

ICQ

IRISH COMPLIANCE

QUARTERLY

Spring, 2016

Ger Deering
Financial Services
Ombudsman

PENSIONS

*Dealing with
Overseas Transfers*

AML

*Trigger Events
and Consumer
Due Diligence*

Championing CONSUMER PROTECTION

(RE)INSURANCE

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Gala Dinner
April 15, 2016**

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Irish Compliance Quarterly

Welcome to the first edition of

ICQ for 2016. As winter finally gives way to spring and with the summer in our sights, work programmes for compliance teams continues at the same demanding levels. No rest for the compliance officer. But we at ICQ and the ACOI are working hard to try to make life easier and to help the cause of compliance.

Many of our members will be involved either dealing directly with or assisting their Complaints Functions navigate the Financial Services Ombudsman's (FSO) Office since establishment in 2004. Undoubtedly this scheme has brought better outcomes for consumers of financial services and better standards from firms in Ireland and Joe Meade and Bill Prasifka have blazed a trail for the new holder of this important post. Ger Deering takes up the role of FSO at an important juncture and has kindly given us some time out of his new role to engage directly with our members to explain the changes to the FSO process and the benefits for consumers and firms.

At our recent cyber security event, Mike Daughton paraphrased the US authorities and made the sobering comment that soon there will be two types of organisations: those who have been hacked, and those who will be hacked again. Mike outlines here for our readers who may not have been able to attend and to summarise for those who were some of the steps that compliance professionals can take to develop a strategy and mitigate the risks.

Anti Money Laundering is in many ways where the compliance profession started off life, but the discipline has expanded and changed with countering terrorist financing and the financial sanctions regime. Change in this area though really is a constant, and the ACOI AML Working Group bring you an interesting take on the Ongoing Due Diligence obligations.

Last year saw the first graduations in the ACOI's MSc in Compliance and the MA in Ethics (Corporate Responsibility). We are very proud of all the successful graduates and hope that they enjoyed their studies and that their achievement brings long term career benefits into the future for them. In this issue, we talk to two top achievers Sheila Duignan who got first place in the MSc and Thore Domeyer who topped the ACOI's Professional Diploma in Compliance to get some tips for exam success for our current students.

We are grateful to all our authors for their contributions. We are always interested in hearing from members who may have an perspective or contribution on anything compliance related and if you would like to contribute to a future issue, please do

get in touch with Finbarr Murphy our Director of Education and Professional Development (finbarr.murphy@acoi.ie) with your idea. You could see your name as a published author in a future ICQ publication.

I hope you enjoy this issue of ICQ and as always, we welcome your feedback,

Yours in compliance.



Kathy Jacobs
ACOI Director



The ACOI Gala Dinner

Friday, 15th April 2016



The Association of Compliance Officers in Ireland

The Association of Compliance Officers in Ireland Annual Dinner

Visit www.acoi.ie to book online
or call 01 779 0200

Venue	DoubleTree by Hilton Dublin, Burlington Road, Dublin 4
Time	7.00pm
Entertainment	Barry Murphy
Tickets	€85
Dress	Black Tie



(For more details, please see page 34 of this ezine)

CEO Update

Since joining the ACOI in July 2015, it has been a very busy eight months. The time to date has been spent getting to know the Association, overseeing the numerous CPD events held in the period; promoting our education programmes, the only university accredited compliance programmes in Ireland.

Memorable moments for me were the 2015 Annual Conference held in November, and the ACOI Conferring Ceremony held in the Shelbourne Hotel in December.

2016 is shaping up to be a busy year too. The year started with our AGM, preceded by a very popular event on cyber security which looked at the issues we are all facing.

In January 2016, the ACOI assumed the Chair of the International Federation of Compliance Associations (IFCA). You will be hearing more on this in the year ahead. Exams were held for the Professional Certificate and Diploma in Compliance (PDC 1-4) and results for these exams were released in February, well done to all those who successfully passed their exams.

In February, enrolments took place on two Professional Certificates, Data Protection and Financial Crime Prevention. These courses are again proving popular to members. The Association moved offices, not too

far away, to our own offices at Lower Ground Floor, 5 Fitzwilliam Square, Dublin 2. You have received details of our new phone numbers, no changes to our email addresses.

There continues to be a lot happening in the Compliance space across all sectors. To assist you in your roles as Compliance practitioners, we have a busy schedule of events planned for the year ahead. We have 23 events planned between January to July this year, which will bring the total number of events available to members in the 2015/16 membership year to 36 events (incorporating an estimated 60 hours of CPD).

You continue to attend events in large numbers with over 200 people attending each of the Cyber Security, Data Protection and Financial Sanctions events so far this year. Please get in touch with us if there are topics you want to hear more about.

Two upcoming flagship events aim to serve different needs you may have. These are the ACOI Compliance Careers evening on Thursday, 31st March in the Marker Hotel. No matter what stage you are at in your career, this evening will provide an opportunity to meet recruiters, companies and your peers to consider all career related matters in a relaxed, professional network based environment.

The ACOI's premier networking event, the Annual ACOI Gala Dinner is being

held in DoubleTree by Hilton on Friday, 15th April 2016. Spaces are booking up fast so I would encourage you to attend the evening to use as an opportunity to catch up with colleagues and to network.

As a professional member based organisation with a voluntary Board of Directors, voluntary members on Committees and Working Groups and a small Executive, you can help to develop your organisation. I would encourage you to engage with the Association as much as possible; through attending our seminars, workshop events and social occasions. Also consider more active involvement through participating in the Working Groups and Committees of the Association. Please get in touch with us if you would like to become more involved.

I look forward to seeing you at our events in the year ahead.



Evelyn Cregan
CEO

Championing the Consumer

█ New changes to how complaints are dealt with by the Financial Services Ombudsman will raise the bar in terms of consumer protection and provide for a speedier resolution to problems as they arise, according to Ger Deering, the Financial Services Ombudsman who talks to ICQ.

Set up in 2005 under the Central Bank and Financial Services Authority of Ireland Act 2004, the establishment of a Financial Services Ombudsman Bureau (FSOB) is arguably one of the most important consumer-related developments in the financial services sector in the last 20 years.

An independent statutory office that operates under the aegis of the Department of Finance and funded by levies paid by financial service providers, the FSOB investigates and adjudicates complaints from consumers and small businesses who have failed to get a resolution to a dispute with their financial service provider. All decisions made by the Financial Services Ombudsman (FSO), Ger Deering, are legally binding, subject only to appeal to the High Court.

In a financial services market that has changed significantly over the last 10 years, and will continue to change, the need to protect consumers and give them the right to seek redress in alternative and independent fora has never been greater. Indeed, during

the recent financial and economic downturn, the volume of complaints handled by ombudsmen's offices throughout Europe, including Ireland, reached all-time highs. While this has since tailed off, in the case of the Irish FSOB, it is currently handling around 1,900 complaints per year, down from 4,477 in 2014.

In recent months, changes to how these complaints are dealt with have been introduced, says Ger Deering. These changes will entail the Ombudsman's Office undertaking considerably more direct interaction with both consumers and providers to deliver a faster, more efficient and effective service that puts the needs of service users at its core. The overall aim will be to raise the bar on consumer protection and complaint handling and to address potential issues early on before they become systemic.

"The key change is the introduction of a dedicated Dispute Resolution Service to resolve disputes at an early stage and with the minimum necessary formality," he says.

"This is in line with the legislation establishing the Office which is

very strong on the need to deal with complaints informally through mediation and, only where necessary, by investigation and adjudication."

He adds that informal methods including mediation, both by telephone and through meetings, are now the first and preferred options for resolving complaints. In the past, the complaint process was largely paper-based after complaints were logged, usually when complainants telephoned the Office, and a more formal process of resolution was embarked upon between the parties. From now on, however, parties will be strongly encouraged to engage in a meaningful manner and adjudication will be the very last resort.

The new changes follow on from the recently published "Strategic and Operational Review: Financial Services Ombudsman and Office of the Pensions Ombudsman" by the consultancy firm BearingPoint. Commissioned by both the FSO and the Office of the Pensions Ombudsman (OPO), the strategic review sets out some challenges and opportunities for both in advance of their amalgamation. While the

proposed amalgamation was announced in 2013, the legislation that is required to make it happen has still not been finalised.

"In the Social Welfare and Pensions Act 2015, however, there is a provision that allows the Financial Services Ombudsman be appointed as the Pensions Ombudsman and that is what will happen pending the legislation required for the amalgamation of the two offices. So, in effect I will be both Pensions Ombudsman and Financial Services Ombudsman and I'll have two distinct roles. Obviously we will continue to co-operate but until the legislation is enacted, the two offices can't be merged," he says.

While it is not an ideal situation, the FSOB will have plenty to keep it occupied in the meantime, particularly in relation to the recommendations of the BearingPoint review which identified a number of weaknesses in the complaints procedures while it also suggested a number of opportunities around how services could be improved and delivered in the future.

The weaknesses included low levels of user satisfaction due largely to the formality, complexity and legalistic nature of the processes and the resulting length of time it took for a complaint to be resolved.

For Deering, who is less than one year into the job as Financial Services Ombudsman, the BearingPoint review is both a timely and welcome reminder of the need to constantly review how services are delivered and how they can be improved.



Ger Deering

"First and foremost, the BearingPoint review identified the need for change," says Deering. "I think the key messages from the review relate to how we had become very formalistic and very legalistic. This, in turn, led to significant time delays in dealing with complaints which wasn't ideal because when you look back at the legislation that established this office over 10 years ago, it specifically says we were to deal with complaints in a non-technical manner. It also says that we are to deal with complaints by mediation in the first instance and only where necessary through investigation and adjudication. But the reality is that the process developed very differently to what was originally envisaged, mainly because of a number of High

Court challenges and, in particular, the reluctance of service providers to engage in mediation, which I find very disappointing," he says.

The reluctance by service providers to engage in mediation, he says, can be attributable to a number of factors. "In some cases it boiled down to the service provider saying, 'well we have considered it, we are right and there is no room for mediation or further discussion.' While this attitude is very disappointing, it also shows a huge lack of understanding of the mediation process and what it seeks to achieve. It also shows a lack of understanding, in my view, of how complaints get resolved. Complaints get resolved by listening



and understanding where the other party is coming from. There were also other reasons given, very legitimate ones, where some providers felt that they didn't have the resources to send somebody in here for maybe half a day and I think that's a legitimate concern. But I wonder do those same providers ever measure the amount of time it takes to actually get this complaint through the system and work the complaint through the adjudication process that we have here, which involves a very significant

exchange of documentation and a very long time?

