemes
- Vnuk Case

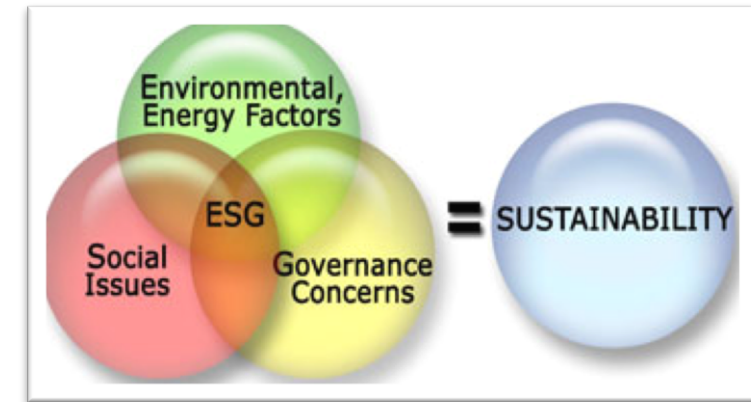
## **PRIPs Review**

- Deferral
- Merging the KID requirements with the UCITs KIID

## **Conduct Supervision**

- Role of EIOPA, CBI priority?

## **Draft Application Paper on the Composition and the Role of the Board IAIS (June 18)**



# European 'Agenda'



## Increased Powers for EIOPA

- Governance/Accountability/Mandate

## EIOPA Supervisory Convergence plan

### *Supervision of cross-border business*

- Detection of unsustainable business models
- Sufficiency of technical provisions in cross-border business
- Involvement in decisions on Authorisations

## Role of the CBI

- Subservient?

## Freedom of Services Under Threat?

Hence.....engagement with Insurance Ireland

## **Cross-border business**

- *Ensure the consistency of the calculation of technical provisions in a cross-border business context, focusing on non-life business lines with a long-term claims profile such as 'decennial liability insurance' and 'medical malpractice insurance'.*
- *Peer review of provisions of exchange of information regarding the authorisation, notification and supervision on a continuous basis, included in the EIOPA decision on the collaboration of the insurance supervisory authorities.*
- *EIOPA's oversight work on detecting potential unsustainable cross-border business models and on following them up by setting up specific cooperation platforms, for instance the outsourcing to MGAs situated in host countries*
- *assessing the fitness and propriety of key managers and/or owners.*



**The Voice of Insurance**

# **Insurance Ireland in Europe**



- 1. Insurance Ireland in Europe**
- 2. The European (insurance) Regulatory Agenda**
- 3. Next Steps**

# Insurance Ireland in Europe



## 1. Insurance Ireland in Europe

## 2. The European (insurance) Regulatory Agenda

## 3. Next Steps



# Insurance Ireland in Europe



- Insurance Ireland has been heavily engaged in the European and international political discussions – directly and via Insurance European and GFIA;
- Enhanced strategic rationale for the Irish insurance industry to enhance its position in Europe as a constructive stakeholder in European discussions on regulatory and other matters;
- Irish insurance sector is predominately a European insurance hub servicing EU markets;
- The move emphasises the Irish industry's commitment to Europe at an important juncture.

# Stakeholders in the process



# What we do



- Insurance Ireland’s enhanced European strategy installs the Brussels office as a “multiplier” between the technical and political level – linking technical expertise and political decision-making;
- The aim of the strategy is to
  - Engage early in the process to influence the basis of the political discussion at European level prior to the launch of the political process;
  - Inform institutions and stakeholders about potential opportunities and threats of initiatives from an Irish market perspective;
  - Form alliances and common ground with other stakeholders to advocate for the interests of Irish insurers in Europe;
  - Allow Insurance Ireland’s members to gain early access to information on future regulation and to prepare accordingly;
- Insurance Ireland is the Voice of Insurance in Brussels and hub for political decision-makers and members likewise

# Establish Physical Presence



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# How we operate



- Establish the structures for an efficient interaction with members at all different levels and facilitate engagement;
- Develop methodologies to identify issues of interest and priorities for Insurance Ireland's members;
- Develop Irish positions and advocate for them in Dublin, Brussels and across the European Union;
- Contribute to Insurance Europe's work through Insurance Europe's structures and bilaterally;
- Actively influence decision-making procedures.



