

# ICOQ

IRISH COMPLIANCE

QUARTERLY

Summer, 2015

Cover Pic: **Aidan Brady**,  
CEO Citibank Europe plc

## Rebuilding Trust in the Financial Sector

### CREDIT UNIONS

*CBI sets AML Standards*

### PRUDENTIAL

### REGULATION

*Developing a healthy  
Risk Appetite*

### PLUS

### CREDIT REPORTING ACT 2013

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*ICQ is published by:*

The Association of Compliance Officers in Ireland (ACOI),  
Fitzwilliam Hall, Fitzwilliam Place, Dublin 2. T: 01 - 669 8507.

*Production Team:* Martin Purdy, ACOI Director and Finbarr  
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*Editorial and Production:* Adworld Ventures Ltd.

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# Irish Compliance Quarterly

Welcome to the Summer edition of ICQ.

Once again, this issue contains a number of key insights, analyses and observations from different working groups within the ACOI which we hope you find interesting and informative.

This issue's cover story is all about rebuilding trust in the Irish financial services sector following the recent economic downturn and some of the controversies which engulfed the financial services sector, not just in Ireland but globally.

The ACOI has been to the forefront in promoting ethics in the Irish financial services sector and it's a subject that has loomed large in its agenda over the past few years and a review of our ethics education offering to members is currently underway, led by the Ethics and Education Committees and supported by Finbarr Murphy, the ACOI's Director of Education and Professional Development.

The importance of ethical leadership was also discussed by Aidan Brady, CEO of Citibank Europe plc, at a recent ACOI Ethical Leadership workshop in May,

during which he stressed that ethics and culture need to be communicated from the board of directors, a view shared by Colm Kincaid of the Central Bank of Ireland who was a speaker at one of the ACOI's CPD events in March. Needless to say, this is a topic that we will be revisiting again in the pages of ICQ.

The role that risk-taking plays in the financial services sector is also a topic that is explored by the ACOI's Prudential Regulation and Governance Group. While risk-taking is an inherent and widely accepted feature for many businesses as they strive to grow, there appears to be less of a consensus in the financial services sector about how it should be appropriately assessed and developed by the board of directors.

Also in this issue of ICQ, the Arrears Working Group of the ACOI has also provided some insight into the changes brought about by the enactment of the Credit Reporting Act 2013 and in particular the establishment of the Central Credit Register (CCR). When fully operational,



this will have a significant impact on how lenders deal with credit applications in the future.

In addition, the Credit Union Working Group sheds some light on the recent observations made by the Central Bank of Ireland about the Credit Union sector, particularly in relation to Anti-Money Laundering, Countering the Financing of Terrorism (CFT) and Financial Sanctions (FS).

Finally, we have our usual

features including the Regulatory Tracker which is compiled by A&L Goodbody plus we have a round-up of some of the ACOI's recent events, including the Annual Dinner which took place recently.

Once again, we hope you enjoy this issue and, as always, we would encourage any feedback or suggestions you might have by contacting us at [info@acoi.ie](mailto:info@acoi.ie)

**Martin Purdy**  
ACOI Director





**The financial services industry has come through a difficult few years and companies operating in the sector need to rebuild trust with customers and the wider public through ethical leadership.**

**A**s global financial institutions are still recovering from the turmoil and multiple scandals over the past number of years it is recognised that the industry needs to rebuild substantial trust with the public and customers alike. This has not been an easy task as each week seems to highlight a new consumer scandal or insight into poor behaviours or judgements of those managing and running the sector. At the very least these behaviours were examples of poor judgement and decision making and at worst downright fraudulent.

The rebuilding of trust to a level

previously enjoyed by the Financial Services sector will take some considerable effort and time. This

is a problem that is faced in other businesses and society but acceptance of the existence of the problem in





the Financial Services sector is crucial where trust might be considered the key offering – a promise to repay or fund for unforeseen events.

In Ireland the ACOI has been at the forefront of promoting ethics in the Irish financial services industry and it is a topic that has remained high on the Association's agenda over the years. With a dedicated Ethics Committee the ACOI has been able to advance the thought leadership, training and education that is required in the challenge to rebuilding trust with all stakeholders.

When the Ethics Committee set out its agenda for 2015 we were keen to advance three areas for the benefit of the members. The first of these was to engage more with the Central Bank of Ireland. Secondly, the ongoing provision of a hands-on dilemma management workshop, to introduce the concept of ethical frameworks, also looms large on this agenda. Finally, a review of our formal ethics education programme was also deemed to be important by the Committee.

Our formal ethics education review is now underway with the Ethics and



*Aidan Brady, CEO Citi Europe plc, Antoinette Lee and Alan McGilton, ACOI Ethics Committee.*

Education committees supported by Finbarr Murphy, our Director of EPDS.

On the other two objectives we were delighted that Colm Kincaid, Head of Consumer Protection, Central Bank of Ireland attended our committee meeting in January of this year followed by his address at our March 2015 CPD event (<http://bit.ly/110XiNr>)

The address dealt with a number of important areas including the Central

Bank's 5Cs Consumer Protection Framework. Colm highlighted the need for Compliance Officers "to go beyond tick-box compliance to ensure that regulated financial service providers play their proper role in delivering benefits to those who need their services." He also offered the view that by the ACOI raising the profile of ethics discussions, it not only highlighted what the Central Bank require of firms but also recognised the ethical challenge that compliance officers can face in their firms. He concluded by setting a challenge for the industry to support the compliance function properly and encouraged the ACOI and its members to lead the thinking in the field of ethics for their firms and the wider industry.

In response to this challenge and being aware of a mandatory global ethical leadership training programme being delivered by Citi, we invited the global bank to participate in the



*Delegates at the Ethical Leadership Workshop.*

delivery of the ACOI's researched approach to the use of ethical frameworks when dealing with ethical dilemmas.

In May 2015 at a well-attended ACOI Ethical Leadership workshop in the Radisson Blu Hotel, Golden Lane in Dublin, we were fortunate to hear the thoughts of Aidan Brady, CEO Citibank Europe plc (CEp) prior to engaging in a practical exercise excellently facilitated by Cecilia Ronan, Executive Director, CEp.

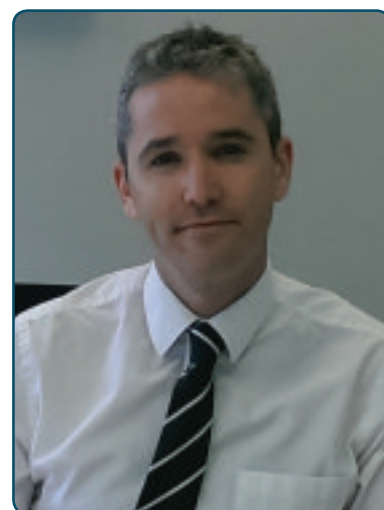
In Aidan's speech he stressed that ethics and culture needs to be communicated from the board, echoing views expressed in Colm Kincaid's address that the core responsibility for internalising the letter and spirit of ethics lies with the Board and chief executive. To this end the Global Citi CEO set ethical leadership as one of his top two priorities. Mandatory training in ethical decision making, devised in-house with the assistance of Dr David Miller of Princeton University, is being rolled out and at the time of this workshop in May over 40,000 Citi employees had been through the programme.



Cecilia Ronan, Executive Director, Citi Europe plc.

He also spoke about ethics as an art and pointed to the use of frameworks as a tool to look at issues in a logical way. He pointed out the importance of understanding the laws, policies, rules and regulations but also checking the issues against personal values and the organisation's values - getting a balanced view.

The overall aim of the session that followed was to introduce an ethical framework that could be used to approach real life dilemmas or scenarios, and give practical support to assist compliance officers in the



Colm Kincaid, Central Bank of Ireland

key role of supporting and guiding senior management and boards to ensure that an ethical culture is deeply rooted and sustained within their organisation. The framework, developed by the ACOI Ethics Committee, proposes three steps when considering the issues within dilemmas. Cecilia Ronan, in delivering the workshop, commented that although the framework was not the same as Citi's the principles involved were. The key to working through any dilemma is to take the necessary time to reflect, understand the facts and



**NB : Ethical Framework Golden Rule**

**Keep the consumer interests at the heart of any stakeholder analysis and decision making**

Step	Example of Questions at each step
<p><b>Step 1</b> <i>Establish the facts, stakeholders, rules</i></p>	<p>Typical questions will include</p> <p><b>Facts</b> Have I all the facts? What independent evidence is there to support the dilemma?</p> <p><b>Stakeholders</b> Who had an influence in the dilemma emerging? Who will be impacted by the outcome? What conflicts of interest, if any, exist? Are some concerns more important than others? Why?</p> <p><b>Rules</b> Have laws, regulations or codes of conduct been breached? Are there any reporting obligations? Are protections available? Is there another control function or external adviser that can be consulted in confidence?</p>
<p><b>Step 2</b> <i>Identify the Trust/Ethical Issues</i></p>	<p>Set out the ethical dilemma/wrongdoing/trust issues in clear terms.</p>
<p><b>Step 3</b> <i>Decision and Implementation</i></p>	<p><b>Decision</b> Who will benefit from, be negatively impacted by the outcome of the decision, and how? Are some concerns more important than others? Set out the decision in clear terms. Ask yourself would you be comfortable explaining my decision to someone you respect or a television audience?</p> <p><b>Implementation</b> How will the decision be communicated and implemented? How will the support/“tone from the top” be evidenced? What policies or procedures need to change to avoid a repetition?</p>

different perspectives, think through the issues and where possible discuss the issue with trusted colleagues. During the workshop it was noted that on reviewing the dilemma that was used for the workshop the initial perception that the issues were very clear was modified by additional insights gained by going through the steps of the framework and discussing the issues with others.

