

ICQ

IRISH COMPLIANCE
QUARTERLY

Winter, 2014

Derville Rowland
Director of
Enforcement
at the CBI

**The Internet
of Things**
*The Data Protection
Challenge*

**Culture and
Compliance**
*How to Ensure
Symbiosis*

Enforcing Good Standards

PLUS

Preparing for FATCA

*What You Need
to Know*



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Irish Compliance Quarterly

WELCOME THE WINTER 2014 PUBLICATION OF ICQ, THE OFFICIAL PUBLICATION OF THE ACOI.

With four issues of the magazine now under our belt, it's fair to say that it has been a busy year all round for the ACOI. However, the publication would not have been a success without the efforts of the ACOI and its various committees and working groups, which have provided us with valuable and important insights and updates on a wide range of issues relevant to the day-to-day work of Compliance Officers across a number of sectors.

In this issue, we are delighted to have an interview with Derville Rowland, the Director of Enforcement at the Central Bank of Ireland as our Cover Story. With nearly two years into the job, she provides us with a good insight into her background, her role within the financial services sector and how compliance officers can do their bit to help ensure that their firms are compliant with relevant regulations.

Continuing the theme of our annual conference, this Winter issue has a focus on ethical and cultural issues in some of its editorial contributions. In addition, we have editorials on specific technical topics, some of which are noted below.

With the taxation of American companies operating overseas looming large in the news over the past few months, we provide the latest update on FATCA and what financial and certain non-financial institutions operating in Ireland need to know.

Another topic that is becoming more and more prevalent in our daily lives is the Internet of Things, and how smart devices will change how we work in the future. While there are some exciting developments coming down the

line in terms of the technology, it may present challenges when it comes to data protection.

And as usual we publish the Regulatory Tracker which keeps readers and members up to date with all the latest regulatory developments in the European financial services sector. As you may already know, this digital publication is available to browse online and, as it is HTML5-enabled, you can also read it on your smartphone and tablet.

I would like to thank all of the contributors, who shared their time, expertise and valuable insights with us during 2014 and I would take this opportunity to invite members to submit their suggestions for future editions. In particular, we would be delighted to hear from members interested in submitting content, so please email your suggestions or content to publications@acoi.ie.

With the New Year almost upon us, it also marks the end of Philip Brennan's term of office as Chairman and the appointment of Melanie Blake as his successor in January. Since ICQ started in March, Philip has been a regular and valuable contributor to this publication and I would like to take the opportunity to thank him for his efforts and for sharing his knowledge and wisdom on the pages of ICQ. The Publications Committee also welcomes Melanie and we look forward to working with her in the future.

And finally, I would like to take the opportunity, on behalf of the ACOI, to thank all our members, sponsors and readers and wish you a Happy Christmas and a healthy and prosperous New Year

Valerie Bowens
Chairperson,
ACOI
Publications



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The Case for Cultural Compliance

Every company has its own culture, so how does the compliance function sit comfortably within the day-to-day operations without negating this culture, asks Martin Purdy.

A firm's culture is critical to the effectiveness of its compliance measures, so the role of the compliance function in establishing and monitoring culture is critical to its success. Yet by its nature, culture is very different to the measures with which a compliance function is normally involved and of course the culture of every firm is different.

THIS CREATES THREE MAJOR CHALLENGES

Firstly, most compliance work relates to precisely written rules and regulations, and policies, procedures and controls by which these are implemented within firms. On the other hand, culture is a very "soft" topic. The range of subjects that are relevant to a firm's culture are difficult to define: it will have (perhaps) a sales culture; a risk culture; a 'people' culture; and others. Understanding the practical implications of this wide-ranging and poorly specified scope is not normally seen as the remit of the Compliance function.

Secondly, while a firm will have an overarching culture, this will also manifest itself differently in different parts of the organisation. For example, you would expect that a local office would adapt its behaviour and culture to reflect the community it serves. Similarly, the character of every team is set by the leader – by the manner in which he/she conducts him/herself. In that sense, a firm does not have just one culture; it has many, diverse cultures.

Finally, the Compliance function does not dictate a firm's culture: it is well established that culture is driven

by "tone from the top" and it is only the firm's top level leadership that has the moral authority to create this tone: yet the Compliance function has some responsibility for ensuring the integrity of the firm's actions.

So, faced with these three areas – scope, diversity and authority – that are outside its normal remit – how does the compliance function sit within all of this?

The firm's Code of Ethics bridges the gap by providing the Compliance function with a basis for its role in maintaining the firm's culture. It translates key elements of this culture into a specific, written form, setting out specific standards that can be assessed and managed – and at that point, the range of compliance tools that are used to manage other obligations can be brought to bear on managing culture. For example:

- The Code of Ethics can be clearly written in specific terms and published, like other organisational policies;
- People throughout the organisation can be trained in the content, and managers given roles in promoting the standards set out in the Code of Ethics;
- Individuals can confirm compliance with the Code of Ethics periodically – making it a robust standard;
- The Compliance function can monitor these training and attestation measures to ensure they are well executed and recorded comprehensively and these above measures together can be included in the firm's compliance programme in the normal way.

The firm's Code of Ethics bridges the gap by providing the Compliance function with a basis for its role in maintaining the firm's culture.