# First stages of a Grande Boucle



- Establish strong and reliable relationships with European institutions and stakeholders at technical and political level;
- Develop and raise the profile of “Team Green Finance” together with BPFII (and IF) in Brussels;
- Increase (physical) presence by engagement in discussions, conferences and by facilitating the political exchange through own event and platforms at European level with institutions, regulators and sister associations;
- Strategic communication of Insurance Ireland’s interests at EU level and presenting Insurance Ireland’s EU engagement in Dublin.

# Insurance Ireland in Europe



1. Insurance Ireland in Europe

**2. The European (Insurance) Regulatory Agenda**

3. Next Steps

# The European Regulatory Agenda



- Last European Commission highly ambitious to transpose ‘Pittsburgh agreement’ to counter the financial crisis – “no unregulated markets or products”;
- European financial services has entered a new age in terms of scale, complexity and technical detail;
- Development of the technical details at subordinated level became subject to the current European Commission;
- Product/Conduct initiatives (e.g. PRIIPs and IDD) as second step left for the Juncker-Commission;
- Overcoming the economic and sovereign-debt crises crucial – Capital Markets Union and Juncker-Plan impacting financial services regulation;
- Reviews of ‘Pittsburgh measures’ already due.

# The regulatory environment



## IMPLEMENTED LEGISLATION

Solvency II

Environmental liability directive

ADR

Anti-discrimination (gender)

PRIIPS

VAT

IFRS

Financial conglomerates

Cybersecurity (NIS directive)

GDPR

Source: Insurance Europe

# The regulatory environment



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## ADOPTED LEGISLATION

IDD

IORP II

AMLD

IFRS 9



# The regulatory environment

| IMPLEMENTED LEGISLATION           | ADOPTED LEGISLATION | PRESENTED, NOT ADOPTED           |
|-----------------------------------|---------------------|----------------------------------|
| Solvency II                       | IDD                 | PEPP                             |
| Environmental liability directive | IORP II             | ESAs review                      |
| ADR                               | AMLD                | Anti-discrim. (age & disability) |
| Anti-discrimination (gender)      | IFRS 9              | SMIT                             |
| PRIIPS                            |                     | Collective redress               |
| VAT                               |                     | Country-by-country reporting     |
| IFRS                              |                     | Free flow of non-personal data   |
| Financial conglomerates           |                     | E-Privacy                        |
| Cybersecurity (NIS directive)     |                     | Sustainable finance              |
| GDPR                              |                     | Motor insurance directive        |
|                                   |                     | IFRS 17                          |