The ethical framework that was introduced during the workshop is a work in progress and the Ethics Committee is committed to developing it further. Detailed analysis is the critical part of the approach to ethical dilemmas and the reason why the framework is split into sections. It forces one to take in all the facts and to engage in

meaningful thinking and discussion to facilitate effective decision making. The Ethics Committee would like to be in a position to publish it for the members’ benefit. In the meantime we would invite comments from members on the framework to help with our review. The three step framework that was introduced is outlined in Table 1.

The ACOI Ethics Committee will continue to support and encourage compliance officers in their approach to ethical scenarios in the workplace. As evidenced by the thoughts shared in Colm Kincaid’s address there has never been a more important or opportune time for compliance officers to engage with their senior management and boards to anticipate the risk of unethical behaviour, take

concrete steps to deal with such behaviours and demonstrate that every effort is being made to deliver ethical conduct within firms.

The Ethics Committee of the ACOI would greatly value further contribution of the members in this area and your thoughts and observations would be very welcome. Please forward any thoughts or ideas connected to the ethical agenda to [info@acoi.ie](mailto:info@acoi.ie) **ICQ**

***This article was written by the ACOI’s Ethics Committee which is made up of Alan McGilton (Chair), Sean Wade, Mary Noonan, Antoinette Lee, Peter Cowap, Nigel Ennis and Ian Mullins. To see photographs from our Ethical Leadership Workshop please go to page 25.***







# AML Compliance in the Credit Union Sector

The Central Bank of Ireland has issued a number of observations about credit unions in relation to Anti-Money Laundering (AML) compliance in the sector and issues a roadmap which, if followed, will lead towards a position of robust compliance, according to the ACOI's Credit Union Working Group.

The CBI recently published details of its observations and expectations in relation to Anti-Money Laundering (AML), Countering the Financing of Terrorism (CFT) and Financial Sanctions (FS) Compliance by credit unions. The report is expected to serve as a guide to credit unions when assessing their AML/CFT/FS frameworks but it also assists the CBI in delivering against the Financial Action Task Force (FATF) recommendation which requires competent authorities to provide feedback to

financial institutions. The ability to demonstrate compliance with FATF recommendations has become a key focus for all stakeholders in advance of the upcoming 4th round mutual evaluation review.

Whilst acknowledging that examples of good practice were observed and that the community ethos of the sector helps credit unions to know their members, a number of issues were identified which included:

- A certain degree of tardiness in meeting the requirements of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;

- Lack of oversight of AML/CFT issues at Board level;
- MLRO's not receiving adequate training or support, with many citing that they were reluctant in assuming the role in the first place;
- Inadequate risk assessments of the credit union's business;
- Use of generic policies and procedures that hadn't been adapted to the needs and risks of the particular credit union;
- Failure to adhere to stated policies and procedures;
- Gaps in the training provided to board members, staff and volunteers;

- Inadequate policies, procedures and processes in relation to customer due diligence (CDD) for new and existing members;
- Engaging in non-standard practices without Board oversight and approval;
- Lack of systems and processes in respect of politically exposed persons;
- Inadequate CDD for clubs, society, company and minor accounts; and
- Failings in relation to the identification and escalation of suspicious transactions.

The CBI did not comment on their findings in respect of FS but reiterated that credit unions, "must ensure that they are in compliance with all current FS Regulations". They did set

out their expectations by suggesting that credit unions should devise and implement policies, procedures, systems and controls to facilitate adherence to FS obligations including the implementation of screening mechanisms. There is no suggestion in the report that the money laundering and terrorist financing threats and vulnerabilities in the sector are any greater than in other financial services sectors. On the contrary, the general perception is that the credit union sector is comparatively low risk in this respect. The other silver lining for the sector is that the report does provide a roadmap which if followed should lead towards a position of robust compliance. The CBI has made it

clear that it expects all credit unions to carefully consider the issues raised in the report and to use it to inform the future development of their AML/CFT/FS frameworks which may involve an element of remediation where necessary. The CBI will look for concrete evidence that this is being done by way of an annual submission from credit unions confirming that appropriate measures have been put in place to address the expectations outlined in the report. The first such confirmation will be due for submission to the CBI by 31 March 2017. **ICQ**

A copy of the Central Bank of Ireland's report can be downloaded at <http://goo.gl/yLvSPe>



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# Credit Changes Ahead



How banks deal with credit applications from both personal and business customers is set for an overhaul following the enactment of the Credit Reporting Act 2013 which will be operational by the end of 2015, according to the ACOI's Arrears Working Group.

The Credit Reporting Act, 2013 (the Act) came into force on January 27th 2014 and provides for the establishment of a mandatory credit reporting and credit checking system. The new system, which is known as the Central Credit Register (CCR) is a database of credit applications and credit agreements which will help credit providers to make informed lending decisions and protect borrowers from excessive debt.

The Act applies to two entities, the Credit Information Provider (CIP) and the Credit Information Subject (CIS).

The first of these, the Credit Information Provider, includes regulated financial service providers, NAMA, local authorities and any entities not within these entities who provides credit. For its part the Credit Information Subject includes the person who has made an application for credit, the person who has made a credit agreement for the provision of credit to the person (broker) and a guarantor.

The CCR is similar to other credit referencing agencies in that it will provide information to lenders to enable them to assess the ability of borrowers to repay monies loaned

but credit providers are now subject to two additional obligations: they must supply extensive information about customers (personal and non-personal) to the CCR and they must carry out a CCR search before approving a credit application greater than €2,000.

Unlike the Irish Credit Bureau which is owned by the major Irish banks, credit card providers and credit unions, the CCR will be regulated, maintained and operated by the Central Bank of Ireland. An Italian company, CRIF, was chosen by the Central Bank to operate the new CCR on its behalf.



## WHAT INFORMATION MUST BE PROVIDED TO THE CENTRAL BANK?

The level of information required to be provided to the Central Bank is broad (full details of the proposed information to be provided can be found in the Central Bank Consultation Paper (CP93) published on April 17th 2015 and includes:

- Personal details (where CIS is an individual) e.g. name, mother's birth surname, PPS number, employment status, date and place of birth etc.
- Trading details (individual carrying on activities other than as an employee) e.g. trading name, CRO registration number etc.
- Information on entity (where the CIS is not an individual) e.g. nature of the entity, CRO registration number, registered office etc.
- Credit information e.g. nature and term of credit applied for, currency, amount etc.

The information stored on CCR can be categorised into five key types;

1. Personal details.
2. Entity details.
3. Credit information: including credit information which relates to a credit application, credit agreement made by a CIS and a credit agreement for which the CIS is a guarantor.
4. Links: details which link a CIS who has made a credit agreement for the provision of credit to any other CIS who has given a guarantee/ indemnity in connection with a credit agreement or also has liabilities under the credit agreement.
5. Credit scores: this is produced by the Central Bank about a CIS.

## SUPPLYING INFORMATION TO THE CENTRAL BANK

The information must be supplied to the Central Bank before any credit is

approved where the amount of credit applied for is greater than €500 and during the life of the credit agreement. Substantive changes to the credit agreement must also be notified to the Central Bank.

Providing information during the life of the credit agreement will enable the CCR to display up-to-date information which will highlight any defaults under any credit arrangement and not just the day the credit was granted.

Personal information will be stored on the CCR for five years from the date any liability under the credit agreement is discharged. Credit information will also be stored for five years from the date it was entered e.g. payments history or for five years from the date any liability under the credit agreement is discharged.

## DUTIES OF THE CREDIT PROVIDER

A credit provider has several duties under the Act. They have a duty to provide information once the amount of credit sought by the CIS is greater than €500 and they also have a duty to access information about the CIS once the amount of credit sought by the CIS is greater than €2,000, although lenders may apply to check the CCR in other specified situations if the amount sought is less than €2,000.

In addition, credit providers must take reasonable steps to verify that the information obtained from the CIS is accurate and complete. They must also inform a CIS if a credit provider reasonably believes that a CIS has been impersonated while they must also ensure that a CIS is made aware of their rights and duties under the Credit Reporting Act. In addition

they must include on the credit application forms a notice stating that the Act requires the credit provider to provide information to the Central Bank.

## WHAT CAN THE INFORMATION ON THE CCR BE USED FOR?

It is proposed that the information on the register can only be used by a credit provider for the following specified purposes:

- Verifying information provided by the CIS in connection with a credit application.
- Evaluating the risk of lending to a CIS, accepting a guarantee from someone or accepting changes to the nature of term of a credit agreement or guarantee.
- Monitoring defaults in obligations under credit agreements or guarantees.
- Evaluating whether to make any debt proposals or arrangements where a request for such an evaluation has been made by the CIS and/or
- Analysing the nature of the credit provider's portfolio of credit agreements.

A CIS has a duty to provide information about foreign credit if the outstanding aggregate debt is in excess of €5,000. The credit provider is then obliged to provide this information to the Central Bank.

Information can be changed by either the credit provider or the CIS on the basis that the information is inaccurate, incomplete or not up to date.

The CCR is intended to be self-financing and the Act proposes that the Central Bank may make a regulation to set a levy that credit providers will have to pay to



meet the “expenses properly incurred by the Central Bank in the performance of its functions under the legislation”. We can therefore expect regulations will be issued about how much the levy will be, how it will be paid and the penalties for non-payment.

#### **WHEN WILL THE CCR BE UP AND RUNNING?**

The Central Bank is considering implementing the CCR over a number of distinct phases. The initial phase focusing on lending to individuals is expected to be operational by mid-2016. A subsequent phase focusing on lending to other entities with a separate legal personality – e.g. companies – is expected to be operational by the end of 2017. It has not yet been decided when credit providers must begin providing information to the Central Bank or what format/structure this exchange of information will take but the Central Bank has indicated that, at this point, it is expected that data will

be received and processed in the CCR from mid-2016 onwards.