He says the emphasis on mediation will be relentless going forward and it will be incumbent on financial service providers and their compliance departments to ensure that they embrace the mediation process in the spirit intended. In addition, he points out that financial service providers will need to invest in the necessary resources in ensuring that staff charged with handling complaints

understand and embrace the mediation process.

"I think it is also very important that service providers actually provide training to some of their staff that will enable them to participate in the mediation process so that they can gain an understanding and appreciation for what mediation can achieve. As I have said, mediation will be the default option and I will be very disappointed if a complaint has to go to adjudication and I will consider it a failure on the part of the parties, and indeed ourselves, if large numbers of cases continue to go to adjudication."

He points out that many financial service providers already invest in marketing and customer service functions to attract new customers and that the idea of having a person or a team, that specialises in mediation to resolve complaints and retain customers would seem, to him, to complement the marketing or customer service functions.

"I would ask service providers to measure the money they put into marketing to get their customers in the first place and measure the cost of this against the customers they lose on a daily basis due to some of the complaints, many of which have very little monetary value. In fact, very often it's not about the money but about the way a particular person was treated. For example I have been trying to explain to providers that simply because they wrote a letter that was not meant to be offensive, it doesn't mean that it didn't upset somebody. So they need to know the space that that particular person was in and sometimes it can come down to something as simple as using plain

English and in a non-threatening manner," says Deering.

"I also think that it's fair to say that many financial institutions nowadays feel that they are under attack and they have gone completely into defensive mode. Perhaps if they moved the boat out a little and started to think that it's not necessarily about right and wrong but instead recognising that a customer is upset and that customer has taken the time and effort to make a complaint initially to the provider and then the Financial Services Ombudsman. Indeed, it may well turn out that the provider didn't do anything wrong – and that can also be the case – but the customer is still upset, so what do they need to do to solve the problem? The right way is to try and solve it before it comes to us and that's how we would like to see issues solved in the first place," he says.

Providers that don't engage at the early stage can expect to go through the adjudication process, says Deering.

"We have a dedicated Adjudication Service that continues to provide independent and fair adjudication of disputes between complainants and financial service providers where they fail to resolve the dispute with assistance of the Dispute Resolution Service. While I strongly encourage financial service providers to engage fully and resolve disputes, I have also made it clear that where this does not happen, I will use my extensive powers of adjudication to ensure fairness for consumers. These include the power to award up to €250,000 where a complaint is upheld and I consider the conduct by the provider to be unreasonable, unjust or oppressive. Importantly, compensation is not the

only remedy available to me as I also have powers of rectification. Such rectification can be very significant as it can involve putting a person back to a position where they previously were before the complaint arose. This, in some instances, such as where a home or life insurance policy has been voided or a claim denied, is more important for the complainant than the compensation. In addition, I can also require the financial service provider to change a practice relating to that conduct. So, I will not be found wanting in using these powers as they were intended to redress the balance between consumers and financial service providers," he says.

Raising awareness of the new approach will be important, he adds. This will involve providing consumers and providers with the information that they need to resolve disputes at source. In addition, a staff development programme internally will ensure that the FSOB has the staff and skills necessary to deliver the service. This also includes hiring new dispute resolution officers.

"The BearingPoint review also provided us with the opportunity to examine our own organisational structure, how we operate, how we communicate and how staff are deployed against emerging international best practice. The new staffing and organisational structure and communication methods which are being put in place on foot of the recommendations of the Review have been informed by, among other matters, feedback from consultations with service users and stakeholders.

"I also think that it's fair to say that many financial institutions nowadays feel that they are under attack and they have gone completely into defensive mode."

The changes will result in a significant reduction in the amount of time it takes to resolve complaints, which will in turn create capacity to focus on more preventative measures," he says.

The preventative measures he refers to relates to better use of analytics to analyse certain trends.

"Better use of data analytics will enable us to identify systemic issues and alert consumers, inform providers of the need for change and, where necessary, inform the Central Bank," he adds.

Ultimately, he says, it's about getting to a situation where all the stakeholders – the public, the service providers, the FSOB and indeed the Central Bank – can work towards better outcomes that are delivered effectively and efficiently.

"Decisions made by the Financial Services Ombudsman can have profound implications for those whom they affect. It is therefore essential that all those who use the service can continue to have confidence that complaints will be dealt with in a fair and transparent manner and that the principles of natural justice will apply. Good quality flexible dispute resolution processes combined with robust and fair decisions must be the hallmark of our service," he concludes.

Interview with Ger Deering on February 22nd 2016. ICQ

Trigger Events for Customer Due Diligence

Dark images are conjured up when we associate the words “trigger event” with financial crime. Yet in the world of the Sales Department, a trigger event is an opportunity to contact new or existing customers who have gone through an event that will potentially require them to buy your product or service.

The purpose of this article is for you to consider trigger events as an opportunity to examine the due diligence documents and information on your customer's file to ensure they are adequate and up to date. Customer due diligence (“CDD”) is often seen by our customers as identification documentation and information that are required at the start of the business relationship. Once the account is open, it is often the view of the customer that they can continue to transact and there is no need to look at the CDD identification/information again. We need our customers to understand that the requirement for customer due diligence extends beyond the account opening date and is an on-going process.

Within the world of Anti-Money Laundering/Counter Terrorist Financing (“AML”/“CTF”), trigger events are an opportunity for us to re-engage with our existing customers.

Trigger events could include a change in address, the addition or removal of an account signatory or the purchase of a new financial services product. Each company defines the trigger events based on their risk appetite, their product range and customer

profiles. Each of these trigger events create an opportunity to engage with the customer, which in a world of e-commerce and m-commerce, is an opportunity which should be maximised.

A trigger event may not necessarily mean that you must ask for additional identification documentation, it is simply a reason and opportunity to look at what you have on the customer record and assess whether the documentation and information held for the customer is adequate. It is up to each firm to decide what is adequate by making a risk based decision:

- Some firms may determine that in the situation, where the personal identification presented at the time the relationship was established was adequate, however, they now may be expired (in the case of passports etc.) or over six months old (for utility bills). If the customer's name and address remain unchanged and where the firm's Risk Assessment permits it, the document are still valid for AML purposes.
- Other firms may feel that the personal identification e.g. a passport, has to be valid/in date/unexpired at the time of the trigger event. If it has expired,/is no longer in date, where even though deemed to be adequate at time

of relationship was established; they may want to seek up-to-date personal documentation. This may be acceptable and necessary for AML purposes, depending on your firm's risk appetite.

- Some firms may use trigger events to ensure that all CDD information and identification documentation is kept up-to-date and then based on the risks posed, schedule reviews to obtain up-to-date information and identification documentation. It maybe that your organisation requests updated information/ documentation where a customer poses a higher risk of money laundering/terrorist financing.

Each firm will make the decision based on the specific relationship they have with their client and their risk appetite in terms of money laundering/terrorist financing. Where you identify a gap in the identification provided, it is your chance to remedy it with the client.

The Irish legislative focus explicitly highlights the need for on-going transaction monitoring as highlighted in the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010 (“CJA 2010”)¹ which informs “a designated person shall monitor dealings with a customer with whom the person has a business relationship,

including (to the extent reasonably warranted by the risk of money laundering or terrorist financing) by scrutinising transactions and the source of wealth or of funds for those transactions, to determine whether or not the transactions are consistent with – (a) the person’s knowledge of the customer and the customer’s business and pattern of transactions, and (b) any knowledge that the person may have that the customer may be involved in money laundering or terrorist financing.”

The CJA 2010² defines a “business relationship” as being “a business, professional or commercial relationship between the person and the customer that the person expects to be ongoing.”

The Central Bank highlighted in their review of the Irish Banking Sector,³ “section 54(3)(c) of the CJA 2010, requires that designated persons adopt measures to keep documents and information relating to customers up-to-date. Banks must document and adopt a risk-based approach to defining refresh cycles to determine the frequency at which CDD information must be renewed.”

The ongoing relationship review supports the Third European Money Laundering Directive which was implemented domestically through CJA 2010 and is expected to be underpinned in the Fourth Money Laundering Directive⁴ which states, “Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, including at times when the relevant circumstances of a customer change.”

From an international perspective, the Basel Committee re-published their guidelines⁵ where they state “Policies and procedures for customer acceptance, due diligence and ongoing monitoring should be designed and implemented to adequately control those identified inherent risks.” The guidelines⁶ expand on this further “in addition to established policies and procedures relating to approvals for account opening, a bank should also have specific policies regarding the extent and nature of required CDD, frequency of ongoing account monitoring and updating of CDD information and other records”.

So how can you further engage with your customers?

Customers want to know they are dealing with a safe organisation, which follows not just the “letter” but also the “spirit” of the laws concerning financial crime. Where you ask a customer to provide refreshed documentation, you are highlighting that your firm takes these responsibilities seriously.

In addition to presenting the firm in a positive light, opportunities will arise at trigger events where documentation

and/or information can be requested from the customer to bridge any identified gaps in the customer record. Where these gaps are not addressed, a partial or full back-book review and remediation exercise may need to be conducted in the future. This requires the review of all existing customers and all CDD gaps must be remediated. Anyone who has been involved in these projects knows that the customer outreach stage can be the most challenging, given that customers may expect that we will have asked for the necessary documentation/information during a previous trigger event. You do not want to be in a position where you regret not asking for the documentation when you had the chance. The consequences of which in addition to the immediate reputational damage can also include potential administrative sanctions, the loss of management time and expense of remediation. This can also include the opportunity cost of lost revenue for your firm as you have to concentrate your efforts and resources to address customer information and documentation gaps.

Brian Kavanagh, ACOI AML Working Group. ICQ

1 Section 35 (3) of the Criminal Justice Act (2010).

2 Section 24 of the Criminal Justice Act (2010).

3 Report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions Compliance in the Irish Banking Sector (2015).

4 DIRECTIVE (EU) 2015/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC. Article 14(5).

5 “Guidelines Sound management of risks related to money laundering and financing of terrorism.” The Basel Committee on Banking Supervision (2016).

6 Guidelines Sound management of risks related to money laundering and financing of terrorism.” The Basel Committee on Banking Supervision (2016).



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Over three-quarters of Irish CEOs* view over-regulation as a key threat for business growth. PwC provides a 'one stop shop' on all business regulatory changes across all sectors helping clients stand out for the right reasons. Helping businesses manage, respond and implement change driven by the regulatory agenda.

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Contact:

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Tel: 01 792 8559

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**PwC's latest Irish CEO Pulse Survey.*

Preparing for Solvency II

With insurer and reinsurance companies ('re) insurers') due to make their first set of regulatory returns under Solvency II regulations, what should firms be doing in the meantime?