# The regulatory environment



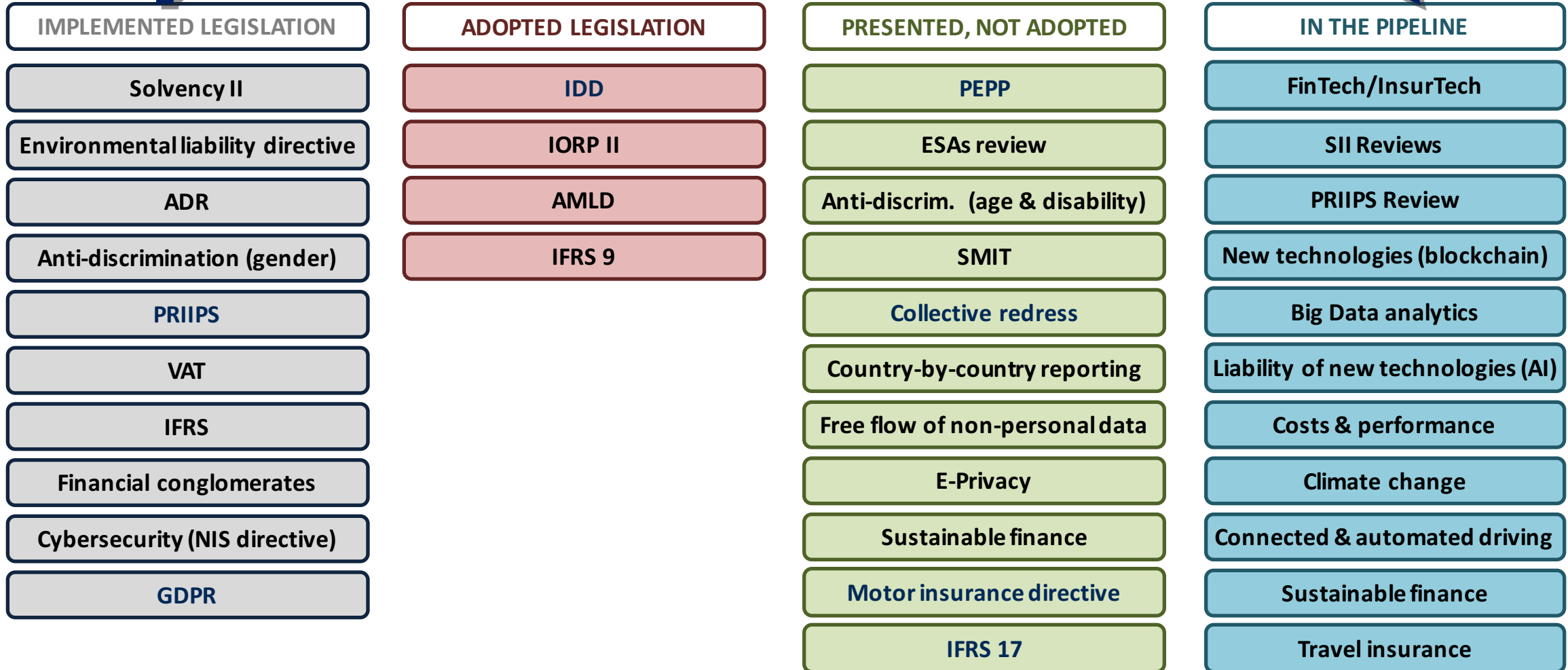
| IMPLEMENTED LEGISLATION           | ADOPTED LEGISLATION | PRESENTED, NOT ADOPTED           | IN THE PIPELINE                    |
|-----------------------------------|---------------------|----------------------------------|------------------------------------|
| Solvency II                       | IDD                 | PEPP                             | FinTech/InsurTech                  |
| Environmental liability directive | IORP II             | ESAs review                      | SII Reviews                        |
| ADR                               | AMLD                | Anti-discrim. (age & disability) | PRIIPS Review                      |
| Anti-discrimination (gender)      | IFRS 9              | SMIT                             | New technologies (blockchain)      |
| PRIIPS                            |                     | Collective redress               | Big Data analytics                 |
| VAT                               |                     | Country-by-country reporting     | Liability of new technologies (AI) |
| IFRS                              |                     | Free flow of non-personal data   | Costs & performance                |
| Financial conglomerates           |                     | E-Privacy                        | Climate change                     |
| Cybersecurity (NIS directive)     |                     | Sustainable finance              | Connected & automated driving      |
| GDPR                              |                     | Motor insurance directive        | Sustainable finance                |
|                                   |                     | IFRS 17                          | Travel insurance                   |