The Irish Credit Bureau continues to operate as usual. It is unclear whether it will continue to operate after the introduction of the CCR as a previous consultation document (public consultation document relating to Credit Reporting Bill - 2012) stated that “for clarity, the CCR operator shall not be authorised to supply data to any other Credit Reference Agency operating in the State” suggesting that information it obtains in relation to a CIS may not be shared with the ICB or any other credit reference agency.

#### **CAN CREDIT PROVIDERS HAVE THEIR SAY?**

On April 17th 2015 the Central Bank published a consultation paper (CP93) entitled ‘Central Credit Register’. The consultation seeks views on a number of items which the Central Bank has some discretion on when CCR regulations are being drafted and

include the following;

- Reporting by lenders to the CCR.
- Reporting of borrowers to the CCR.
- Collection of credit application data.
- Collection of data on guarantors.
- Extent of historic data to be provided to the CCR.
- First point of reporting of credit agreements to the CCR.
- Obtaining single borrower view – identifying the CIS.
- Collection and reporting of foreign credit data.
- Levies/fees/charges.

The closing date for submissions was June 12th. The Central Bank is also consulting with the Data Protection Commissioner in relation to its data protection obligations throughout the design and execution process and the on-going operation of the CCR. Following completion of the consultation process, the CBI expects to have initial draft regulations prepared by mid-2015 and is targeting that the

# Developing a Good Risk Appetite

Many in the financial services industry would agree that risk-taking in pursuit of growth potential is an inherent feature of doing business but how this may be appropriately assessed and developed by the board of directors may generate less of a consensus.

A fundamental consideration to any firm's business strategy formulation is the risk versus return trade-off. Companies are in business to create value by earning a return on investment for its shareholders. To earn a return, the business must take risks. As referenced in the Central Bank of Ireland's ("CBI's") 2014 discussion paper on Risk Appetite, this risk versus return trade-off means that the strategic goals of an organisation cannot be achieved without taking some risk.

Many in the financial services industry would agree that risk-taking in pursuit of growth potential is an inherent feature of doing business but how this may be appropriately assessed and developed by the Board of Directors may generate less of a consensus.

When the dust settled on the financial crisis and attention turned to its root cause, a lot of commentators pointed to failings and deficiencies with respect to how organisations conducted their risk management

programmes. The question which was posed by many "Was it bad luck or bad planning?" The CBI largely influenced by the Financial Stability Board ("FSB") is prompting organisations to consider the benefits of embedding a risk appetite framework and statement in response to lessons learned.

## DEFINING RISK APPETITE

The term risk appetite has been used in financial services parlance for a number of years albeit no set definition of this term appears to exist. While



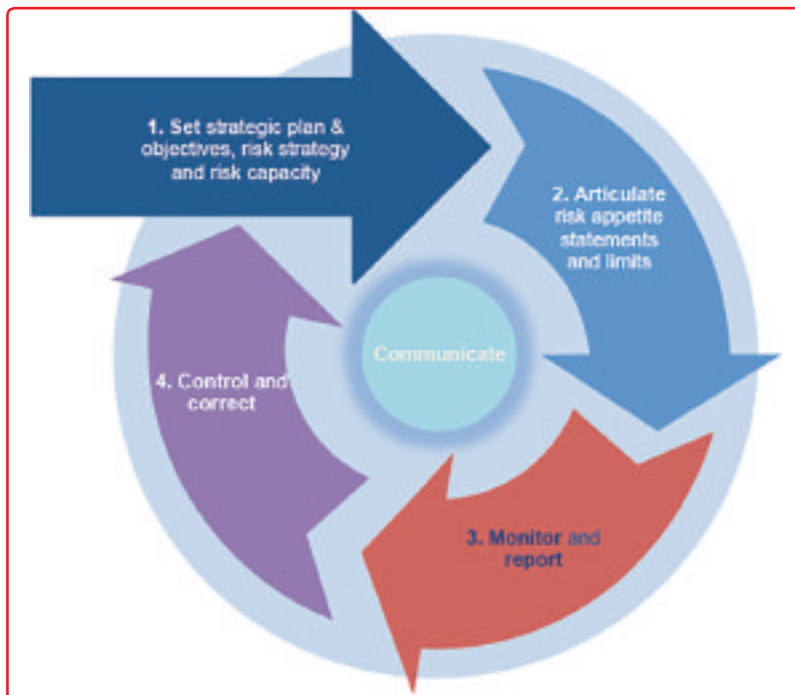


the CBI Corporate Governance Code for Credit Institutions and Insurance Undertakings requires the setting of a risk appetite, institutions are free to select and apply their own definition of risk appetite as no definition is prescribed within the Code itself.

Despite the CBI having no prescribed requirements for a risk appetite, as part of their recent discussion paper they have encouraged dialogue with respect to this mode of risk assessment across the financial services industry following its publication.

The FSB's definition of risk appetite was largely supported by the Central Bank as being suitable to most firms, the definition noted in its discussion paper as being "The aggregate level and types of an organisation is willing to assume within its risk capacity to achieve its strategic objectives and business plan". In short, the risks an organisation are willing to accept in pursuit of its strategic goals.

Figure 1



**ALIGNMENT WITH STRATEGY**

As stated in the 2014 CBI Discussion Paper on Risk Appetite, its important to link risk appetite with organisational strategy. An organisation should view a RiskAppetite Statement (RAS) as a positive and dynamic document. Indeed, it is said that knowledge is power and it would appear that this rationale underpins one of the key benefits of implementing a RAS. The underlying principle of risk appetite is one that is focused on aligning behaviour with strategy and expectations, and determining an organisation's risk appetite should not be created in isolation focusing on defining a tight set of tolerances and numeric limits rather it should be an integrated part of the business strategy design and execution.

**WHAT DOES GOOD LOOK LIKE?**

A "good" risk appetite framework is buoyed by sufficient and appropriate governance, embedded within processes, policies, procedures systems, internal controls and underpinned by a strong risk management culture supported by each of the three lines of defence. This framework will support an organisation to take calculated risks by understanding its risk profile, the key drivers of their risks and to amend their business strategy accordingly. Figure 1 summarises the core to the



development of a “good” risk appetite framework.

Developing a risk appetite framework requires director input and understanding, driven by both top down Board leadership and bottom up management involvement. Both the RAS and the business strategy are inextricably linked and it would appear that when operating correctly one should inform the other.

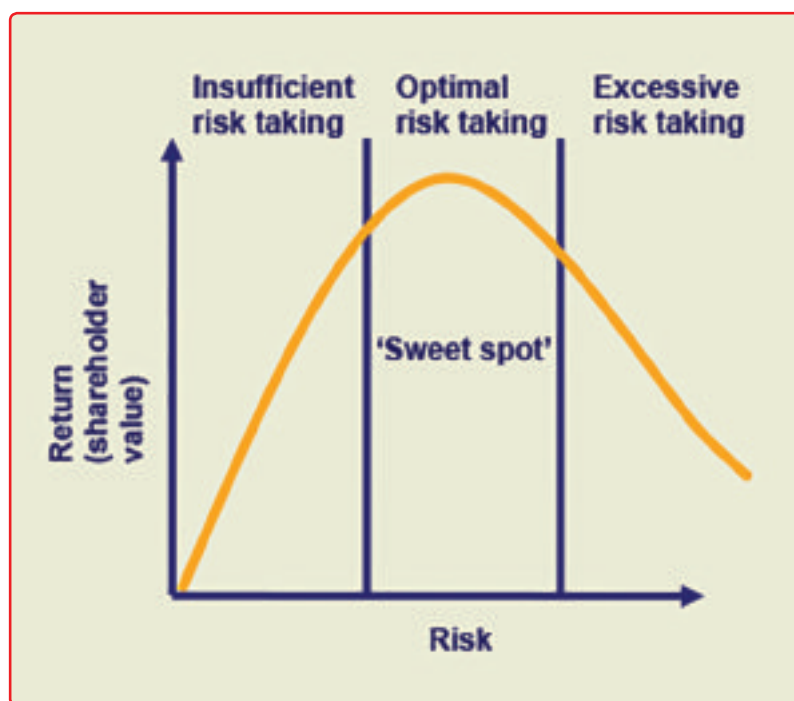
Embedding the RAS and the risk appetite framework within an organisation may serve a dual purpose of measuring risks whilst supporting the business to obtain its overall strategy and performance goals in a more structured and comprehensive fashion.

### RISK CAPACITY

For an organisation to complete a RAS, the Board of directors will need to consider the organisations capacity for risk. The CBI in the 2014 Discussion Paper expressed risk capacity as the maximum amount of risk which an organisation is technically able to assume before breaching one or more of its capital base, liquidity, and borrowing capacity, reputational and regulatory constraints.

The CBI acknowledges in their discussion paper that “Exposure to risk is an inevitable part of doing business” and “What differentiates a successful business from one that is not is the ability to take on calculated risks in order to realise strategic goals”.

There is a range of ‘optimal risk’ taking which supports maximum return that is often referred to as the “Sweet Spot”. Top quartile entities are focused on



operating in the Sweet Spot.

Risk capacity it would seem may be understood as the hard limit or “worst case scenario”. The breach of such a limit may result in the failure of the organisation.

Sound practice may entail a buffer between an organisation’s risk appetite and its risk capacity. This form of analysis may inform the Board and senior management and most importantly be used as a determinant as to an organisation’s desirable, undesirable and unavoidable risks.