On January 1st 2016, a new prudential regime for all (re) insurers took effect across Europe when the Solvency II Directive 2009/198/EC (Solvency II) entered into force. It was transposed into Irish law by the European Union (Insurance and Reinsurance) Regulations 2015. Certain (re)insurers are excluded from the scope of Solvency II, for example, due to their size, type or level of business activities. The regulatory regime applicable to those "non-Solvency II" (re)insurers is set out in the Finance (Miscellaneous Provisions) Act 2015.

Solvency II implements a pan-European risk based supervisory framework, fundamentally reforming capital requirements for (re)insurers, based on a 'total balance sheet' approach to risk. It also introduces new detailed rules on corporate governance, risk management, reporting standards and public disclosure.

A useful digest of Solvency II developments and what it means for the Irish insurance industry is provided in the Central Bank's Solvency II

newsletter, which has been published on a monthly basis since 2010. The Central Bank released issue 25 of the newsletter on February 19th, covering Solvency II developments at a European and domestic level since December 2015. This marks a key phase in the Solvency II journey as member states commence implementation.

Firms are reminded that the first set of Solvency II regulatory returns must be submitted in May 2016 and a reporting update has been included explaining Day 1 reporting requirements under Solvency II. Firms are strongly encouraged to ensure their IT systems and end-to-end reporting processes are working smoothly in advance of this deadline. A useful checklist is provided in relation to reporting and fitness and probity requirements together with a forward planner which sets out the key dates for Solvency II firms up to June 2016.

On the domestic front, individuals occupying the Heads of Actuarial Function in (re)insurers on or before 31st December 2015 must be notified to the Central Bank by May 31st 2016 through its in-situ notification process.

Where an individual was not in-situ on or before December 31st, their appointment as Head of Actuarial Function is

subject to the Central Bank's prior approval and this should be done as soon as possible. The Central Bank has designed draft regulations in relation to 11 National Specific Templates which will address data requirements and other issues that are specific to Ireland and not covered in the standard European Insurance and Occupational Pensions Authority (EIOPA) Quarterly Reporting Templates. It is currently in consultation with the Minister for Finance and the Minister for Enterprise, Jobs and Innovation in relation to these draft regulations.

On the European front, the newsletter refers to the European Commission's publication of Implementing Technical Standards on the Submission of Information and the Solvency and Financial Condition Report. EIOPA has also released the latest version of its XBRL Tool for firms to assist in quantitative reporting under Solvency II. EIOPA has announced its Insurance Stress Test 2016 and has issued a consultation paper on facilitating effective dialogue between insurance supervisors and auditors.

The last version of the CBI newsletter will be published this month. Starting in June, the Central Bank will replace it with a quarterly insurance newsletter.

Maeve Walshe, Associate, Insurance Group, Arthur Cox. ICQ

"Firms are reminded that the first set of Solvency II regulatory returns must be submitted in May 2016."

Understanding the Cyber Risk

In January, 219 people attended an event prior to the ACOI's AGM to gain insights from a panel of industry experts on the challenges facing compliance practitioners when it comes to cyber security. One of the speakers at the event, Mike Daughton of KPMG, sets out a course of action for compliance officers to consider in tackling persistent cyber threats.

Given the strategic importance of cyber security, a reactive approach to tackling the risk of a cyber threat is no longer sustainable. Bringing the debate into the boardroom offers the opportunity to develop an insights-based, risk-focused, and predictive strategy for managing cyber risk.

WHAT IS CYBER RISK?

It is often said that in a world where everything is interconnected, data is the new currency. The rapid pace of technological change over recent years has blurred the traditional boundaries of organisations and their information systems and, in virtually every market, success can only be achieved through working alongside multiple third parties. In light of some recent and high profile cases, the very clear risk to organisations is losing control of essential data and systems which are critical to safeguarding the company and its strategic goals. As networks continue to expand, cybercrime has grown in scale and sophistication, and the stakes are higher than ever before.

REPUTATIONAL RISK

A recent survey by KPMG found that many organisations lack the proper insights, both in terms of external threats and what's at stake for their organisations. This represents not just a serious impediment to the proper management of risks but extends into areas such as loss of data or damage to systems as well as the potential loss of investor and consumer confidence. Such reputational damage could have far-reaching consequences for many organisations and is one of the reasons why the issue needs to be moved into the boardroom.

Surprisingly, the KPMG survey found that 53% of executives believe their organisation is able to detect ongoing cyber attacks. However, just 53% state that the Board considers cyber security a technical issue and 59% are not convinced or do not know whether their service providers understand how to defend against cyber attacks.

The threat to investment is real.

A further KPMG survey of global institutional investors found that 79% of investors would be discouraged from investing in a business that has been hacked and that they believe

less than half of the boards of the companies they currently invest in have adequate skills to manage cyber risk. In addition, they believe that 43% of board members do not have the skills and knowledge to manage innovation and risk in the digital world.

CUTTING THROUGH THE JARGON

Information processes about threats, risks and solutions tend to be dominated by technological buzz words. The combined effect of this contributes to a sense of mystery around what cyber security means for senior management and can cause confusion. Many senior decision makers struggle to grasp what is really going on and decoding the lingo of the security industry is essential in making them understand what is and what can be at stake. To effectively deal with the issue of cyber crime, we must place more focus on the potential pitfalls and technical specialists should not dominate the field.

Furthermore, companies appear to struggle when measuring the return on security investments with 39% of respondents not monitoring the

aggregate damage, direct and indirect, of a cyber attack. Among large enterprises, this figure is even higher with 50% of respondents having no insights into the damage.

PREPARING A STRATEGY

A cyber security strategy should be a cost-effective control of the cyber environment and should address the tangible domains of people, processes and technology. The best way to do so is to put the user experience – not the technology – at the centre of the approach. Cyber security is not about tools and technologies; it is about people using those tools and technologies in a user-friendly, natural way. Professionals working in the security domain have a responsibility here: they should not focus solely on the technology. The skills to communicate about the issue in a broader sense in terms of people, processes and technology are essential.

Cyber security concerns all employees in an organisation and should not be delegated to a group of specialists. It is an attitude, not a department and to drive and maintain awareness, the right tone at the top is equally important. People often think of cyber attacks as arising from outsiders hacking in. But it is a much broader issue than that. It can be internal or external, data is stored on many different portable media and devices and security can be compromised either accidentally or intentionally.

There are a number of steps organisations can take to prepare for and mitigate these risks. The first relates to governance. There needs to be a governance strategy around security and incident management – who is responsible for it and what



are the reporting protocols. They also need to establish a firm-wide cyber risk management framework that has adequate scope for staffing and budget. After that the risks to be avoided, accepted, mitigated, or transferred need to be identified and specific plans associated with each approach put in place. In summary, boards need to consider the following to be cyber secure:

- This is not solely an IT problem. Board directors need to understand and approach cyber security as a business risk issue.
- Directors need to understand the legal implications of cyber risks as they relate to their company's specific circumstances.
- Boards should have sufficient cyber security expertise, and discussions about cyber risk management should be given regular and adequate time on the boardroom agenda.
- Directors should set the expectation that management will establish a firm wide cyber risk management framework that has adequate scope for staffing and budget.
- Discussions of cyber risk should

include identification of which risks to avoid, accept, mitigate, or transfer, as well as specific plans associated with each approach.

With the pace of technological change and the increasing range of devices creating new points of attack all the time, there is no guarantee that any strategy will be totally effective. However, if an organisation has the right processes in place, they will know when they have been attacked and when data has been compromised and will be able to respond to that. Ultimately, all organisations can do is have the right governance, strategies and processes in place to ensure that they keep pace with the changes and are able to respond to attacks and deal with any security issues whenever they might arise. They also need to demonstrate to investors and customers that they are taking it seriously and this means boards elevating cyber risks higher up on the agenda and investing more time on it.

Mike Daughton, Partner, Head of Risk Consulting, KPMG Ireland. ICQ

Full Steam Ahead for CCR

The phased introduction of the new Central Credit Register is now underway and by the end of 2016 lenders will begin to submit consumer credit data to the new Register.

Following responses received from an industry consultation issued in April 2015 (CP93), on February 11th 2016 the Central Bank published a feedback statement that provides some welcome clarification on the future operation of the Central Credit Register (the Register). The feedback statement also clarifies the Central Bank's proposed timing for each of the next steps required to bring the Register into operation.

CENTRAL CREDIT REGISTER OVERVIEW

The Register is being established following a commitment given by the Government as part of the EU/IMF programme for Ireland to create a centralised register holding information about credit applications, credit agreements and parties to them. The Register will allow the creation of a credit report with detail of all in-scope credit agreements relating to a borrower known as a "Single Borrower View".

The primary legislation establishing the Register, the Credit Reporting Act 2013 (the Act) came into force on January 27th 2014. However, the Register is still some time away from being operational, with many of the regulations and operational guidance required to facilitate the operations

and working of the Register not yet published. A final decision about the range of personal information held on the Register is subject to ongoing discussions between the Central Bank and the Data Protection Commissioner.

Although certain lenders (typically, regulated financial service providers) can currently access the Irish Credit Bureau (ICB) to obtain credit reports on borrowers, the ICB is privately owned by its member financial institutions and operates on a membership/contractual basis. In contrast, the Register has a public/statutory basis and will be the responsibility of the Central Bank.

The Central Bank has stated that the establishment of the Register will contribute to consumer protection and financial stability by allowing both consumer and business borrowers (known as credit information subjects (CIS) in the Act) and lenders (known as credit information providers (CIPs) in the Act) to have more information on borrowers' financial profiles and creditworthiness. The Register will also give the Central Bank better insight into the operation of the financial markets.

Once the Register is operational, credit reporting obligations will apply to CIPs including banks, credit unions, retail credit firms, finance providers, local

authorities, NAMA, licenced money lenders and purchasers of Irish loan books. The Central Bank has stated these obligations will apply to over 500 CIPs and it is important to note that unregulated financial service providers are also in scope.

CENTRAL BANK FEEDBACK STATEMENT:

Arising out of the consultation and the feedback statement, the following points have been clarified:

Phased implementation:

Implementation will occur on a phased basis. Phase 1 (consumer credit) scheduled to begin in September 2016, with Phase 2 (business credit, lending by moneylenders and local authorities) launching in 2017. The Central Bank has stated this approach will allow CIPs to make the necessary system changes in an, "Incremental manner."

Submission by CIPs of implementation plans:

The Central Bank has indicated that it is expected that CIPs will submit an "implementation plan within three months of publication of final requirements and submit progress reports on their plan." It is not clear exactly when the final requirements will be published, but if this happens in April 2016 CIPs should target submitting their implementation plans in June/July 2016.