Source: Insurance Europe

# The regulatory environment

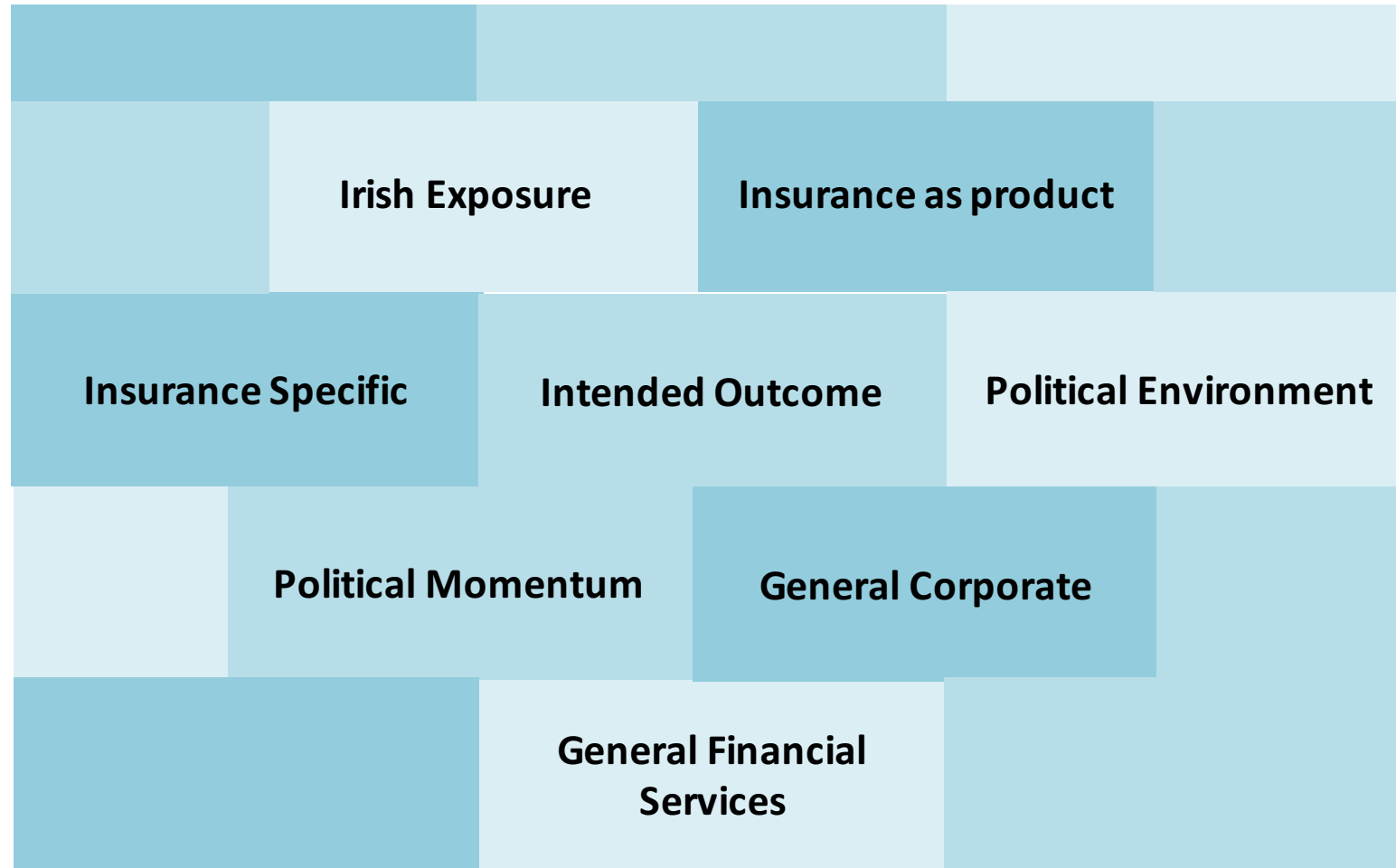


## Review



Source: Insurance Europe

# Dimension & Exposure



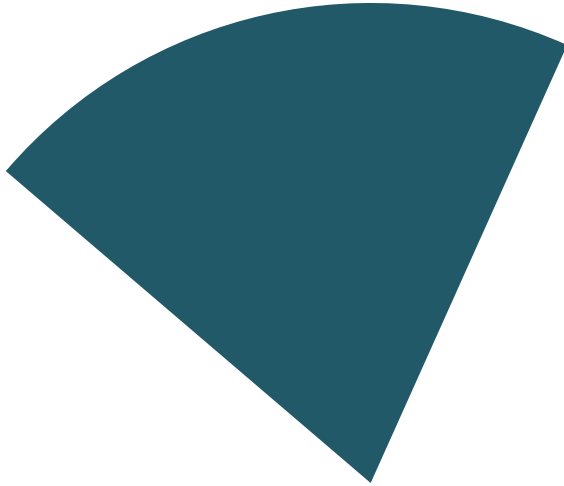
# Current Priorities



1. Solvency II
2. Review of the Regulations establishing the European Supervisory Authorities (ESA-Review)
3. Pan-European Personal Pension Product (PEPP)
4. Motor Insurance Directive (MID)
5. Sustainable Finance