### MOVING FORWARD

What a “good” risk appetite looks like remains unknown. Motivated to encourage organisations to consider their risks as they apply to their business as opposed to conducting a mere “tick the box” exercise, the CBI has not sought to recommend or prescribe a one size fits all model. The feedback thus far is that there is widespread agreement as to the benefits of a RAS and framework

and so far a non-prescriptive and flexible approach has been well received.

Given the dialogue prompted by this paper and the requirements set out in the Corporate Governance Code, it is likely that the development of a RAS will become a common feature of risk management programs across the entire financial services industry spectrum.

Identifying, measuring and understanding the key drivers of a risk are crucial in developing a risk appetite but as explained the intention is not to limit risk-taking but to ensure in the pursuit of goals any risk-taking decision is informed such that the Board and senior management of an organisation are empowered with the knowledge to take on calculated risks and take advantage of opportunities presented.

*This article was written by the ACOI Prudential Regulation and Governance Working Group. ICQ*

# Education Update

**ACOI continues to provide a range of educational and professional development offerings for its growing membership base and 2015 looks set to be a very busy year for the Association, writes Finbarr Murphy.**

**M**embership of the Association continues to rise from 2,616 members in December 2014 to 2,779 in April 2015. There has been a significant increase in members taking one of our educational programmes and we thank you for the support and welcome your feedback. Attendance at CPD and other events now regularly exceeds 100 people per event. ACOI continues to engage with the Central Bank to support our members. These indicators all point to a vibrant compliance community created by you the members acknowledging the role the ACOI plays and your own responsibility in the continued professionalization of the compliance field.

## EDUCATION PROGRAMMES

The ACOI and its education partners continue to actively promote all our education programmes. As members of the ACOI you may be considering to study or know of someone that would like to study compliance. Performing due diligence is a crucial step in your job and it should also be crucial in selecting the proper programme for you. The ACOI provides offerings that will support you at all stages in your career/education development in the field of compliance from providing core training/education through our PDC programme bringing students all the way through to advanced and specialist knowledge in our level nine programmes and keeping your knowledge relevant and up to date through our extensive CPD offerings. I urge you to visit our website [www.acoi.ie/education/](http://www.acoi.ie/education/) to review the various programmes on offer.

## PROFESSIONAL DIPLOMA IN COMPLIANCE

After the May 2015 exam sitting there will be over 1,100 LCOI designates. Registration is now closed for the September 2015 exam sitting. Applications will be sought for the 2015/16 academic year from mid-August. This

benchmark qualification and the only university accredited qualification in compliance remains extremely popular with students entering the compliance space, practitioners refreshing their knowledge and/or seeking a formal qualification in the discipline.

## MASTERS PROGRAMMES

Both the MA in Ethics (Corporate Responsibility) and the MSc in Compliance have two cohorts running concurrently, first years and second years. The first student intake from both programmes will graduate in October 2015. They will be the first students to be invited to become Fellows of the Compliance Officers in Ireland (FCOI) designates. We are now seeking applications for the September 2015 intake on both programmes. Flexibility is an integral component of both programme designs, whereby exit awards are available to achieve the masters in an incremental manner. This is especially the case for the MA in Ethics (Corporate Responsibility). Students can exit the MA at different stages and receive an award. Those who successfully

***"Membership of the Association continues to rise from 2,616 members in December 2014 to 2,779 in April 2015."***





complete 60 of the 90 credits of the taught modules of the MA are awarded a Graduate Diploma in Ethics (Corporate Responsibility) upon exit. A Graduate Certificate in Ethics (Corporate Responsibility) is awarded after successfully completing 30 credits of taught modules. Students of the Certificate and Diploma can resume their studies to complete the MA when it suits them.

#### **PROFESSIONAL CERTIFICATE IN DATA PROTECTION AND PROFESSIONAL CERTIFICATE IN FINANCIAL CRIME PREVENTION**

Applications will be accepted from October 2015 for the intake which will commence in February 2016. I would recommend that interested parties should apply as early as possible for admission consideration to avoid disappointment. Demand always exceeds the number of places available.

#### **PROFESSIONAL DEVELOPMENT**

The second quarter of 2015 was another busy one in terms of our events schedule with 11 events offered to members. The Building Blocks Workshop series continued to be popular with people new to the compliance profession, those newly qualified from the PDC programme and those who are looking to move into the area of compliance as a career.

The credit union sector is experiencing unprecedented

change. New risk based approaches appropriate to the business model adopted are now required. This is in addition to the restructuring of the sector, for example, the consolidation of smaller credit unions. The Central Bank has identified the need for strong leadership and professionalization of the volunteers and staff in credit unions. Here in the ACOI we have seen an increase in members from the credit union sector. The reconstituted Credit Union Working Group are now looking at providing specific education and CPD offerings to assist the sector in this period of change.

The ACOI in conjunction with a group of experts in the AML/CTF space will be offering a seminar aimed at experienced compliance practitioners in quarter four 2015. An announcement will follow shortly. Places are limited so again I would recommend that interested parties should apply as early as possible to avoid disappointment – watch this space for more details.

Finally, I look forward to meeting as many of you throughout the year at our various events. I can be contacted any time to discuss any constructive feedback you may have about the ACOI's education offerings or events.

***Finbarr Murphy is the ACOI's Director of Education and Professional Development. ICQ***



# ACOI Education and CPD Events

**Building Blocks for Effective Compliance Workshop – Risk-Assessment, April 7th**  
 (l-r) Joyce Byron, ACOI PDS Committee, Brian McGrath, Bank of Ireland and Nathalie Courtney, Bridge Consulting.



**Payment Services – Legal and Regulatory Developments, April 24th**  
 (l-r) Patrick Collins, Eversheds, Martin Purdy, ACOI Director and Norman Fitzgerald, Eversheds.



**Are we there yet? The Arrears Landscape 2015, April 29th**  
 Professor Brian O’Kelly, Mary-Elizabeth O’Donoghue, Central Bank of Ireland and Ian Kelly, Chair of the ACOI Arrears Working Group.



**Consumer Protection and Conduct Risk, May 7th**  
 (l-r) Orla O’Connor, Chair of the ACOI Consumer Protection and Conduct Risk Working Group, Jonathan Herbst and Charlotte Henry, Norton Rose Fullbright and Martin Purdy, ACOI Director.



**Consumer Protection and Conduct Risk, May 7th**  
 Jonathan Herbst, Norton Rose Fullbright.



**MiFID 2: Understanding the New Conduct of Business Rules, May 12th**  
 (l-r) Finbarr Murphy, ACOI Director of Education & Professional Development and Joe Beashe, Matheson.





# ACOI Annual Dinner

250 guests were in attendance for the ACOI's Annual Dinner which was held in the Conrad Hotel on April 16th. The highlight of the ACOI's social calendar, this year's event was a resounding success with comedian, impressionist and actor Mario Rosenstock providing the entertainment on the night. €5,700 was generously raised on the night for the benefit of our two chosen charities, Irish Cancer Society and Epilepsy Care Foundation.



Noeleen Ruddy.



Mario Rosenstock as Louis Walsh.



Caroline Hollick-Ward, Mario Rosenstock, Laura Tobin and Finbarr Murphy.



Róisín Smith and Philip Brennan.



Sinéad Ovendon, Ciara O'Gready, Annemarie O'Brien and Clare-Ann McDermot.





Niall Gallagher and John McCormack.



Martin Purdy.



Danny Duggan and John Cassidy.



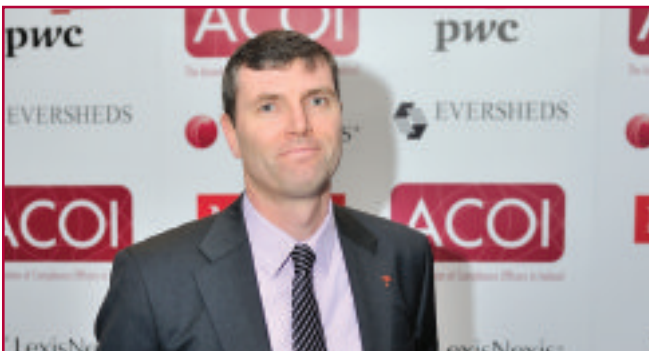
Liam Kilmartin and Alan McGilton.



Brendan Kennedy and Tom Dunphy.



Pat O'Sullivan and Gearoid Glley.



Nigel Ennis.



Kevin McHugh.



John McCormack.



Sarah Quinlan and Breda O'Connor.



Philip Brennan and Mario Rosenstock.



Derville Rowland.



Antoinette Lee.



Noel Moynihan and Valerie BOWENS.



Brian Geraghty.



AIB.



VHI Group.



Kevin Thompson.



Barry Lynch and Roly Ginnetty.





Marion Kelly, Yvonne McBain and Jane Conroy.



Judy Gardner, Niamh Duddy and Siobhán Hyland.



Sinéad Walsh and Caroline Hollick-Ward.



Patrick Healy and Aine Kingston.



Anna Danicka and Ciarán O'Connell.



Aoife O'Reilly and Simon Toland.



Louise Ryan and Brian McMahon.



Bernadette Sheldrick and Mary Hickey.



Peter Gray and Francis Coll.



CityLearning.