Reporting credit applications: The Central Bank does not intend to require lenders to keep the Register updated on the status of an application on an ongoing basis – instead, the reporting obligation (i.e. personal data, type of product and amount of credit) is expected to arise on drawdown (or, in the case of overdrafts and credit cards, on the date that they are first available for use).

Operational guidance: The Central Bank has stated it will issue operational guidance in due course that will “give clear instructions in respect of how CIPs are expected to engage with the [Register]”.

Guarantors: The Central Bank does not intend to start collecting guarantor data until after the business credit phase has been implemented (so most likely not until 2018).

Partnerships: The Central Bank has stated that, because of potential difficulties with reporting on partnerships (a respondent

highlighted the potential risk of errors arising from issues relating to joint/limited liability in loans to partnerships), the second phase (business credit reporting) will require data on the partnership itself to be reported, but data on the individual partners will not be sought until a later phase.

Foreign credit: The Central Bank is not proposing to deal with the requirement that information be sought and provided regarding foreign credit in excess of €5,000 as industry feedback strongly indicated that this was impractical. However, the Central Bank said this could be revisited in the future, “In the context of on-going European developments explore the potential for reciprocal sharing of CCR data with other national European CCRs.”

NEXT STEPS AND CENTRAL BANK REGULATIONS:

The Central Bank has primary legislative authority and responsibility for the establishment and operation of the Register under the Act. Much of

the detail is still to be specified in regulations to be made by the Central Bank, with the consent of the Minister for Finance. Those regulations are expected to cover the following:

- the type of personal information and credit information that must be provided (which is expected to differ as between different classes of applications, agreements, lenders and obligors (borrowers and guarantors));
- the form and content of credit reports; and
- the fees and levies that will be imposed on CIPs as the Register is expected to be self-financing.

Table A sets out some highlights in terms of expected implementation timelines and the phased activation of the Register. The deadlines relating to access to and operation of the Register are subject to the Central Bank being satisfied with the quality of data submitted.

Eoin O’Connor, ACOI Consumer Protection Working Group and Maedhbh Clancy, ACOI Member. ICQ

Table A: Key Milestones	Expected date
Completion of Privacy Impact Assessment – interim assessment	February 2016
Design of the Register and related technical specifications to be completed	March 2016
Central Bank to issue regulations	March 2016 (intended date, but may be slightly delayed)
Operational handbooks to be finalised	April 2016
Building, testing and deploying the Register	Present – August 2016
On-boarding of lenders (such as banks, credit unions and retail credit firms) who must begin to submit consumer credit data to the Register	September 2016
Lenders to finish reporting existing (backdated to 30 September 2016) and new consumer credit agreements	By 31 March 2017
Lenders to be allowed request credit reports and borrowers to be able to request copies of their own credit reports	March 2017 onwards
On-boarding of lenders to begin to submit business credit data to the Register (general reporting obligations for moneylenders and local authorities will also begin on this date)	30 June 2017
Lenders to be required to check the Register before advancing consumer credit	31 December 2017
Lenders to be required to check the Register before advancing business credit	30 June 2018



Dealing with Overseas Transfers

With a large mobile and international workforce working in Ireland, the issue of Overseas Transfers from Occupational Pension Schemes has become an increasingly important one for many companies as employees come close to retirement age or move to a different jurisdiction.

As a compliance officer why is the issue of 'overseas transfers' from Occupational Pension Schemes so topical at the moment? There are a

number of reasons for this, for instance the mobility of a globalised workforce and the significant presence in Ireland of international employers has meant that there are a large number of people contributing to pension schemes

in Ireland who intend residing in another jurisdiction at the time of their retirement. Also, there has been talk of transfers being made in order to take advantage of more favourable tax regimes in other jurisdictions.



Given the attractive tax reliefs which are available to pension schemes in Ireland it is not surprising that restrictions and criteria exist in relation to how such transfers may take place.

The criteria and rules relating to this issue are drawn from legislation and from Revenue guidance. These are summarised below:

The Occupational Pension Schemes and Personal Retirement Savings Accounts Regulations, 2003 (Overseas Transfer Regulations) provide that a transfer may be made to an overseas arrangement where:

- The trustees or PRSA provider have satisfied themselves that the retirement benefits to be provided under the overseas arrangement are relevant benefits by obtaining written confirmation to that effect from the trustees, custodians, managers or administrators of an overseas arrangement. Relevant benefits can be summarised as any pension, lump sum, gratuity or other like benefit on or after retirement or death or in anticipation of retirement.
- The trustees or PRSA provider has satisfied themselves that the overseas arrangement has been approved by an appropriate regulatory authority for the country concerned.

The Revenue Pensions Manual (the Manual) refers to the Overseas Transfer Regulations and the obligation on trustees to comply with their terms. It refers to compliance with the requirements being met by obtaining written confirmation from the administrator of the overseas arrangement.

The Manual places certain specific restrictions on transfers from Occupational Pension Schemes to arrangements within the EU and outside the EU.

For transfers to the EU the overseas scheme must be operated or managed by an Institution for Occupational Retirement Provision (IORP) within the meaning of the EU Pensions Directive. The IORP must be established in a member state of the European Union which has implemented the Directive in its national law and the scheme administrator must also be resident in an EU Member State.

For transfers to outside the EU the member must be employed in the country to which the transfer is being made.

The Manual states that 'only bona fide transfers are acceptable'. It also requires that the overseas arrangement be notified of the amount of the transfer which can be taken in lump sum form. It should also be noted that an overseas transfer is a Benefit Crystallisation Event and therefore if the fund exceeds certain amounts a tax charge may be due.

Revenue requires that an 'Overseas Transfer Declaration' be completed. This is to be signed by the transferring individual and includes details of the Irish and overseas arrangement. In essence the signing party is stating that they are not transferring their benefits for the purpose of circumventing Irish pension rules.

The Pensions Authority issued a Guidance Note in 2015 on this issue. It restates the rules relating to overseas

transfers and warns that transferring out of the jurisdiction was not without potential risks. They set out a number of issues which individuals should consider before transferring:

- Uncertainty of taxation consequences
- Potentially higher and non-transparent costs
- Dealing with unregulated intermediaries
- Difficulty obtaining legal redress should it become necessary
- No longer having the protection of Irish regulation

The Pensions Authority also points out the importance of obtaining independent financial advice and talking to your scheme trustees.

While not directly relevant to Occupational Pension Schemes, two other points are worth making in relation to Personal Retirement Bonds (PRBs) and Personal Retirement Savings Account (PRSAs)

PRBs: Revenue has confirmed that PRBs do not follow the rules which apply to general occupational pension schemes. PRBs are only permitted to transfer out if the jurisdiction is to UK arrangements.

PRSAs: Revenue has recently confirmed that overseas transfers of PRSAs will incur a tax charge.

Finally, it is worth noting that Revenue has indicated that the issue of overseas transfers is being looked at at the moment and the rules in relation to it are therefore subject to change.

Patrick Connell, ACOI Pensions Working Group. ICQ



The Student's View

ICQ talks to two former students who completed the MSc in Compliance and the Professional Diploma in Compliance. Sheila Duignan, Partner – Business Risk Services, Grant Thornton, who was the top placed student in the MSc in Compliance and Thore Domeyer, Compliance Specialist at BNP Paribas Dublin Branch who was the top placed student in the Professional Diploma in Compliance.

Every student studies for different reasons; personal interest, to gain knowledge, requirement by employer/regulator, to network, provide choices and new perspectives. This article provides insights from two of the ACOI's top placed students from our 2015 graduates which can hopefully inform those currently studying of practices that other students may consider adopting in their studies. Sheila Duignan is a Partner – Business Risk Services with Grant Thornton and she completed the MSc in Compliance. For his part, Thore Domeyer, Compliance Specialist at BNP Paribas Dublin, completed the Professional Diploma in Compliance.

Sheila had significant experience in compliance and Thore was moving into the field. By choosing to study they fully embraced the commitment it took to achieve the goals they had set themselves. The qualities which led to each of their success, but common between them, included a curiosity and open-mindedness, a willingness to be engaged with their peers and the ACOI, balancing pragmatism with ambition and a commitment to high standards, being creative in how they approach situations. The over-riding success factor from speaking with Sheila and Thore was how pragmatic they were in



Sheila Duignan

their approach to studying. Both lead very busy professional and personal lives. They could only assign so much time to their study. The time spent had to be effective. Below, they share their views.

Why did you choose the programme you studied?

Sheila: I was attracted to the idea of a programme tailored specifically for people operating at a relatively senior level in compliance advisory or functional management within the financial services sector. The MSc in Compliance is tailored to capture many of the significant regulatory changes which were impacting upon the operational environment giving students the opportunity to get both a broad and deep view on a number of subjects. Another important feature for me was the opportunity to develop and enhance my network within the compliance community.

Thore: As I was about to move into the Compliance area, I chose the



Thore Domeyer

programme (the Professional Certificate and Diploma in Compliance) to get a good overview over the Compliance area and a solid foundation for my daily work and to obtain the benchmark qualification for Irish compliance professionals.

Were you a member of the ACOI prior to studying with us?

Sheila: Yes I was an active member, regularly attending ACOI workshops and seminars. I was also a member of an ACOI Committee.

Thore: No, I only joined the ACOI upon commencing studying for the Professional Certificate and Diploma in Compliance. I was aware of the ACOI though.

Did the programme meet your expectations?

Sheila: The programme was in its first year of development when I commenced my studies. Like many executive training programmes it had a few teething problems mostly of

an administrative nature which were easily ironed out. From a structural perspective it was designed to fit in with busy working schedules with a split of lecture commitments during the working week and over the weekend.

The programme more than met my expectations in relation to the people and network it afforded me. I thoroughly enjoyed working with my class mates and made some life-long contacts and friends from the group. It is great to know you have peers you can call upon to bounce ideas off.

Thore: Yes, the programme has met my expectations and has provided me with a good overview over the Compliance area and a solid foundation for my daily work. I now use the knowledge acquired all the time.

Does your employer value the knowledge and skills you acquired from the programme?

Sheila: Yes definitely. I work within a learning organisation so a commitment to personal development and life-long learning is very much encouraged.

Thore: Yes, my employer values the knowledge and skills and actually expected me to complete the Professional Diploma in Compliance.

What practices or coping techniques did you employ to tackle the demands of working, studying and having a personal life?