# Priority #1: Solvency II



## 1. Solvency II

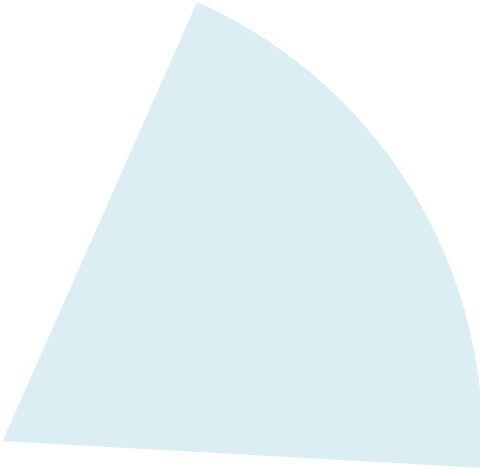
*“Only a sensible design of the regulatory framework for SMEs ensures market diversity and consumer choice”*

Solvency Reviews 2018 & 2020, 2022

- Review, not a change in paradigm;
- Refocus, insurance is a long not short-term business;
- Improve the risk-margin, LACDT, equity;
- Ensure a consistent application of the principle of proportionality.

# Priority #2: ESA-Review

## 2. ESA-Review



*“It will be the key challenge to overcome the present “teething troubles” and to grow confidence in and reliability of the European supervisory system.”*

Legislative proposal to review of the regulations establishing the European Supervisory Authorities

- Improve cross-border supervision without undermining fundamental freedoms;
- Provide EIOPA with the mandate, powers and structures to fulfil its tasks;
- Ensure accountability, control and certainty.

# Priority #3: PEPP



## 3. Pan-European Personal Pension Product (PEPP)

*“Irish insurance providers are better placed than many to offer this product.”*

Ongoing trialogue on the legislative proposal for a PEPP regulation

- Ensure eligibility of different design options and flexibility of their use;
- Carefully design portability as a key feature of cross-border products;
- Provide for a practicable and implementable PEPP to develop the market (i.e. compartment requirement)

# Priority #4: MID



## 4. Motor Insurance Directive (MID)

*“Important aspects of the proposed recourse mechanism between guarantee schemes seem to have not been fully considered.”*

Legislative proposal to review the MID

- Avoid premature and not thought through mechanism to integrate guarantee systems across Member States;
- Ensure a sensible but consistent transposition of the Vnuk ruling into the MID;
- Design the integration of new technologies and innovation soundly.



# Priority #5: Sustainable Finance



## 5. Sustainable Finance

*“Irish insurers already run internal policies on responsible and sustainable finance.”*

Legislative proposals to transpose the sustainable finance action plan.

- Provide for measures which allow for a sound transfer of existing projects under the new framework;
- Ensure that new disclosure and reporting requirements are not overly burdensome;
- Avoid that retail requirements lead water down information for consumers and misallocation of products by consumers.

# Insurance Ireland in Europe



1. Insurance Ireland in Europe
2. The European (insurance) Regulatory Agenda
- 3. Next Steps**

# What is next on the EU Agenda?



## Now until March 2019

Proposal of last legislative initiatives prior to the pre-election phase;  
Closure of negotiations on proposals already under discussion.

## March - November 2019

European elections (end of May 2019)  
Establishment of the European Parliament 2019 – 2024 (June – September 2019)  
Appointment of the new European Commission (October/November 2019)

## From November 2019

**New European Commission, Parliament and Council in Action**

# What is in it for Irish Insurers?



## Follow-up from current European Commission

- Closing of open issues;
- Developing subordinated regulation.