*Paul Smith and Martin Brennan.*



*Paul Jacobs and Kathy Jacobs.*



*Noeleen Ruddy and Ian McNamee.*



*Niamh Gaughan and Seán Fitzpartick.*



*Rose Clear, Sylvia Cronin, Aisling Clarke and Laura Tobin.*



*Niamh NicDhonncha, Jessica Kilkenny Roddy, Suzanne Feeny and Donal Whelan.*



*Anne Keys and Deirdre O'Donoghue*



*Fiona Walsh, Eoin McManus, Colm Dawson and Lorna Daly*



*Sarah McGrath and Lynda Barnes.*



*Alan McGilton, Clárán McGettrick and Mick Stewart.*





*Eimear Walsh and Sara Goulding, Brightwater.*



*Emer Keating, Elaine Staveley and Aisling Carvill.*



*Rosemarie Tormey.*



*Maura and John McCormack.*



*Derville Rowland and Brendan Nagle.*



*Garvan O'Neill, Roly Ginnetty, Liam Kilmartin and Tom Dunphy.*

Ethical Leadership Workshop 13th May 2015



Aidan Brady, CEO Citi Europe plc..



Alan McGilton, Chair of ACOI Ethics Committee.



Breandan Bonar, Merrill Lynch



The Panel: Aidan Brady, Alan McGilton and Cecilia Ronan



Clive Kelly, Partner Re



Peter Cowap, UCC.



Declan Darcy (BNP) and Dorothea Dowling (EDSS Ltd.).



Cristóir MacBraithigh (ESCCU) and Domenico Ieria (San Paolo Intesa Life Ltd.).



**ON THE DOMESTIC FRONT:**

Government strengthens framework to support mortgage holders in arrears, Central Bank and Irish Stock Exchange publish responses to EC's green paper on building a Capital Markets Union, Central Bank publishes Annual Report for 2014, and Central Bank publishes report on AML/CFT compliance in Credit Unions.

**ON THE INTERNATIONAL FRONT:**

EBA issues guidance on the implementation of resolution tools, ESMA publishes final guidelines clarifying the definition of commodity derivatives under MiFID, ESMA publishes its responses to green paper on Capital Markets Union, EBA publishes its final guidelines on triggers for the use of early intervention measures, EC adopts its "Better Regulation Agenda".

## Banking

**Domestic**
**ADDRESS BY ADVISOR TO THE GOVERNOR OF THE CENTRAL BANK OF IRELAND, LARS FRISELL, TO THE FINANCIAL SAFETY NET CONFERENCE IN STOCKHOLM**

Lars Frisell, advisor to the Governor of the Central Bank of Ireland, gave an address entitled 'Resolution of the Irish banking crisis: Hard-earned lessons for Europe' to the Financial Safety Net Conference in Sweden. His speech focused on the blanket guarantee provided by the Irish Government in September 2008 and the fall-out from that decision. He highlighted that, while the Irish economy grew by 5% in 2014, on average one in every seven mortgages over primary dwellings is in arrears. He stated that, although the

introduction of the Bank Recovery and Resolution Directive in January 2015 came too late for Ireland, lessons must be taken from the Irish example and the Directive must be adhered to by Europe.

**IRISH GOVERNMENT STRENGTHENS FRAMEWORK TO SUPPORT MORTGAGE HOLDERS IN ARREARS**

The Department of Justice and Equality has announced that the Government is to introduce legislation before the summer recess giving Courts the power to review and, where appropriate, approve insolvency deals that have been rejected by banks. This process will represent a reform of the Personal Insolvency framework and "seeks to ensure that fair and sustainable deals are upheld for struggling borrowers willing to work their way out of difficulties with a view to keeping their family home."

**EU and International EBA GUIDELINES ON THE NEW DEPOSIT GUARANTEE SCHEMES DIRECTIVE**

The EBA published two sets of Guidelines on contributions and payment commitments under the new Deposit Guarantee Schemes Directive (Directive 2014/49/EU). The Guidelines, on the basis of risk-based contributions, set out the methods for calculating ex-ante contributions to Deposit Guarantee Schemes that are adjusted to the risk profile of each credit institution, having regard to, inter alia, the credit institution's capital, liquidity, asset quality, business model and asset encumbrance; with these obligatory indicators forming 75% of the risk assessment, with the remaining 25% allowing for flexibility. The Guidelines

make further provision for Deposit Guarantee Schemes to authorise credit institutions to contribute up to 30% of the required contributions in the form of secured commitments to pay upon request, and provide criteria on the eligibility and management of collateral.

**JOINT COMMITTEE OF THE THREE EUROPEAN SUPERVISORY AUTHORITIES (ESAs) PUBLISHES ITS FIFTH "REPORT ON RISKS AND VULNERABILITIES IN THE EU FINANCIAL SYSTEM"**

The report by the ESAs states that while no new risks to EU financial market stability have emerged, the risks already present have intensified. The report divided key risk factors into macro risks to the EU financial system and economy and operational risks. The report identified key macro risks as relating to: (i) low economic growth and low inflation environment; (ii) low profitability which is encouraging financial institutions and investors to search for yield which requires increased supervision on the viability of business models, related restructuring activity and adequate risk management; and (iii) continued doubts on the comparability and consistency of banks' calculations of risk weighted assets. Key operational risks were identified as business conduct risk and IT operations and cyber risks. With regard to business conduct risk, the report recommends that supervisors should include misconduct costs in future stress tests where appropriate, financial institutions should be strengthening product oversight and governance frameworks and improvements are warranted in regulatory framework and supervisory practices.

## **EUROPEAN BANKING AUTHORITY (EBA) OUTLINES ITS UPCOMING INITIATIVES FOR THE REGULATION OF RETAIL PAYMENTS**

The EBA announced that it is getting ready to develop requirements aimed at harmonising regulatory and supervisory practices to ensure efficient and secure payment services across the EU. It will do this by fulfilling mandates for the revised Payments Services Directive and the Interchange Fee Regulation. The EBA has also issued final guidelines for the security of internet payments.

## **EUROPEAN BANKING AUTHORITY (EBA) ISSUES GUIDANCE ON THE IMPLEMENTATION OF RESOLUTION TOOLS**

The purpose of the three sets of guidelines is to facilitate the implementation of resolution tools in the banking sector across the EU and to give guidance to EU Resolution Authorities on the circumstances which should be assessed when taking resolution decisions. The guidelines will apply from 1 August 2015 and aim to ensure an efficient and consistent implementation of resolution tools across the EU.

## **WORKING GROUP FOR COMMITTEE ON THE GLOBAL FINANCIAL SYSTEM AND MARKETS COMMITTEE PUBLISH REPORT ON REGULATORY CHANGE AND MONETARY POLICY**

The working group looked at how changes in the regulatory environment are likely to have an impact on the implementation of monetary policy by central banks. It assessed the impact of key new regulations on monetary policy and found that their likely impact on financial institutions and markets

should be limited and manageable, and that, as a result, central banks should be able to make adjustments within their existing policy frameworks.

## **Insurance**

### **Domestic:**

#### **CENTRAL BANK OF IRELAND (CBI) OPEN FOR SOLVENCY II PREPARATORY PHRASE REPORTING**

On 14 May 2015, CBI advised that it is open to receive formal submissions of Solvency II preparatory phase reporting. In a recent Solvency II newsletter, the CBI advised firms, based on feedback from test filings, to fully apply the XBRL taxonomy validation rules before attempting to upload returns and to pay close attention to guidance in the User Procedure documents on non-taxonomy related issues. The CBI has now published additional feedback on test filings in its Information Note 7. While preparatory reporting is mandatory for High and Medium High firms, Low or Medium Low impact firms can also choose to submit preparatory phase reports. The deadlines for reporting are 3 June 2015 for individual undertakings and 15 July 2015 for relevant group submissions, however submissions from Low and Medium Low undertakings will be accepted throughout 2015.

#### **CIVIL LIABILITY (AMENDMENT) BILL TO INTRODUCE PERIODIC PAYMENT ORDERS FOR CATASTROPHIC INJURIES**

On 27 May 2015, the Department of Justice and Equality published the

heads and general scheme of the Civil Liability (Amendment) Bill 2015 which will empower the Courts to award index-linked annual compensation payments (Periodic Payment Orders) to claimants in cases involving catastrophic injury. The new legislation will give the Courts a discretion, in certain circumstances, to award Periodic Payment Orders to claimants who have suffered a severe injury, involving serious impairment, and who need long term care as a result. Periodic Payment Orders may be awarded to provide for future medical treatment, care and assistance as an alternative to a lump sum payment, which is what claimants must rely on at present. Periodic Payment Orders may also include damages for future loss of earnings where the parties consent. Provision is also made for stepped payments (i.e. the amount awarded may increase or decrease on specified future dates consistent with expected changes in the claimant's life and/or needs).

#### **CENTRAL BANK OF IRELAND (CBI) PUBLISHES LATEST EDITIONS OF SOLVENCY II NEWSLETTER**

The CBI recently published the latest editions of its Solvency II newsletter. Updates include that the CBI will issue an industry survey in June 2015 to assess preparedness for Solvency II and that detailed template completion instructions and validation rules for national specific templates are expected to be published in mid-June. Notably, the CBI has taken a policy decision that no exemptions from quarterly reporting under current rules will be granted, despite issues raised by stakeholders with respect to duplication of reporting under current rules and under Solvency II in Q1 and Q2 of 2015. In addition, the newsletter

contains helpful tables showing submission dates and deadlines for reporting under current rules and Solvency II in 2015 and 2016.

#### **CBI PUBLISHES FEEDBACK ON 2014 FLAOR REPORTS**

On 13 May 2015, the CBI published a copy of a 'Dear CEO' letter to (re) insurers outlining general feedback on FLAOR reports submitted in 2014. The feedback notes that: (a) where group FLAOR is used for a local undertaking, it must adequately capture risks arising from the local undertaking; (b) significant risks such as pension risk, reputational risk, group risk and operations risk, among others, were not always considered in the assessment; and (c) the significance of deviations of the risk profile from the assumptions underlying the SCR was not appropriately assessed and should be fully discussed in 2015 FLAOR reports. The feedback letter emphasises areas where undertakings did not fully comply with the CBI's 'Guidelines for Preparing for Solvency II – FLAOR' and states its expectation that (re)insurers consider the feedback and guidelines in preparing 2015 FLAOR reports.

