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New System of Governance for (Re)Insurers under Solvency II

The European Union (Insurance and Reinsurance) Regulations 2015 (the “2015 Regulations”) contain extensive requirements relating to the way (re)insurers organise their business. Central to the Solvency II regime is that (re)insurance companies must have an effective system of governance in place to provide for the sound and prudent management of their businesses.

Solvency II - Ireland’s Regulatory Framework

Ireland transposed into Irish law the Solvency II Directive (Directive 2009/138/EC) as amended by the Omnibus II Directive (Directive 2014/51/EC) by way of Statutory Instrument, namely the 2015 Regulations which came into effect on 1 January 2016.

The 2015 Regulations are supplemented by more detailed technical Commission Level 2 measures and they in turn are supplemented by Level 3 guidance for national supervisors developed and adopted by the European Insurance and Occupational Pensions Authority (EIOPA).

A Proportionate System of Governance – General Governance Requirements

The 2015 Regulations provide that all (re)insurance undertakings should have an effective system of governance in place which is

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proportionate to the nature, scale and complexity of the business and provides sound and prudent management.

The system of governance should include an adequate transparent organisational structure with a clear allocation and appropriate segregation of responsibilities and an effective system for ensuring the transmission of information.

The system of governance requirements cover fitness and propriety, risk management, internal controls, internal audit, the actuarial function, and, where appropriate, outsourcing. It also includes requirements for the own risk self-assessment (ORSA).

Written Policies and Procedures

All (re)insurance undertakings are required to have written policies in place to cover at least risk management, internal control, internal audit and if applicable outsourcing and ensure that those policies are implemented.

All policies must be reviewed at least annually and any amendments to the policies (other than minor amendments) require the prior approval of the board of directors.

Content and Form of the Policies

(Re)insurance undertakings should align all policies required as part of the system of governance with each other and with its business strategy. Each policy should clearly set out at least:

- (i) the goals pursued by the policy;
- (ii) the tasks to be performed and the person or role responsible for them;
- (iii) the processes and reporting procedures to be applied; and
- (iv) the obligation of the relevant organisational units to inform the risk management, internal audit and the compliance and actuarial functions of any facts relevant for the performance of their duties.

Central Bank of Ireland's Powers

The Central Bank of Ireland (the "Central Bank"), where it considers it appropriate to do so, can exercise its rights under the Central Bank (Supervision and Enforcement) Act 2013 (the "2013 Act") to verify the system of governance of the (re)insurance undertaking and to evaluate emerging risks identified by the undertaking itself which may affect its financial soundness.

The Central Bank also has the ability to exercise its powers of direction under the 2013 Act to require any (re)insurance undertaking to improve and strengthen its system of governance to ensure compliance with the system of governance requirements under the 2015 Regulations.

How can Dillon Eustace help?

Dillon Eustace can assist (re)insurance companies in ensuring that they are in a position to have an effective system of governance in place to provide for the sound and prudent management of their businesses under Solvency II. It is essential that undertakings ensure that their systems of governance are sufficiently robust to satisfy the requirements under the 2015 Regulations and are able to withstand Central Bank supervisory scrutiny. Dillon Eustace has the depth of knowledge to deliver innovative legal services to its clients to meet industry specific challenges at all times ensuring the highest quality advice and solutions.

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