## Review of existing/applied regulation

- Solvency II
- PRIIPs
- IDD
- MiFID
- UCITs
- PLD
- AML
- etc.

## New regulatory initiatives

- New technologies;
- Fintech and technologies;
- Integration of capital/financial services markets;
- "Brexit-transposition";
- etc.

## Supervisory initiatives (EIOPA)

- IGS;
- Macro-prudential supervision;
- Thematic reviews of certain products;
- Consumer risk indicators;
- etc.





**Thank you very much!**

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# Culture, Conduct & Individual Accountability

Niamh Mulholland, Director, Regulatory

16 October 2018

# Agenda

- **Fitness & Probity**
- **Key points from the Banking Behaviour and Culture Review and Diversity and Inclusion Assessments**
- **Proposed CBI Individual Accountability Framework**
- **Questions & Answers**



# CBI's Fitness & Probity Regime

# CBI's Fitness & Probity Regime

- The Fitness and Probity Regime was introduced by the Central Bank of Ireland (the “Central Bank”) under the Central Bank Reform Act 2010 (the “2010 Act”)
- The Fitness and Probity Regime applies to persons in senior positions (referred to in the legislation as Controlled Functions (“CFs”) and Pre-Approval Controlled Functions (“PCFs”)) within regulated financial service providers (“RFSP”).
- The Fitness and Probity Regime also applies to RFSPs who are obliged to ensure that their senior personnel comply with the Fitness and Probity Regime.
- The core function of the Fitness and Probity Regime is to ensure that persons in senior positions within RFSPs are competent and capable, honest, ethical and of integrity and also financially sound.
- The Central Bank has published a statutory code (the Fitness and Probity Standards) and guidance documents to assist RFSPs and individuals performing CF and PCFs to comply with their fitness and probity obligations.
- The Central Bank has statutory enforcement powers in respect of the Fitness and Probity Regime as set out in Part 3 of the Central Bank Reform Act 2010. These can be captured under three headings:
  - ***RFSP's due diligence obligations***
  - ***Gatekeeper Role***
  - ***Investigations & Prohibition/Suspension Notices***

# EIOPA Peer Review on the Fitness & Probity Regime

- In 2017, EIOPA conducted a peer review on the assessment of “Propriety of AMSB Members and Qualifying Shareholders”. These are members of the Administrative, Management and Supervisory Body of an insurance or re-insurance entity. Typically the members include directors of the board, key function holders and qualifying shareholders.
- The objective of the peer review was to focus on the convergence of supervisory practices in fitness and probity assessments across the EEA and examined the regulatory frameworks and practices across 31 Member States of the EEA.
- In a speech in June 2018, CBI Director of Insurance Sylvia Cronin shared a number of observations from the peer review:
  1. In a number of Member States, NCAs are recommended to seek legislative change to strengthen the national regulatory frameworks for their fitness and probity regimes.
  2. EIOPA recommends an ongoing focus on fitness and probity post the initial approval of individual Pre-Approval Controlled Functions (PCF) applications. NCAs should focus, as an integral part of their supervisory activities, on how fitness and probity requirements are complied with on an ongoing basis.
  3. EIOPA recommends measures to strengthen cross border cooperation between NCAs. This peer review is a significant initiative by EIOPA and is expected to raise the bar in terms of standards of supervision of fitness and probity requirements within the EEA.