#### **IMF REPORT – REVIEW OF INSURANCE SUPERVISION IN IRELAND**

On 13 May 2015, the International Monetary Fund (IMF) published a Report on Observance of Standards and Codes for Ireland. The report follows an assessment by the IMF, conducted in December 2014, of Ireland's compliance with the Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors (IAIS). Notable recommendations made by the IMF include a review of the supervisory risk appetite underpinning PRISM and

a list of ways in which the statutory independence of the Central Bank of Ireland (CBI) could be enhanced. The report notes that the regulatory regime for insurance supervision has a high level of observance of the ICPs. In addition, the IMF found that the CBI has made significant progress in updating the regime, including by the introduction of the Central Bank (Supervision and Enforcement) Act 2013, and that progress will be further enhanced by the introduction of Solvency II.

#### **CENTRAL BANK OF IRELAND (CBI) PUBLISHES RECENT (RE) INSURANCE SECTOR SPEECHES**

On 13 May 2015, the CBI published the text of a speech by Cyril Roux, Deputy Governor of the CBI, given at the PWC Annual CEO Insurance Dinner. In his speech, directed at the reinsurance and cross-border life sectors, Mr. Roux acknowledged the overall satisfaction of the CBI with engagement by (re)insurers. He highlighted that focus on current market risks and changes and compliance with anti-money laundering legislation are important areas for (re)insurers' attention. On 14 May 2015, the CBI published the text of a speech given by the Director of Insurance Supervision, Sylvia Cronin, at the recent European Insurance Forum. In addressing 'the Changing Landscape of Global Regulation', Ms. Cronin spoke about new regulatory initiatives, including Solvency II, the development of Global Capital Standards and conduct regulation. Notably, Ms. Cronin emphasised that the CBI has identified that firms have a lot of work yet to undertake in relation to the 'Own Risk and Solvency Assessment' (ORSA) which she identified as a critical component to the success of Solvency II.

#### **EU and International CJEU RULING ON POLICYHOLDER INFORMATION RULES BEYOND THE SCOPE OF THE THIRD LIFE DIRECTIVE**

In a recent case, the Court of Justice of the European Union (CJEU) was asked to consider whether the Third Life Assurance Directive (3LD) should be interpreted so as to prohibit an insurance company from being required, by an individual Member State, to provide certain information to policyholders in addition to the information required to be provided by the 3LD. The CJEU ruled that Article 31(3) of the 3LD clearly permits Member States to impose additional information requirements on insurers but only where it is necessary for the policyholder to understand the essential characteristics of the product or policy and the information required to be given is sufficiently clear and accurate in order to achieve that objective and to guarantee a sufficient level of legal certainty. The CJEU also ruled that insurers must be able to identify and foresee what additional information they must provide.

#### **MEETING OF EUROPEAN COMMISSION EXPERT GROUP FOCUSED ON INSURANCE ISSUES**

On 7 May 2015, the European Commission published draft minutes of the March 2015 meeting of its Expert Group on Banking, Payments and Insurance. Topics discussed at the meeting included: (a) whether a proposal should be put forward on insurance recovery and resolution at EU level; (b) a proposed EU/US covered agreement on reinsurance; and (c) revisions to the EU/Swiss non-life insurance agreement.



Solvency II dominated the agenda. Member States provided an update on transposition: 17 indicated that transposition will be completed either before the 31 March deadline or at some point during Q2 2015; five noted that transposition would take place during the second half of 2015; the remaining six Member States were unable to say when transposition would be completed. The minutes also note that a number of third country jurisdictions have been assessed for equivalence and that there has been a positive outcome for several of them (including Bermuda, Canada and USA) on provisional equivalence for solvency under Article 227. Only Switzerland has so far qualified for full equivalence for reinsurance, solvency and group supervision under Articles 172, 227 and 260 - however, assessments are ongoing.

#### **PRUDENTIAL REGULATION AUTHORITY (PRA) PUBLISHES PRACTICE PAPER RELATING TO SOLVENCY II INTERNAL MODEL CHANGE POLICY**

On 7 May 2015, the PRA in the UK updated its webpage on internal models under Solvency II. The PRA notes that internal model firms are required to have a model change policy. In order to assist such firms (and as the PRA has noticed varying levels of quality in policies), the PRA has published a good practice guidance paper. Headings dealt with in the paper include the scope of model change policy, classification of major changes, and governance. In the paper, the PRA encourages firms to review the effectiveness of their policy in order to ensure that the firm's risk profile is accurately reflected and that the model policy meets Solvency II standards.

#### **EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA) PUBLISHES UPDATES ON SOLVENCY II PREPARATIONS**

On 6 May 2015, EIOPA published a number of updates on its dedicated Solvency II webpage. A related press release explains that the webpage has been updated to help (re)insurers quickly find all relevant information on Solvency II. To that end, the webpage now provides links to the regulatory framework at all levels including the first six implementing technical standards (ITS) which were recently adopted by the European Commission (EC). The updated webpage also contains a "Milestones 2015 - 2016" section. Key upcoming milestones include: (a) Q3 2015 - EIOPA to publish feedback on comments from the public consultation on the second set of ITS and Guidelines; (b) 30 June 2015 - submission of the final set of ITS to the EC for endorsement; and (c) Q3 2015 - release of XBRL taxonomy based on the full final reporting package submitted to the EC.

#### **UK INSURERS MAY NEED MORE TIME TO COMPLY FULLY WITH SOLVENCY II REQUIREMENTS**

It has been reported that Andrew Bailey, Chief Executive of the PRA, made a number of comments at a recent Reuters summit on financial regulation to the effect that some UK insurers will only meet Solvency II requirements on its entry into force on 1 January 2016 with transitional relief factored in. It is reported that Mr Bailey said that some UK insurers will need more time to fully comply with the Solvency II Directive and may make greater use of transitional measures than previously anticipated. Mr Bailey also said that the PRA

will likely make a statement on the use of transitional periods prior to 1 January 2016. It is also reported that Mr Bailey commented on the difficulty that investors will be faced with in comparing UK and Eurozone insurers under Solvency II as a result of a differential in the availability of long term data underlying the risk-free interest rate.

#### **LLOYD'S MARKET BULLETIN REGARDING SOLVENCY II DATA COLLECTION REQUIREMENTS**

On 12 May 2015, the Society of Lloyd's in the UK published a market bulletin consolidating previous advice on data collection requirements under Solvency II. In the December 2014 bulletin, managing agents were informed of the minimum management information to be obtained from policyholders for 'high product risk' products. The consolidated bulletin sets out each of the data collection requirements, including additional information that must be collected from coverholders and third party administrators, and also data that is required for all direct business for 2016 and onwards. The bulletin provides information on what the requirements mean for both managing agents and Lloyd's brokers and the appendices to the bulletin set out the type of information that must be obtained.

#### **PRUDENTIAL REGULATORY AUTHORITY (PRA) ISSUES MAY 2015 DIRECTORS' UPDATE REGARDING SOLVENCY II**

On 22 May 2015, the PRA issued a letter sent to directors of insurers, providing an update on matters relating to the implementation of Solvency II. The updates include information relating to (a) internal

models (including the requirement for firms to have a model change policy), (b) required regulatory reporting and (c) the PRA's upcoming Solvency II activity timetable up to the end of Q2 of 2015.

**EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA) Q&A ON SOLVENCY II GUIDELINES**

EIOPA recently published further Q&A on the Solvency II Guidelines on undertaking-specific parameters and the Guidelines on risk-free interest rates (in three separate documents for answers to (i) general questions and questions on (ii) extrapolation and (iii) matching adjustment).

**EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY (EIOPA) REPORT ON SOLVENCY II STAFFING AND RESOURCE REQUIREMENTS**

On 7 May 2015, EIOPA published a report detailing its staffing and resource needs in order to accomplish tasks assigned to it under Solvency II. The report concludes that EIOPA has shortfalls in its budget of more than €2 million, and resourcing, of 10 staff members, for 2015. An overview of the powers and duties assigned to EIOPA under Solvency II is attached as an annex to the report.

**FINANCIAL CONDUCT AUTHORITY (FCA) STATEMENT ON UK SUPREME COURT CASE - PPI**

On 27 May 2015, the FCA in the UK made a statement on its current work to assess the impact of the November 2014 UK Supreme Court decision (case citation number [2014] UKSC 61), where the Court held that a 2012 UK Court of Appeal decision ([2012] Lloyd's Rep IR 521) was

incorrect and that the taking of an undisclosed commission did create an unfair relationship between a lender and the borrower under the UK Consumer Credit Act 1974. The FCA is considering whether additional rules and/or guidance are required to deal with the impact of this decision on complaints about payment protection insurance (PPI). The FCA will engage with relevant stakeholders with a view to announcing its views on the impact of the Court's decision (as well as giving its views on evidence it has gathered in respect of current trends in PPI complaints) during Summer 2015.