Sheila: Planning; planning; planning! I work long hours and also have travel commitments so I was conscious of the need to ensure I didn't let the work load run away from me. I downloaded a lot of the content so I could do some of the reading work while on the move/ travelling. Given the quantum of reading and the assignments we were required

to deliver, I tried to take a strategic approach to the reading focussing in on the essential. I also tried to maintain a sense of control of the work load by not leaving things to the last minute and ensuring I was on time with my contribution to group work. I was also really lucky and worked closely with my assignment group as a study group. We relied upon each other to tease out some of the challenges as they arose and to share the work load across the piece. We also called upon each other a lot for support when studying for exams.

Thore: It's easier said than done, but avoiding procrastination and subsequent cramming and instead studying small bits steadily helps to spread the demands of studying. However, from time to time prioritising will be unavoidable.

What were your favourite bits and what areas require improvement?

Sheila: The interactive sessions with my class mates and lecturers on governance and ethics were particularly enjoyable. The lack of specific international inputs was a disappointment e.g. US Patriot Act and Dodd Frank were not covered in the International Financial Services module.

Thore: I appreciated that PDC4 also covered aspects of Ethics. The sections on US regulations were only of very limited relevance to me.

What advice would you give a person thinking about studying with the ACOI?

Sheila: Choose a course that challenges you but also fits in with your work commitments.

Thore: I would recommend the Professional Certificate and Diploma in Compliance to anyone, who is working in Compliance or has an interest in Compliance. However, it might not be

for someone who has no interest in or an aversion to regulations.

Not everyone will or can be the top placed student or an "A" student. What a person can do though is be engaged and positive towards their studies. That way they can enhance their performance and realise their full potential. Trying your best is all you can ask of yourself.

The MSc in Compliance, which Sheila completed, provides participants with the multi-disciplinary skills to participate more effectively in compliance management and to understand a practical application of compliance best practice. Graduates are invited to take up the highest professional designation the ACOI offers, the Fellow of the Compliance Officers in Ireland, along with the Certified Data Protection Officer (CDPO) and Certified Financial Crime Prevention Practitioner (CFCPP).

In the case of the Professional Diploma in Compliance and LCOI designation, which Thore took up, this satisfies the Central Bank of Ireland's Minimum Competency Code for those who adjudicate on any complaint communicated to a regulated firm by a consumer which relates to advice about a retail financial product provided to that consumer. The Professional Diploma is also the benchmark qualification for compliance professionals in all sectors of the financial services industry.

Interview with Finbarr Murphy, Director of Education and Professional Development and graduates of the MSc in Compliance and Professional Diploma in Compliance. ICQ

An Eventful Year Ahead

The continued education and professional development of our members remains our key focus for the ACOI and 2016 will be no different to previous years, writes the Education and Professional Development Services (EPDS) Committee.

We continually listen to your feedback and we hope to make our events even better this year in terms of frequency, quality, relevance, value for money and accessibility.

At the time of writing we have already held seven CPD events addressing the topics of Data Protection, Regulatory Priorities, Project Management, Financial Sanctions, Ethics, Consumer Protection and Cyber Security. Both the cyber security and AML events held in University College Cork for our regional members were free to attend.

Many of the events planned for 2016 will feature the Central Bank of Ireland (CBI) following your requests to hear from the CBI on areas of specific interest to you in your roles as compliance professionals. We welcome the CBI commitment to speak as often as they can and where appropriate to our members.

"The key to the success of these workshops is an open dialogue and the sharing of views,"

We are committed to offering a comprehensive calendar of events, we already have events up to mid 2016 that will attract in excess of 30 CPD hours enabling you to meet the CPD requirements that attach to your various designations and providing you with "hot topics" to ensure you remain informed of issues affecting our profession.

Events will vary from one hour lunchtime lectures and half day workshops to evening workshops/lectures with some important networking and social opportunities included.

The calendar of upcoming events will be regularly updated on the ACOI webpage and we have upcoming CPD events in 2016 on topics such as:

- Conduct risk.
- Compliance risk assessment with a focus on Cyber security.
- Funds regulatory update.
- Consumer Protection.

Following its success in 2015 we are delighted to launch for 2016 the "The Building Blocks of Effective Compliance" for those newly qualified compliance professionals, people new to the area of compliance and those members from smaller institutions.

This series of workshops, limited to 80 participants per workshop, have proven to be very effective in

addressing our members concerns around the "how to" of various challenges faced by compliance officers in their daily roles.

The key to the success of these workshops is an open dialogue and the sharing of views, and the chance to discuss and address specific issues that members face.

We will continue work with the Credit Union sector in conjunction with the ACOI Credit Union Working Group, to address the growing appetite for specific events relevant for this sector during 2016.

We have also made a commitment to schedule a number of events aimed at experienced and senior compliance professionals and indeed executive and non-executive directors of member institutions to address the growing role and importance of compliance within these institutions and to support you our members in your role within these organisations.

Please be assured we always listen to your feedback, ideas for events and speakers you recommend. We also welcome hearing from you, our members, on areas where we can improve. We actively encourage you to contact the ACOI and specifically the ACOI's Education and Professional Development Services Committee on

EPDS@ACOI.IE with any comments you may have on our CPD programme and events generally. Finbarr Murphy, your Director for Education & Professional Development is always available to speak or meet with you. He can be contacted at Finbarr.murphy@acoi.ie or directly at 01-779 0202.

We'd particularly like to hear from you on additional ideas/topics for events you would like to see in 2016 and any

relevant speakers you would like to hear from.

What makes our CPD programme a success is the time and commitment given by those who develop, organise, and very importantly speak at our events. It can't happen without all of your efforts and we are very grateful to all who give of their time to get involved.

We also have a very active and hard

working committee and if you would like to assist the committee in any way please don't hesitate to contact us at the email address mentioned in this article.

Finally to you, our members, a thank you for continuing to support our CPD programme and we look forward to seeing you at many more events during 2016.

The EPDS Committee ICQ



ICQ

EVENTS SCHEDULE – March to July 2016

DATE	EVENT	VENUE	TIME	INDICATIVE CPD
31/03/2016	<i>Careers Evening (Networking)</i>	Marker Hotel	No registration 6.00 – 9.00	3
12/04/2016	<i>Risk Assessment (Cyber) – 2/6 Building Blocks Series</i>	Hilton Charlemont	Registration 8.30 9.00 – 12.00 Workshop	3
15/04/2016	<i>Annual Dinner (Networking)</i>	DoubleTree by Hilton	7.00	n/a
21/04/2016	<i>AML Risk Assessment</i>	Chartered Accountants House	Registration 12.00 12.30 – 1.30 Seminar	1
27/04/2016	<i>Regulatory Inspections</i>	Chartered Accountants House	Registration 12.00 12.30 – 1.30 Seminar	1
10/05/2016	<i>Risk Management Framework Workshop for Credit Unions</i>	Hilton Charlemont	Registration 8.30 9.00 – 12.00 Workshop	3
19/05/2016	<i>Ethics Workshop</i>	Hilton Charlemont	Registration 5.30 6.00 – 8.00 Seminar	2
24/05/2016	<i>Funds Regulatory Update</i>	Chartered Accountants House	Registration 12.00 12.30 – 1.30 Seminar	1
08/06/2016	<i>Prudential Regulation & Governance Update</i>	Institute of Banking	Registration 12.00 pm 12.30 – 1.30 Seminar	1
14/06/2016	<i>Culture & Conduct – 3/6 Building Blocks Series</i>	Hilton Charlemont	Registration 8.30 9.00 – 12.00 Workshop	3
28/06/2016	<i>Advanced AML for Board, Head of Function & Senior Management</i>	Hilton Charlemont	Registration 8.30 9.00 – 12.00 Workshop	2
06/07/2016	<i>Financial Services Ombudsman Update</i>	Chartered Accountants House	Registration 12.00 12.30 – 1.30 Seminar	1
21/07/2016	<i>Pensions Update</i>	Chartered Accountants House	Registration 12.00 12.30 – 1.30 Seminar	1

PHOTO GALLERY

You and your colleagues continue to attend events in large numbers with the Cyber Security, Data Protection and Financial Sanctions events each having over 150 attendees. A regional event on AML related matters was held in University College Cork attracting attendees from all areas in financial services. The Project Management Workshop enabled attendees to acquire skills based training in an essential skill of the compliance practitioner.



*The New Data Protection Landscape – 26.01.16.
Kathy Jacobs (ACOI Director) and Denis Kelleher (Central Bank of Ireland).*



*Project Management Workshop – 02.02.16.
Sarah Browne (BOI) and Orla Nugent (UCD).*



*Building Blocks Series – Regulatory Priorities and Relations – 24.02.16.
Rose Marie Kennedy (Deloitte) and Keith Rothwell (State Street).*



*Financial Sanctions and the Combating of Financing Terrorism – 17.02.16.
L-R: Zia Ullah (Eversheds), Mardie Hughes (BOI), Mairead Kirwan (ACOI AML Working Group), Jeremy Round (SQA Consulting Ltd.) and James Meagher (ACOI Director).*



*How to embed an AML Compliant Culture – 08.03.16.
L-R: Peter CoWap (GRCTC), Pamela Nodwell (BlackBee Investments Ltd) and Finbarr Murphy (ACOI).*

Banking

Domestic

CENTRAL BANK OF IRELAND ISSUES STATEMENT FOLLOWING THE BANKING INQUIRY

The Central Bank of Ireland has issued a statement noting the recommendations made in the report of the Committee of Inquiry into the Banking Crisis. The Central Bank of Ireland acknowledged the report describes the failure to identify risks to financial stability but Governor Lane also pointed to the institutional reforms introduced since the banking crisis, including the Central Bank's implementation of the current assertive risk-based approach to regulation. Deputy Governor Cyril Roux said "Banking regulation and supervision today have little in common with the previous decade" pointing to significant increases in capital requirements for banks and the introduction of increased regulatory requirements. The Deputy Governor also pointed to the fact that the supervisory responsibility for the larger banks in Ireland has been transferred to the ECB, and that banking resolution powers have been transferred to the Single Resolution Board from 1 January 2016. He said "daily banking supervision is now conducted according to a detailed ECB supervisory manual, including frequent and intrusive onsite inspections".

CENTRAL BANK OF IRELAND PUBLISHES FEEDBACK STATEMENT FOLLOWING CONSULTATION ON A CENTRAL CREDIT REGISTER

The Central Bank has published a Feedback Statement on responses

to their proposed regulations to introduce a Central Credit Register (CRR), as envisaged by the Credit Reporting Act 2013. The Central Bank will now pass regulations to establish the Register which will include details on loans with asset finance houses, banks, credit unions, local authorities and money lenders. These institutions and individuals will be required to report loans of or in excess of €500 to the CRR. In addition, the CRR must be consulted by lenders considering credit applications for €2,000 or more. The CRR will be introduced on a phased basis, with the initial phase commencing on 30 September 2016 which will include banks, credit unions and finance houses. Lenders are required to have reported new and existing credit agreements (back dated to 30 September 2016) by 31 March 2017. Under the new regulations lenders will be required to check the CRR as part of its lending process from the end of December 2017. Later phases of the implementation relate to business credit information and the credit arrangements of local authorities and moneylenders.