# Key points from the Banking Behaviour and Culture Review & Diversity and Inclusion Assessments

# Banking Behaviour and Culture Review & Diversity and Inclusion Assessments

- The **Behaviour and Culture Reviews** focused primarily on the executive leadership team, due to the importance of its members in driving effective cultures in which customer interests are adequately identified, discussed and taken into account.
- More specifically, the reviews analysed:
  - the leadership behaviour of the executive committee, including the drivers of this behaviour in terms of group dynamics and mindset; and
  - the interplay between the executive committee and relevant internal stakeholders in the context of strategic decision-making.
- Using a combined approach including elements from the Central Bank's Consumer Protection Risk Assessment model and DNB's behaviour and culture methodology, the reviews produced detailed insights into behavioural and structural patterns in leadership, decision-making, communication, group dynamics and mindset that affect the way consumer needs are considered and taken into account by each of the five banks, namely AIB Group, Bank of Ireland Group, Permanent TSB, Ulster Bank Ireland and KBC Bank Ireland.
- In parallel with the Behaviour and Culture Reviews, the Central Bank also conducted **Diversity and Inclusion Assessments** of the five banks, given the importance of diversity and inclusion to fostering effective culture. Similar to the Behaviour and Culture Reviews, the CBI found the banks have much more work to do in terms of ensuring their organisations are sufficiently diverse and inclusive, particularly at senior level, to prevent group-think, guard against over-confidence, and promote internal challenge.



# Banking Behaviour and Culture Review & Diversity and Inclusion Assessments

The Culture Report also highlights the following issues that may jeopardise the successful transformation towards a consumer-focused culture for banks. These findings might also be useful in a broader financial services context:

1. Several executive committees display “firefighting behaviour”, focussing on urgent and short-term issues thereby hampering their capacity to design a long-term cultural transformation process.
2. Some banks continue to display remnants of the crisis-era mind set resulting in occasional reversal to directive, or ‘command and control’, leadership styles when the emphasis should be on collaborative approaches.
3. There is a need to increase empowerment and decision-making ability of senior staff, in order to decrease executives’ decision burden and enable the organisation to execute the transformation.
4. The Report finds concerns around over-optimism regarding the successful transition to a consumer-focused culture.
5. The Diversity and Inclusion Assessments reveal banks have more work to do to ensure their organisations are sufficiently diverse and inclusive.

**Commenting on the findings of the Report, Derville Rowland, Director General Financial Conduct, said:**

*“Effective organisational culture builds on shared purpose and standards such as professionalism, honesty, integrity and accountability to deliver fair outcomes that have the interests of consumers at heart. The Central Bank expects to see such standards and values embedded in all the firms we regulate.”*



# Proposed CBI Individual Accountability Framework

# Individual Accountability Framework Proposals

The CBI are proposing to introduce an Individual Accountability Framework, comprised of the following:

## **Conduct Standards – the CBI recommends that three sets of enforceable Conduct Standards should be introduced:**

- *Common Conduct Standards For All Staff In Regulated Entities* – requiring all staff in regulated entities to adhere to certain standards, including requirements to act honestly, ethically and with integrity and to be open and cooperative with the CBI/other regulators and to deal with them in good faith;
- *Additional Conduct Standards For Senior Management* – additional conduct standards would be imposed on those performing pre-approval controlled functions (“PCFs”) or who are captured by the Senior Executive Accountability Regime, e.g. requirement to take all reasonable steps to ensure that where a task is delegated to ensure that an appropriate person oversees the delegation; and
- *The Standards for Businesses* – these requirements are on topics such as communications with customers, customers’ interests and financial prudence, among others matters, these would apply to all financial services firms.

## **The Senior Executive Accountability Regime (the “SEAR”):**

- The CBI are proposing that the SEAR would be applied initially to the following set of regulated entities (credit institutions, insurance undertakings, investment firms and their third country branches, with specified exemptions in each sector) where “prescribed responsibilities” set out by the CBI would be assigned to those performing Senior Executive Functions (“SEFs”).
- The SEFs include board members, executives reporting directly to the board and heads of critical business areas. A “Statement of Responsibilities” clearly setting out the role and area of responsibility of each SEF will be documented.
- In addition, each relevant firm will be required to produce a “Responsibility Map” documenting key management and governance arrangements in a clear single source of reference.

## **Enhancements to the fitness and probity regime:**

- The CBI are also going to speak to the Department of Finance to seek the relevant powers to require the annual certification from all individuals performing controlled functions, that they are fit and proper to perform same. The CBI has also said it would also like the power to publish details of where it has refused to approve an individual’s appointment to a PCF role and the power to investigate those who performed controlled functions in the past.



# Questions and Answers



Thank you

# Contact us



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