**FINANCIAL CONDUCT AUTHORITY (FCA) THEMATIC REVIEW REPORT ON HANDLING OF INSURANCE CLAIMS FOR SMES**

On 22 May 2015, the FCA published its thematic review report on the handling of insurance claims for small and medium-sized enterprises (SMEs). Its purpose was to understand whether claims from SMEs (who are often similar to retail consumers in terms of knowledge and experience) were being handled efficiently. The scope of the review (which was limited to first party non-motor claims) included five insurers, 10 insurance intermediaries and 19 loss assessing firms. Senior management and claims handlers were interviewed and files were reviewed at each firm. The FCA also engaged an independent research agency to conduct qualitative research with 100 SMEs that had made a claim. The key findings of the review included: (i) that SMEs had a poor perception of the claims experience, with some feeling they were not treated fairly; (ii) there was poor communication between the various parties handling

the claim and with SMEs, regarding the progress of claims; and (iii) there were a number of occasions where there was inadequate cover in place to meet the loss. The FCA will engage with firms and senior figures in the insurance sector to discuss the review's findings with a view to improving the process for SME customers.

**FINANCIAL CONDUCT AUTHORITY (FCA) THEMATIC REVIEW ON PROVISION OF PREMIUM FINANCE TO RETAIL GI CUSTOMERS**

On 11 May 2015, the FCA published a thematic review report on the provision of premium finance to retail general insurance customers. The review focused on the online sale of home and car insurance, following the process up to where purchasers are required to input payment details. The review covered 13 insurers and 30 insurance intermediaries. One of its stated aims was to understand whether firms are ensuring that customers information needs are met when purchasing insurance using premium finance. Key findings included, that in a number of cases, customers are not provided with clear and relevant information on payment options and associated costs and are not receiving sufficient information regarding any instalment options being offered. The FCA notes that the review highlights a need for many firms to ensure that the information they provide to customers is compliant with the FCA's various rules and guidance and also (where relevant) with UK consumer legislation. The FCA has stated that it will engage with the insurance industry and will take any necessary actions to address risks to customers.

## **PRUDENTIAL REGULATORY AUTHORITY (PRA) PUBLISHES POLICY DEVELOPMENT UPDATE**

On 1 May 2015, the PRA published its latest policy development update (PDU) dated April 2015. The PDU sets out an indicative timetable for upcoming PRA publications. Policy statements (expected to be published later in 2015) in connection with the following matters may, in particular, be of interest to (re)insurers: (a) the PRA's approach to non-executive directors in Solvency II firms; (b) changes to the approved persons regime for insurers; (c) guaranteed asset protection insurance; (d) client money rules for intermediaries; and (e) general insurance add-ons. The PDU also refers to an upcoming public consultation (expected in September 2015) on UK pensions and retirement rules.

## **INSURANCE EUROPE RESPONDS TO EUROPEAN SECURITISATION CONSULTATION**

On 13 May 2015, Insurance Europe published a position paper in response to the European Commission's public consultation on an EU framework for simple, transparent and standardised securitisation. In the paper, Insurance Europe welcomes and supports enhanced standardisation, transparency and quality of securitisations (which it believes will help generate interest in securitisation and promote access to this asset class for insurers). Insurance Europe understands the need for cross-sectoral harmonisation of securitisation rules in Europe and believes that, while development and compliance with new rules may take some time, an immediate review of the current prudential treatment of securitisations is needed. In the short-term, the paper calls for a number

of improvements in the Solvency II approach to securitisations. While Insurance Europe largely supports the Solvency II approach, it believes that some eligibility criteria and calibration levels should be reviewed.

## **INSURANCE EUROPE PUBLISHES ANNUAL REPORT 2014 - 2015**

On 7 May 2015, Insurance Europe published its Annual Report for 2014 - 2015. The report notes gross written premium growth of 4.2% across Insurance Europe's 34 member countries for 2014. A number of 'dossiers' are included in the front-end of the report. These deal with key regulatory and other policy issues relevant to the European insurance industry and set out Insurance Europe's position in these areas. Topics include: (a) the Solvency II framework and prudential regulation; (b) treatment of long-term investments under Solvency II; (c) the role of IAIS/global capital standards; (d) pensions, taxation and financial reporting; (e) policyholder information and distribution; (f) data protection; and (g) equal treatment/discrimination and risk-rating factors. On the same date that the report was released, Insurance Europe announced the appointment of Sergio Balbinot as its president for a further three years.

## **BRITISH INSURANCE BROKERS' ASSOCIATION (BIBA) VOLUNTARY CODE OF CONDUCT**

On 13 May 2015, BIBA announced that it has launched its voluntary code of conduct for members and reported that it has begun discussions with the Insurance Brokers' Standards Council (through the establishment of a joint working party) with a view to ultimately achieving a single voluntary code of conduct and guidance for insurance brokers. In the

press release, BIBA's Chief Executive noted that discussions are expected to be concluded well in advance of BIBA's 2016 conference. The code itself is comprised of four principles and has been welcomed by the Financial Conduct Authority.

## **GUIDANCE PUBLISHED FOR LLOYD'S MARKET ON AMENDMENTS TO TERRORISM ACT 2000**

On 6 May 2015, the Society of Lloyd's published guidance for the Lloyd's market on the impact of amendments to the Terrorism Act 2000 on kidnap and ransom (re)insurance business. The amendments clarify that (re)insurers are prohibited from reimbursing ransom payments made to terrorists. The guidance highlights that (re)insurers must carry out relevant due diligence and screening of kidnap and ransom parties as part of their compliance processes.

## **GIBRALTAR JOINS IAIS INTERNATIONAL INFORMATION EXCHANGE AGREEMENT**

On 26 May 2015, the IAIS published a press release announcing the acceptance of the Gibraltar Financial Services Commission as a signatory to its Multilateral Memorandum of Understanding (MMoU) on supervisory cooperation and information exchange. The MMoU, which has 52 signatories, aims to promote financial stability and sound supervision on cross border insurance operations.





## Investment Firms

### Domestic

#### THE CENTRAL BANK OF IRELAND (CBI) AND THE IRISH STOCK EXCHANGE (ISE) PUBLISH THEIR RESPONSES TO THE EUROPEAN COMMISSION'S GREEN PAPER ON 'BUILDING A CAPITAL MARKETS UNION'

The CBI and ISE have published their responses to the European Commission's green paper on building a Capital Markets Union (CMU). The purpose of the green paper was to consult all interested parties on the Commission's overall approach to putting in place the building blocks for CMU by 2019. The CBI's response states that it supports measures to increase the safety and efficiency of Europe's capital markets and that the realisation of a CMU will take "significant effort and commitment on the part of all stakeholders in the EU. The response outlines the CBI's belief that a realistic timeframe for implementing priority areas on a phased basis will need to be set down and highlights a number of key areas where it believes policy initiatives would materially improve the functioning of Europe's capital markets. In particular the CBI stated that: "a harmonised framework for predictable and expeditious recovery of client assets (and investor monies) from a failed regulated financial services firm ... domiciled in any one of EU jurisdictions should be a feature of CMU".

### EU and International EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA)

#### PUBLISHES FINAL GUIDELINES CLARIFYING THE DEFINITION OF COMMODITY DERIVATIVES UNDER MIFID

The guidelines issued by ESMA concern the application of the definition of commodity derivatives and their classification under C6 and C7 listed in section C, Annex I of MiFID and apply from 7 August 2015. Different interpretations on what should constitute a financial instrument and what should be classified as a commodity derivative may lead to an inconsistent application of MiFID and EMIR among competent authorities and could lead to the reporting of certain transactions in one Member State but not in others. ESMA has stated that definition C6 has a broad application, applying to all commodity derivative contracts, including forwards, provided that they can or must be physically settled and they are traded on a regulated market and/or an MTF. C7 forms a category that is distinct from C6 and applies to commodity derivative contracts that can be physically settled which are not traded on a regulated market or an MTF provided that the commodity derivative contract: (i) is not a spot contract as defined under Article 38(2) of Regulation 1287/2006/EC; (ii) is not for commercial purposes described under Article 38(4) of Regulation 1287/2006/EC; and (iii) meets one of the three criteria under Article 38(1)(a) and also the separate criteria under Article 38(1)(b) and 38(1)(c) of Regulation 1287/2006/EC. The phrase 'physically settled' incorporates a broad range of delivery methods, including physical delivery of the relevant commodities themselves, delivery of a document giving rights of an ownership nature to the relevant commodities or quantity thereof; or another method

of bringing about the transfer of rights of an ownership nature in relation to the relevant quantity of commodities without physically delivering them (including notification, scheduling or nomination to the operator of an energy supply network) that entitles the recipient to the relevant quantity of the commodities.

#### JOINT COMMITTEE OF THE THREE EUROPEAN SUPERVISORY AUTHORITIES (ESAs) PUBLISHES ITS RECOMMENDATIONS ON SECURITISATION

The Joint Committee of the ESAs has published its report detailing its recommendations with regard to due diligence, supervisory reporting and retention rules in existing EU law on Structured Finance Instruments (SFIs). The Committee states that its recommendations should take into account the already existing requirements for disclosure, due diligence and reporting for comparable instruments. The main recommendations of the Committee are that due diligence obligations be harmonised throughout EU sectorial legislation and should be seen as a dynamic process throughout the life cycle of an investment, that investor reports should be standardised and stored in a centralised public space and that a harmonised due diligence and disclosure framework should be complimented by a comprehensive framework for supervision and enforcement regarding SFIs.

#### EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA) PUBLISHES ITS RESPONSES TO GREEN PAPER ON CAPITAL MARKETS UNION

ESMA has stated that it is fully supportive of the aims of the Capital

Markets Union and has stated that an increased participation of investors will be essential and that the level of confidence and trust of investors in capital markets needs to grow. The responses set out how ESMA's objectives in enhancing investor protection and promoting orderly financial markets can contribute to the Capital Markets Union and contain proposals about where improvements can be made to access to credit information for SMEs and increased cross-border retail participation in investment funds such as UCITS.