CREDIT GUARANTEE (AMENDMENT) ACT 2016 ADOPTED

The Credit Guarantee (Amendment) Act, which allows businesses refused conventional bank credit facilities to access a state-backed guarantee, has been adopted. The Act extends the loan guarantee for these individuals from 75% to 80%, in an attempt to re-balance the risk between the State and extended service providers. Pursuant to this Act, the Government will be permitted to give counter-guarantees meaning the Strategic Banking Corporation of Ireland will be eligible to apply for matching EU guarantee facilities. There are also some changes

to the definitions under the Act, with the term 'lender' now covering additional financial product providers such as lessors, invoice discounters and other non-bank financiers and with 'loan agreements' now including non-credit products.

European

EBA publishes final Guidelines on cooperation agreements between deposit guarantee schemes
The EBA has published its final Guidelines on cooperation agreements between deposit guarantee schemes (DGS) in line with the EU's Deposit Guarantee Schemes Directive. Article 14(5) of the Directive requires EU DGSs to have written cooperation agreements in place in order to facilitate effective cooperation between each other. The final EBA Guidelines set out how and when one DGS may pay out to depositors on behalf of a DGS in another Member State. In addition, the Guidelines set out a multilateral cooperation framework agreement with objectives and minimum contents, including details in relation to the transfer of contributions from one DGS to another where a credit institution changes location, and on mutual lending between DGSs.

EBA PUBLISHES FINAL DRAFT IMPLEMENTING TECHNICAL STANDARDS ON THE MAPPING OF EXTERNAL CREDIT ASSESSMENT INSTITUTIONS' CREDIT ASSESSMENTS FOR SECURITISATION POSITIONS

As part of the Single Rulebook for banking, the EBA has published its final draft ITS which sets out how credit ratings on securitisations assigned by registered credit rating agencies can be used for the

calculation of capital requirements. The draft ITS allows for the current mapping for all ECALs to remain in place in the short term and investors are required to undertake due diligence in relation to securitisation positions. The EBA proposes to continue to assess the appropriateness of mapping for any particular ECAL and to review how securitisation ratings are mapped.

EBA OPINION CALLS FOR A FLEXIBLE APPROACH TOWARD THE IMPLEMENTATION OF THE REGULATORY REVIEW OF INTERNAL MODELS

The EBA has published an Opinion clarifying the proposed timeline for the regulatory review of the internal ratings-based approach, stating that it is to be finalised by the end of 2020 at the latest. The EBA sets out general principles as guidance for the implementation of the regulatory review. The Opinion is supported by a Report, which summarised the concerns outlined in responses to a recent EBA public consultation on this topic, including around the lack of comparability of capital requirements determined under the IRB approach across institutions. In an attempt to address these concerns, the EBA have introduced certain changes to harmonise the credit risk mitigation techniques used, around disclosure, the estimation of risk parameters and the treatment of defaulted assets and definitions, and supervisory practices around default.

EU COMMISSION RECOGNISES ADDITIONAL THIRD COUNTRIES AS HAVING EQUIVALENT CRR ARRANGEMENTS

An EU Commission Implementing Decision 2016/230 of 17 February 2016

has been adopted to update the EU's list of third countries and territories whose supervisory and regulatory arrangements are recognised as being equivalent to the corresponding supervisory and regulatory arrangements in place under the EU's Capital Requirements Regulation. The implementing decision will enter force on 9 March 2016 and lists Australia, Canada, China, Indonesia, Hong Kong, South Korea and the US as countries to which aspects of the equivalencies relate.

EU COMMISSION IMPLEMENTING REGULATION LAYING DOWN IMPLEMENTING TECHNICAL STANDARDS ON DISCLOSURE OF LEVERAGE RATIO FOR INSTITUTIONS UNDER CRR

The Commission Implementing Regulation (EU) 2016/200, which provides for Implementing Technical Standards with regard to disclosure leverage ratios for institutions, has come into force. The standards include a requirement to provide details in relation to the disclosure of leverage ratios, the breakdown of the leverage ratio total exposure measure and the amount of derecognised fiduciary items applicable to respective institutions and details on how the risk of excessive leverage is managed. The standards also set out rules for institutions who wish to change which leverage ratio they wish to disclose. Pursuant to the Regulation, institutions will now be required to disclose their reconciliation of the leverage ratio total exposure measure in their financial statements.

EBA celebrates 5th Anniversary
Andrea Enria, EBA Chairperson has given a speech on the Authority's 5th Anniversary. Ms Enria said the EBA's legacy thus far has been its capacity

to act and take responsibility by shaping coordinated, EU-wide policy responses. The challenges for the EBA going forward were identified by her as: (i) monitoring the functioning of the Single Rulebook and enhancing proportionality; (ii) completing the adjustment in banks' balance sheets; and, (iii) digital banking and consumer protection.

2015 EX-ANTE CONTRIBUTIONS TRANSFERRED TO THE SINGLE RESOLUTION FUND

Under the Bank Recovery and Resolution Directive (BRRD) national resolution funds were set up to collect banks' required contributions under the BRRD for 2015. For the Member States that are part of the Banking Union, these national resolution funds are replaced by the Single Resolution Fund (SRF) as of 2016. The SRF will be built up over the transitional period of eight years (2016-2023), and shall reach at least 1% of covered deposits by the end of 2023. It will be fully funded by the banking industry. Following the Agreement on the Transfer and Mutualisation of Contributions to the SRF, €4.3bn of 2015 ex-ante contributions was transferred to the SRF by the deadline of 31 January 2016.

SINGLE RESOLUTION BOARD (SRB) BEGINS TO COLLECT DATA FOR RESOLUTION PLANNING AND THE DETERMINATION OF MREL

The SRB, via the National Resolution Authorities (NRAs) of the Banking Union Member States, has started to collect data required for resolution planning and the determination of the minimum requirement for own funds and eligible liabilities (MREL) from all banking groups under its direct responsibility. The data request was

announced previously at the SRB's Second Industry Dialogue meeting on 12 January 2016. In an update on its website the SRB has outlined its commitment to preparing resolution plans for all major banks under its remit and in line with this; it is required to set the MREL targets for these banks in 2016. In order to achieve this, the SRB has published its Liability Data Template together with accompanying guidance. Mandatory data requests have been kept to the minimum required by the BRRD.

For further information please contact a member of the Financial Regulation team.

Funds

Domestic INVESTOR MONEY REGULATIONS/ UMBRELLA CASH ACCOUNT UPDATE

The Central Bank of Ireland (Central Bank) has responded positively to a request from industry that the operational date for the IMR should be delayed from 1 April 2016 until 1 July 2016. The Central Bank is engaged in the process required by law to effect this change including consultation with the Minister for Finance. Many investment funds (but not all) will be changing their processes to ensure that their subscription/redemption/dividend accounts operate at an umbrella level as fund assets and so

are not subject to the Investor Money Regulations (which will be effective from 1 July 2016).

European ESMA Q&A GIVES DETAIL ON THE TIMING OF DOCUMENTATION UPDATES FOR THE REMUNERATION AND DEPOSITARY REQUIREMENTS OF UCITS V

The European Securities and Markets Authority (ESMA) published a new Q&A document on the application of the UCITS Directive, as most recently revised by UCITS V. The Q&A includes the following new Q&A on the documentation updates which UCITS funds need to provide to meet the remuneration and depositary requirements of UCITS V. The new Q&A also repeals and replaces four Q&A's on UCITS that ESMA has previously issued.

UCITS V DELEGATED REGULATION ON THE OBLIGATIONS OF DEPOSITARIES

The Council of the EU published a press release reporting that the Council decided not to object to the Delegated Level 2 Regulation supplementing UCITS V on the obligations of depositaries. The regulation was previously adopted by the European Commission and will enter into force, unless the European Parliament objects.

For further information please contact a member of the Financial Regulation team.

Insurance

Domestic CBI PUBLISHES PROGRAMME OF THEMED INSPECTIONS IN INSURANCE SECTOR

On 3 February 2016, the Central Bank of Ireland (CBI) announced its 2016 programme of themed insurance inspections. Mirroring Solvency II, risk management and capital planning will be high on the agenda. For the domestic non-life sector, areas of focus will be policies, procedures and internal controls within claims management and underwriting functions. The CBI plans to increase its inspection of low and low/medium risk firms (including in relation to effectiveness of internal controls for reinsurance and outsourcing arrangements). Underpinning the programme is a theme of cultural awareness (covering board room dynamics, risk culture and conduct culture).

CBI REPORT ON CONSUMER PROTECTION – INSURANCE FOCUSES

On 2 February 2016, the CBI published its Consumer Protection Outlook Report for 2016. Notably, for insurers, the CBI identified the sale of private health insurance, structured investment products and claims handling (focusing on fairness of claim settlements, particularly for motor insurance) as key priorities for themed inspections in 2016. The CBI emphasised that changes to business models and cost cutting measures should not negatively impact consumers. It also indicated a likely increase in the frequency of proactive firm-specific inspections in the retail intermediary sector during 2016.



CBI DIRECTOR OF INSURANCE SUPERVISION SPEECH

On 24 February 2016, the CBI's Director of Insurance Supervision delivered a speech (on the activity of the Insurance Directorate) to the Insurance Ireland's Milliman CRO Forum. Key issues highlighted included (a) redesign of the CBI's engagement model, (b) development of a bespoke model low impact undertakings involving a proportionate amount of pro-active (rather than solely reactive) supervision and (c) that the focus of insurance supervision in 2016 will be on insurance risk (e.g. pricing, and reserving and embedding of risk management). Indications of focuses for the future included emphasis on culture within undertakings (including driving risk management at the senior level) and a likely thematic review of cyber risk.

UPDATES FROM CBI ON SOLVENCY II REPORTING TEMPLATES

During February, the CBI published information on proposed Regulations (currently under consultation with the Minister for Enterprise, Jobs and Innovation) which will impose a statutory obligation on (re)insurers to comply with reporting requirements for the purpose of Solvency II. New National Specific Templates (**NSTs**) have also been published which must be used by (re)insurers (a) with a High

impact PRISM rating, (b) which transact variable annuity business or (c) which have significant branches passporting into Ireland. On 10 February 2016, the CBI published technical specification documents for NSTs 3 to 7 (which apply to high impact non-life undertakings and groups).