**BANK FOR INTERNATIONAL SETTLEMENTS (BIS), EUROPEAN CENTRAL BANK (ECB) AND THE INTERNATIONAL MONETARY FUND (IMF) PUBLISH HANDBOOK ON SECURITIES STATISTICS**

The handbook recognises the need for relevant, coherent and internationally comparable statistics in securities markets. The ECB issued a press release expounding on the importance of good securities data together with monetary and financial statistics and stated that the handbook strengthens the collection of securities data "through conceptual advice and guidance to harmonise the presentation of securities statistics."

## Funds

### Domestic

#### IRISH STOCK EXCHANGE

A new process for submitting the net asset values (NAV) for listed investment funds will be implemented by the Irish Stock Exchange (ISE) in September 2015. Currently NAVs are submitted by email to nav@ise.ie or autonav@ise.ie. All funds listed on the Main Securities Market of the ISE must submit a NAV per class in accordance with the Code of Listing Requirements and Procedures for Investment Funds (the Code). The NAV must be submitted upon calculation in accordance with the listing rules. The new enhanced service will be operated securely, and on a timely basis, enabling efficient filing, real time intraday detail updates, straight through processing and publication to market. This will ensure fund issuers can continue to comply with their regulatory and transparency obligations under relevant EU securities legislation and ISE Listing Rules.

#### CONNECTED PARTY TRANSACTIONS

The IFIA published a Guidance Paper on Connected Party Transactions which was drafted in order to assist depositaries in discharging their regulatory obligations.

### EU and International EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA) CALLS FOR MODIFICATION OF UCITS DIRECTIVE

ESMA has published an opinion on the impact of EMIR on the UCITS Directive. ESMA is calling for a modification of the UCITS Directive to take into account the clearing obligations for certain types of OTC financial derivative transactions under EMIR. In its opinion, ESMA has stated that the UCITS Directive should not distinguish between OTC financial derivative transactions and exchange-trade derivatives (ETDs); rather a distinction should be made between cleared and non-cleared OTC financial derivative transactions. ESMA believes that counterparty risk limits should be calibrated to different types of segregation arrangements taking various different elements into account. ESMA has stated that the UCITS Directive should not apply counterparty risk limits to clearing members but should apply some counterparty risk limits under "omnibus client segregation". ESMA also believes that the UCITS Directive's counterparty risk limits to EU CCPs and some non-EU CCPs recognised by ESMA should take into account the relatively low counterparty risk of these entities.



**AIFMD: DELEGATED REGULATION ON INFORMATION TO BE PROVIDED BY NATIONAL COMPETENT AUTHORITIES TO ESMA**

On 27 March 2015, the Commission Delegated Regulation (EU) 2015/514 of 18 December 2014 on information to be provided by national competent authorities to the European Securities and Markets Authority (ESMA) under the AIFMD was published in the Official Journal of the EU. The Delegated Regulation applies to member states from 16 April 2015.

**EUROPEAN LONG-TERM INVESTMENT FUNDS (ELTIFs)**

On 20 April 2015, the Council of the EU announced that it adopted the Regulation on European Long-Term Investment Funds (the ELTIF Regulation). ELTIFs are vehicles designed to boost non-bank investment in the real economy across the EU. ELTIFs will facilitate professional and retail investors investing into companies and projects that need long-term capital. Long-term capital finances tangible assets (such as energy, transport, communication infrastructures, industrial and service facilities, housing and climate change technologies), as well as intangible assets (such as education and research and development). The ELTIF Regulation lays down uniform rules on the authorisation, investment policies, and operating conditions of EU AIFs that are marketed as ELTIFs. Only EU alternative investment funds (AIFs) that are managed by alternative investment fund managers (AIFMs), authorised in accordance with AIFMD, will be eligible to market themselves as ELTIFs. The ELTIF Regulation will enter into force 20 days after it is published in the OJ and is expected to apply six months after it has entered into force.

**Cross Sectoral**

**Domestic**

**CENTRAL BANK OF IRELAND (CBI) PUBLISHES ANNUAL REPORT 2014 AND ANNUAL PERFORMANCE STATEMENT FINANCIAL REGULATION 2014-2015**

In its report, the CBI discusses the improvements that the Irish economy and banking sector were displaying throughout 2014 and continue to display. The Single Supervisory Mechanism (SSM) came into force in November 2014, transferring the supervisory responsibility for the main Irish banks to the European Central Bank and the national competent authorities of participating EU countries. In preparation for this change, the CBI extensively reorganised its resources for the supervision of banks during 2014. The annual performance statement (the statement) details how the CBI focused on the supervision of mortgage arrears and distressed SME loans on banks' balance sheets and reports progress being made on the management of these issues during the year. The statement also refers to the improvements to the culture and compliance of investment firms and fund service providers as a result of the CBI's supervision. As a result of the Administrative Sanctions Procedure, fines totalling €5.42m were levied throughout 2014. The CBI also reviewed its anti-money laundering (AML) and countering the finance of terrorism (CFT) supervisory strategy in 2014 and plans to conduct 32 AML inspections during 2015 as

well as continuing to conduct AML/CFT risk evaluations. The statement also outlines the CBI's Performance Plan for 2015. The CBI is reporting a financial profit of €2.1 billion for 2014, with €1.7 billion being paid to the Exchequer after retained earnings. The full report and annual performance statement are available on [www.centralbank.ie](http://www.centralbank.ie).

**CENTRAL BANK OF IRELAND (CBI) PUBLISHES REPORT ON ANTI-MONEY LAUNDERING (AML)/COUNTERING THE FINANCING OF TERRORISM (CFT) AND FINANCIAL SANCTIONS COMPLIANCE IN THE IRISH CREDIT UNION SECTOR**

The report identified a number of issues that arose as a result of on-site inspections and Risk Evaluation Questionnaires filled in by Credit Unions. Among the many issues raised were failures to implement the requirements of the Criminal Justice Act 2010 in a timely manner, lack of oversight of AML/CFT issues at board level, non-adherence to AML/CFT policies, failure to conduct adequate money laundering and terrorist financing risk assessment of the business and failure to define Politically Exposed Persons within policies. The CBI found that there were "widespread and common deficiencies" in some of the practices of credit unions. The CBI stated that it expects all credit unions to consider the report carefully and to be aware that they will be required to confirm annually that they have complied with the issues raised in the report. The CBI emphasised the importance of an AML/CFT framework being "established and embedded" into the business of credit unions.



## **CENTRAL BANK ENTERS INTO SETTLEMENT AGREEMENT WITH WESTERN UNION PAYMENT SERVICES IRELAND LIMITED**

The Central Bank of Ireland (Central Bank) has entered into a settlement agreement as part of its Administrative Sanctions Procedure with Western Union Payment Services Ireland Limited (Western Union). Western Union was fined €1.75m for breaches of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010 (CJA 2010) as it failed to demonstrate that it had robust policies and procedures in place to counteract money laundering and terrorist financing and had outsourced certain “key” anti-money laundering and counter terrorist financing compliance functions to a group entity based in Lithuania. According to a statement released by the Central Bank’s Director of Enforcement, such a high fine was imposed “in light of the inherent risks in the sector in which this firm operates and by reference to the scale and geographic size of the firm’s business and its reliance on third party agents and outsourced service providers.”

## **EU and International EUROPEAN BANKING AUTHORITY (EBA) PUBLISHES ITS FINAL GUIDELINES ON TRIGGERS FOR THE USE OF EARLY INTERVENTION MEASURES**

The guidelines aim to promote convergence of supervisory practices with regard to the application of early intervention measures. The guidelines clarify the conditions for early intervention as provided for in the Bank Recovery and Resolution Directive and provide Competent Authorities with a set of triggers

to prompt the application of early intervention measures.

## **EUROPEAN COMMISSION (EC) ADOPTS ITS “BETTER REGULATION AGENDA”**

The agenda applies across all policy areas in the EU and its purpose is to promote transparency across the decision making processes in the EU. The quality of law making will be improved through better impact assessments of draft legislation and amendments and existing EU laws will be under constant review. In a statement accompanying the release of the announcement, First Vice-President Frans Timmermans said: “this Commission is determined to change both what the Union does and how it does it. Better regulation is therefore one of our top priorities. We are listening to the concerns of citizens and businesses – especially SMEs – who worry that Brussels and its institutions don’t always deliver rules they can understand or apply. We want to restore their confidence in the EU’s ability to deliver high quality legislation.”

## **EUROPEAN PARLIAMENT (EP) ENDORSES TOUGHER RULES ON MONEY-LAUNDERING**

The new rules to be implemented by the fourth Anti Money Laundering Directive (AMLD4) will now include an obligation on EU Member States to keep central registers of information on the ultimate “beneficial” owners of corporate and other legal entities, as well as trusts. Authorities and their financial units will have unrestricted access to the registers, “obliged entities” (e.g. banks conducting customer due diligence) will have access as will the public, subject to certain restrictions like online

registration and possibly a fee. Aside from authorities and their financial units who have unrestricted access, any other person or entity who wants to access the register will need to demonstrate that they have a “legitimate interest” in suspected money laundering or terrorist financing offences, as well as related offences like corruption and fraud that could be linked to money laundering or terrorist financing. This new rule was not envisaged by the European Commission when the AMLD4 was proposed but was included by MEPs during negotiations.

## **MEPS DEBATE NEW RULES TO ENSURE TRANSPARENCY OF ALL BENCHMARKS USED IN THE EU**

The new legislation under debate will require critical or systemically important benchmarks that track a large volume of trade to comply with principles set out by the International Organisation of Securities Commissions (IOSCO) with regard to how they are produced and calculated. Compliance will be overseen by the European Securities and Markets Authority together with national supervisors.

**This bulletin first appeared in an A&L Goodbody publication on April 30th 2015. 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. copyright A&L Goodbody 2015. ICQ**



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