CBI PUBLISHES LATEST SOLVENCY II MATTERS NEWSLETTER

Earlier this month, the CBI published its latest Solvency II Matters newsletter. The final edition of the newsletter will be published in March 2016. Following this, a quarterly insurance newsletter will be published in its place. Among other matters, the newsletter (a) reminds (re)insurers that the in-situ process for the Head of Actuarial role applies only where a person was in that role on/before 31 December 2015, (b) highlights the quantitative template issued (and now available on the website) to assist (re)insurers in producing/reporting the analysis required for 'Day 1' reporting, (c) states that the online reporting (ONR) test environment will be available from 30 March 2016 and (d) contains a Solvency II forward planner and checklist. The newsletter also points out that the slides presented at the Solvency II reporting workshop held on 23 February are available on the CBI website.

European

INSURANCE DISTRIBUTION DIRECTIVE PUBLISHED IN OFFICIAL JOURNAL

On 2 February 2016, the Insurance Distribution Directive ((EU) 2016/97) was published in the Official Journal of the EU. The Directive entered into force on 22 February 2016. The deadline for transposition into national law by Member States is 23 February 2018.

IMPLEMENTING REGULATION ON CALCULATION OF TECHNICAL PROVISIONS AND BASIC OWN FUNDS PUBLISHED

On 9 February 2016, a Solvency II Implementing Regulation ((EU)2016/165) was published in the Official Journal of the EU and has entered into force. It sets out implementing technical standards in relating to the calculation of technical provisions and basic own funds for reporting with reference dates from 1 January until 30 March 2016.

EIOPA PUBLISHES MONTHLY TECHNICAL INFORMATION

On 5 February 2016, European Insurance and Occupational Pensions Authority (**EIOPA**) published technical information on the relevant risk free interest rate term structures with reference to the end of January 2016. Certain data used in the calculation has been updated to include data for the year 2015.

COUNCIL OF EU – NO OBJECTION TO EQUIVALENCE DECISIONS

On 15 February 2016, the Council of the EU published a press release on the outcome of its ECOFIN (European Economic and Financial Affairs Council) meeting of 12 February. At that meeting, the decision was taken not to object to the European



Commission decisions relating to the equivalence of (a) Bermuda's supervisory regime for (re)insurers and (b) Japan's solvency regime for (re)insurers, for Solvency II purposes. The decisions will now take effect unless the European Parliament raises an objection.

EIOPA UPDATE SOLVENCY II REPORTING FORMAT WEBPAGE

On 17 February 2016, EIOPA updated its Solvency II reporting format webpage. This includes updates to its list of known issues of taxonomy 2.0.1 and its list of validations (along with the supporting syntax documentation).

EIOPA PUBLISHES 2016 WORK PROGRAM

On 16 February 2016, EIOPA published its work programme for 2016. EIOPA's defined priorities include (a) implementation of Solvency II (in particular, convergence of supervisory practices), (b) whole product life cycle-focussed consumer protection (including thematic reviews), and (d) a pro-active approach to international developments (including working to develop international capital standards). Work on developing/ finalising regulatory technical standards and guidance for the packaged retail and insurance-based investment products (PRIIPs) regulation, and sales rules under the Insurance Distribution Directive, will also be a focus.

EIOPA EU WIDE INSURANCE SECTOR STRESS TEST

On 2 February 2016, EIOPA announced that an EU insurance sector stress test will be held in 2016. National supervisors will identify and contact participants. The stress test is designed

to assess the sector's vulnerabilities to a combination of market risk adverse scenarios. Data will be collected in Summer/Autumn 2016. Results will be published in December 2016.

EIOPA CONSULTS ON GUIDELINES FOR SUPERVISOR / AUDITOR DIALOGUE

On 3 February 2016, EIOPA published a consultation on proposed guidelines for effective dialogue between insurance supervisors and statutory auditors. Based on an assessment undertaken by it in conjunction with the European Banking Authority, EIOPA notes that insurance supervisors have regular, ad-hoc contact with statutory auditors even in the absence of formalised rules. The guidelines seek to ensure a consistent, appropriate and proportionate approach facilitating relevant and efficient dialogue. Amongst other matters, they describe the proposed nature and form of information to be exchanged. Comments are invited by 28 April 2016.

EIOPA PUBLISHES LIST OF INSURANCE GROUPS IN SUPERVISORY COLLEGES

EIOPA recently published the list of identified insurance groups for which a college of supervisors is in place, as at 30 November 2015. The purpose of the list is to increase transparency and to ensure that non-EEA supervisors are aware of the existence of a college for a particular group. This list includes information on location of head office, subsidiaries and the location of significant branches of each group.

INSURANCE EUROPE RESPONDS TO CALL FOR EVIDENCE ON CAPITAL MARKETS UNION

On 1 February 2016, Insurance

Europe published its response to a call for evidence by the European Commission on its proposed Capital Markets Union (**CMU**). The CMU aims to remove barriers to investment throughout Europe. The Commission sought feedback on issues such as rules limiting economic growth and imposing unnecessary regulatory burdens. Insurance Europe set out examples of what it views as concerns in this regard, including (a) disincentives to investment such as exaggeration under Solvency II valuation of risks posed by certain asset classes, (b) risk of information overload and duplication (e.g. Solvency II, IDD and PRIIPs) and (c) difficulties posed by tight PRIIPs implementation timelines and high implementation costs.

INSURANCE EUROPE COMMENTS ON EIOPA CONSULTATION ON PRODUCT OVERSIGHT & GOVERNANCE

Insurance Europe recently published its comments on the EIOPA consultation on the proposal for guidelines on product oversight and governance arrangements. Insurance Europe urges EIOPA to consider whether guidelines are required in this area, in light of Insurance Distribution Directive delegated acts. Notably, Insurance Europe (a) views the proposed timing involved as problematic (stating that it will provide a narrow window for insurers and distributors to make adjustments following publication of the finalised guidelines in Q2 2016) and (b) expresses concern as to the potential retroactive application of the proposed guidelines (stating that they should only apply to newly designed products).

EIOPA PUBLISHES RETAIL RISK INDICATORS METHODOLOGY REPORT

On 15 February 2016, EIOPA published a Retail Risk Indicators Methodology Report (dated 19 November 2015). EIOPA's aim is to develop a methodology to identify and monitor potential risks to consumers (i.e. retail risk indicators). The indicators will complement the existing exchange of consumer protection information between EIOPA and national supervisors.

EUROPEAN COMMISSION PUBLISHES EXTRACT FROM SPEECH ON PLANS TO MANAGE RISK

On 9 February 2016, the European Commission published an extract from a speech by its Commissioner for Financial Stability, which touched on managing risk in the insurance sector. This stated that the Commission is working closely with the International Association of Insurance Supervisors on how best to manage risk and noted that the Commission is not convinced, at present, that new EU legislation is required in this area.

INSURANCE EUROPE RESPONSE – ESA CONSULTATION ON DRAFT REGULATORY TECHNICAL STANDARDS FOR PRIIPS

On 29 January 2016, Insurance Europe published its response to the European Supervisory Authorities' (ESAs) consultation on draft PRIIPS regulatory technical standards. Insurance Europe reiterated its concern regarding the neat margin of time (3 to 4 months) available to insurers to implement Key Information Document (KID) requirements. It also expressed the view that further criteria/guidelines were unnecessary

in relation to complex PRIIPS products, as EIOPA was already obliged to develop guidelines under the Insurance Distribution Directive to address such/similar products.

INSURANCE EUROPE RESPONDS TO IASB MATERIALITY PROPOSALS FOR FINANCIAL STATEMENTS

On 19 February 2016, Insurance Europe published responses to the International Accounting Standards Board's (IASB) Exposure Draft (ED/2015/8) 'IFRS Practice Statement: Application of Materiality to Financial Statements'. Insurance Europe commended the IASB for its effort to address the disclosure overload in IFRS financial reports. Other key views highlighted included (a) the importance of a common understanding of materiality amongst stakeholders and (b) that the IASB should await the finalisation of its Principles of Disclosures project before issuing the practice statement.

Investment

Firms

Domestic CENTRAL BANK OF IRELAND PUBLISHES CONSULTATION ON A CAPITAL REQUIREMENT FRAMEWORK FOR MARKET OPERATORS

The Central Bank of Ireland is consulting on a proposed new risk-based Capital Requirement Framework for Market Operators in Ireland. The proposal is that there would be a Market Operator Risk and Capital Adequacy Assessment Process made

up of both a risk governance element and a risk based assessment of what capital would be required where an institution is in recovery or wind down. Those contributing are also asked to give their opinion on the appropriateness of a capital add-on for newly authorised Market Operators proposed by the Central Bank. Views are sought prior to the Consultation deadline on 6 May 2016.

European ESMA UPDATES PUBLIC REGISTER FOR THE CLEARING OBLIGATION UNDER EMIR

In accordance with the Regulation on OTC derivatives, central counterparties and trade repositories, (EMIR), ESMA have published an updated Public Register for the clearing obligation under EMIR. The public register is maintained by ESMA and aims to inform market participants in relation to the clearing obligation. The register was updated with Category 1 clearing members, as identified by ESMA, who will be the first firms to start the central clearing of certain types of derivative contracts by 21 June 2016.

ESMA UPDATES Q&AS ON EMIR IMPLEMENTATION

ESMA has updated its Q&As ahead of the compliance deadlines set down for the first RTS on the clearing obligation which entered into force on 21 December 2015. The document contains clarifications on how the clearing obligation should apply to swaps resulting for the exercise of a 'swaption' and explains the approach on frontloading that has been adopted for the first RTS.

ESMA PUBLISHES ITS 2016 SUPERVISORY PRIORITIES FOR CREDIT RATING AGENCIES AND

TRADE REPOSITORIES

ESMA Chair Steven Maijoor has published the Authority's supervisory priorities for 2016 outlining an intention to focus on quality supervision. Priorities will be to focus on CRA governance, fees charged and information security for all supervised entities, strategy and the quality of credit ratings and the quality and access to trade repository data. ESMA at the same time published its 2015 Annual Supervisory Review outlining work achieved in these areas which included an enforcement case where a €30,000 fine was imposed investigation of the techniques applied by CRAs in validating credit rating methodologies.

ESMA PUBLISHES SUPERVISORY CONVERGENCE WORK PROGRAMME FOR 2016

ESMA has published its first supervisory convergence work programme. The Authority's priorities in this area for 2016 include (i) preparing for the implementation and supervision of MiFID2/MiFIR, (ii) finalising the supervision of OTC derivatives and (iii) supporting the application of the Capital Markets Union plan.

ESMA LAUNCHES CONSULTATION ON THE TECHNICAL IMPLEMENTATION OF THE BENCHMARKS REGULATION.

ESMA has launched a Consultation seeking stakeholder input into future proposals on draft Regulatory Technical Standards and Technical Advice to accompany the Benchmarks Regulation once it comes into force (date as yet unknown). According to ESMA, the Regulation aims to improve governance and control over the benchmark process, which



is important for the pricing of many financial instruments. Ahead of the Regulation the Authority is seeking views as to: the appropriate definition of benchmarks; the authorisation and registration of an administrator; governance and control requirements for supervised contributors; requirements for the benchmark oversight function; requirements for the benchmark input data; and what the appropriate transparency requirements regarding the benchmark methodology should be.

ESMA PUBLISHES DRAFT REGULATORY TECHNICAL STANDARDS ON SETTLEMENT DISCIPLINE FOR THE CENTRAL SECURITIES DEPOSITORY REGULATION

ESMA has published draft RTS in line with the CSDR which harmonises the authorisation and supervision of EU central securities depositories. The RTS sets out how settlement fails can be prevented via automated matching, partial settlement and a 'hold and release mechanism'. The RTS also includes a cash penalties mechanism and a buy-in process where settlement fails occur.

EU COMMISSION PUBLISHES A COMMON APPROACH FOR TRANSATLANTIC CCPs WITH THE US COMMODITY FUTURES COMMISSION

The European Commission has announced its intention to adopt an equivalence decision with respect to CFTC requirements, allowing US CCPs to provide services in the EU while complying primarily with their own local requirements. In turn, the CFTC will also permit EU CCPs to provide services in the US while complying primarily with their own local requirements, and will also streamline the registration process for EU CCPs. This agreement reflects a 2009 commitment by G20 leaders to make the use of CCPs mandatory for standardised derivatives contracts. ESMA has welcomed this announcement of a common approach and will resume its US CCP recognition process.

COMMISSIONER JONATHON HILL SPEECH ON THE EU COMMISSION'S 2016 PRIORITIES FOR AN APPROACH TO RESOLUTION FOR CCPs

In a speech at the Centre for European Policy Studies Commissioner Hill said a system is required for the resolution of CCPs. Commissioner Hill said the Commission will work alongside the G20 agenda and will table a proposal for an effective recovery and resolution regime for clearing houses towards the end of 2016.

For further information please contact a member of the Financial Regulation team.

Cross Sectoral

European FINANCIAL SERVICES OMBUDSMAN AND OFFICE OF THE PENSIONS OMBUDSMAN INTRODUCES CHANGES TO ITS COMPLAINT HANDLING PROCESSES

The Financial Services Ombudsman (FSO) has introduced a dedicated Dispute Resolution Service for complaints handling following a Strategic and Operational Review of the Bureau carried out by consulting firm BearingPoint. The review identified low levels of user satisfaction with the FSO due to the formality and complexity of the Bureau's processes. Under the new Dispute Resolution Service the FSO intends for mediation to be the preferred option in order to resolve complaints early on before investigating and adjudicating these complaints on a last resort basis. In announcing these changes Ombudsman Ger Deering clarified the FSO's intention to exercise its full adjudication powers to award compensation of up to €250,000, order rectification or request a financial service provider to change the practice complained of where conduct by the provider is considered by the FSO to be "unreasonable, unjust or oppressive".

FIRST CENTRAL BANK OF IRELAND COMMISSION MEETING MINUTES PUBLISHED

The minutes from the Central Bank of Ireland Commission meeting of 11

December 2015 have been published in line with a commitment by the Governor to do so. Meetings will be published on the Central Bank's website six-weeks after they are held. The December minutes detail the negative market reaction following the ECB's decision to extend its asset purchase programme. In addition, discussions on a central credit register and on the use of Irish in the Central Bank's role took place.

CENTRAL BANK OF IRELAND PUBLISHES UPDATED DOCUMENT EXPLAINING ITS 'PRISM' APPROACH TO SUPERVISION

The Central Bank has published an updated version of its 'PRISM Explained' document, which details the Central Bank's risk-based supervisory model in relation to financial institutions. The update includes references to the impact of Solvency II on the supervision of insurance undertakings, which includes the introduction of a separate set of Probability Risk Categories in respect of the Insurance Sector (largely mirroring the Solvency II requirements). The document outlines PRISM will cover both the Supervisory Review and Evaluation Process outlined under the Capital Requirements Directive and the Own Risk and Solvency Assessment requirements for insurance companies under the Solvency II Directive will be met through PRISM. The document also details the supervisory responsibilities of the Central Bank under the Single Supervisory Mechanism as it applies to 'Significant' and 'Less Significant' Institutions.

DEPARTMENT OF FINANCE LAUNCHES CONSULTATION ON MEMBER STATES DISCRETIONS

CONTAINED IN 4TH EU ANTI- MONEY LAUNDERING DIRECTIVE AND FUNDS TRANSFER REGULATION

The Department of Finance is seeking views in relation to the Member State discretions set out in the Directive on the Prevention of the use of the Financial System for the Purposes of Money Laundering or Terrorist Financing (4th Anti-Money Laundering Directive) and the Regulation on Information Accompanying Transfers of Funds (FTR). The Member State discretions refer to (i) exempting gambling services on proof of low risk; (ii) allowing obliged entities not to apply certain CDD measures in relation to e-money; (iii) beneficial ownership register of corporates and trusts; (iv) allowing obliged entities to mitigate risk through group structures; and (v) requiring 'Central Contact Points' to be appointed. In relation to the Funds, the consultation seeks views on the discretion to exclude certain types of payments from scope of the FTR.

IRISH EUROPEAN UNION (ONLINE DISPUTE RESOLUTION FOR CONSUMER DISPUTES) REGULATIONS 2016 PUBLISHED

The Department of Jobs, Enterprise and Innovation has published Regulations to give further effect to the 2013 EU Regulation on online dispute resolution for consumer disputes. The 2016 regulation clarifies how the offences under the rules apply to traders and alternative dispute resolution entities. Where either of these act in contravention of the EU rules relating to the transmission of complaints or the resolution of disputes, they may be liable on conviction for a Class A fine and/or to a prison term of up to 12 months.

**CENTRAL BANK OF IRELAND
PUBLISHES CONSUMER
PROTECTION OUTLOOK REPORT**

The Central Bank has published an Outlook Report which identifies risk areas for financial services customers and the Bank's consumer protection priorities going forward. In response to the identification of a lack of consumer-focussed culture within firms, the Central Bank's Director of Consumer Protection Bernard Sheridan reminded boards and senior management of their responsibilities in that regard. The priorities for the Central Bank in relation to Consumer Protection include seeking further progress on tracker mortgage examination, concluding consultations on transparency requirements for mortgage lenders, a supervisory focus on smaller retail firms and the introduction of an enhanced authorisation model for credit servicing firms, retail intermediaries and payment institutions.

**European
THE EU COMMISSION LAUNCHES
CONSULTATION ON IMPROVING
DOUBLE TAXATION DISPUTE
RESOLUTION MECHANISMS**

As part of their Action Plan for Fair and Efficient Corporate Taxation, the EU Commission has launched a public consultation seeking views on how dispute resolution for double taxation issues can be facilitated, as an alternative to the current mechanisms provided for in the bilateral tax treaties entered into by Member States. The Consultation will close on 10 May 2016 and the Commission is seeking views on: (i) the significance of the removal of double taxation for cross-border enterprises; (ii) the impact and effectiveness of dispute resolution mechanisms on EU businesses; and (iii) how these mechanisms can be improved and comments on possible solutions.

**SMSG OPINION PAPER ON
HISTORICAL DATA IN THE PRIIPS KID**

On 5 February 2016, the ESMA (European Securities and Markets

Authority) published an opinion paper by its Securities and Markets Stakeholder Group on PRIIPs. The opinion outlines the Group's concerns relating to omission of historical data from the presentation of risks and rewards in the PRIIPs KID. It views this as an disadvantage to investor protection given that such data (a) is objective and testable, (b) provides a more comprehensible guide to retail investors than forward looking data, which can depend on choices and estimations; and (c) is less susceptible to manipulation or distortion.

This bulletin first appeared in an A&L Goodbody publication on February 29th 2016. The contents of this bulletin are necessarily expressed in broad terms and limited to general information rather than detailed analyses or legal advice. Specialist professional advice should always be obtained to address legal and other issues arising in specific contexts.

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The ACOI Gala Dinner

Friday, 15th April 2016

On Friday, 15th April 2016 ACOI will host its premier networking and social event in DoubleTree by Hilton Dublin, Burlington Road, Dublin 4

We would love for you to join us to socialise and celebrate the achievements of the past year with your colleagues, peers, and members of the ACOI community. Entertainment this year is provided by Irish comedian Mr. Barry Murphy.

Tickets for the Annual Dinner are €85. Spaces are limited and are booking up fast. Those interested in booking a place can book online at www.acoi.ie.

The ACOI Charities for 2016 are **Friends of Sligo Regional Hospital** and **The Jack & Jill Children's Foundation**. Both charities will be supported with the proceeds of the Charity Raffle that will take place on the night.

We would like to thank all of our members who took the time to send us their nomination for the 2016 ACOI Charity.



2015 Feedback

"The annual dinner is always a highlight of the social calendar."

"Well done again on a great night on Thursday, very enjoyable! The entertainment was fantastic!!"

"Just a note to say thank you for organising a great night last night, very enjoyable & good to meet so many old & new faces"



Friends of Sligo Regional Hospital aims to provide medical equipment, facilities, services and patient comforts in the Hospital which would not otherwise be available from ordinary HSE funds.

The Jack & Jill Children's Foundation provides direct funding, to families of children with brain damage up to the age of 4 who suffer severe intellectual and physical developmental delay, enabling them to purchase home respite care. They also provide end of life care to all children up to the age of 4 years.

Raffle Tickets will be sold on the night for €20 and the prizes range from, 5 star Dublin Hotel accommodation and dinner, cases of fine wine and dinner vouchers. We will announce more prizes in the run up to the night, so keep an eye out on the events page on our website.





The Association of Compliance Officers in Ireland

LOOKING TO PROGRESS YOUR CAREER IN COMPLIANCE?

FREE
EVENT

OPEN TO MEMBERS
& NON-MEMBERS



Join us at our

COMPLIANCE CAREERS OPEN EVENING

on the 31st March 2016 in the
Marker Hotel from 6:00pm

To register for this free event
please log on to www.acoi.ie

Refreshments will be served at
this event

An informative, networking event featuring Leading Recruiters and ACOI Compliance Specialists who will be there on the evening to advise on personal and professional development in the current market.

We will also have a number of our Education Partners in attendance.



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