Compliance programmes will include processes for dealing

Enforcing Good Standards

The Director of Enforcement with the Central Bank of Ireland, Derville Rowland talks openly to ICQ about her career to date, her enforcement role and why compliance officers have an important role to play in promoting a culture of compliance within their organisations.

It is probably fair to say that the Mayo-born Derville Rowland has arguably one of the most significant and challenging roles in the Irish financial services industry. As Director of Enforcement with the Central Bank of Ireland, she oversees a team of approximately 70 highly-trained professionals with responsibility for progressing investigations and enforcing compliance in a number of areas including conduct of business, consumer protection, securities regulations, fitness and probity and prudential regulation. The directorate also has responsibility for enforcement policy, refusal and revocations of authorisations, and anti-money laundering/counter-terrorist financing supervision. There is also a specialist unauthorised providers unit within the directorate.

For somebody who once considered a career in journalism, the road eventually taken is undoubtedly a lot more interesting and rewarding.

“Like a lot of people, I left Ireland in the late 1980s and went to London. Initially, I entertained the idea of a career in journalism, as the idea of working in a large organisation like the BBC appealed to me. However, I was also drawn to the legal profession, so I decided instead to study law and pursue a career at the Bar,” she says.

“Initially, I didn’t realise that by studying law, I was embarking on an extremely competitive and challenging career path. However, far from being deterred by this realisation, I was determined to succeed. Thankfully, it worked out well. Having completed my law degree, I

attended bar school in London, in the Inns of Court School of Law, after which I obtained a pupillage, which is the equivalent of devilling here in Ireland. Upon completing my pupillage, I undertook a tenancy in Chambers where I practised in a broad range of areas including general common law, civil litigation and criminal law.

“The size and scale of the legal services market in the UK afforded me the opportunity to gain a depth and breadth of experience that may have taken significantly longer to acquire in Ireland. During my tenancy, I continued to develop my practice in the areas of regulatory law and fraud. At that time, regulation and regulatory law had become a focus in London, with a number of firms and practices specialising in this area. It was at this point, having obtained the necessary experience, that I decided to take an in-house position and became chief barrister at the Association of Chartered Certified Accountants (ACCA),” she says.

“The ACCA’s global disciplinary work was run out of London, which meant that I could travel home to Ireland occasionally, to conduct disciplinary hearing and appeals. I decided to take this opportunity to cross qualify, and having completed the Honorable Society of Kings Inns Barrister at Law Degree, I was called to the Irish Bar and decided to return home permanently.”

Upon being called to the Bar, an employment opportunity with the Central Bank presented itself, and she accepted.

“Based on my knowledge and experience, I was well positioned to make a meaningful contribution and to add

real value to the organisation at a time when the Central Bank's enforcement powers and procedures were evolving. In this regard, I was responsible for developing policy, conducting consultations, drafting manuals and building the infrastructure. Unfortunately, at this time, even though the system was developing, this was not translating into cases coming through the system, with the exception of some consumer-related breaches. And then the crisis hit Ireland and things changed dramatically," she says.

"In 2009 I brought the first prudential case for liquidity breaches arising out of the crisis, against an Irish credit institution - Irish Life and Permanent - under the administrative sanctions procedure. This resulted in the imposition of a monetary sanction of €600,000, which was the largest monetary sanction imposed by the Central Bank, up to that point. The resolution of this case represented a significant cultural change in the attitude to enforcement and empowered us to bring more cases under the administrative sanctions procedure. Indeed, a month later, I

brought another prudential case against a credit institution, Merrill Lynch International, which resulted in the imposition of a significantly larger monetary sanction of €2,750,000. These cases not only marked a change in the Central Bank's approach to enforcement but also reinforced the primacy of enforcement's role in this new approach."

Under the leadership of Governor Honohan, and with the appointment of Matthew Elderfield as deputy governor and head of financial regulation in 2009, there was a sea change in the Central Bank's approach to enforcement. A key element of this change was the adoption of a clearly defined enforcement strategy. This strategy placed the model of assertive risk-based supervision, underpinned by the credible threat of enforcement, at the centre of the Central Bank's enforcement agenda.

"The work we undertook to build the directorate, define and implement our strategy and progress cases was vitally important in the process of rebuilding public trust and



confidence in the industry and the regulator, which was at an all-time low in the wake of the crisis," says Derville.

"The progression and resolution of cases continues to be one of the main priorities in the Enforcement Directorate. The case work represents the tangible illustration of what we do and the results our actions achieve. Notwithstanding that we have built up a substantial body of case work since 2010, Enforcement case work continues to be very challenging, as many of our processes and procedures are innovative and ground-breaking. This type of work requires motivated, dynamic and highly skilled professionals from across the industry. We currently have an extremely dedicated team in the directorate, who demonstrate these skills on a daily basis and we continue to welcome new additions to our team from all disciplines and can guarantee a working environment that is both stimulating and vibrant.

"Since 2010, we have concluded a total of 62 administrative sanctions procedure cases, against regulated firms across the industry, imposing approximately €27.5 million in financial sanctions. This year, to date, we have settled and publicised 11 administrative sanctions procedure cases imposing financial sanctions of approximately €5.4 million. These cases have arisen from a mix of pre-defined themes and reactive actions and relate to breaches of both prudential and consumer obligations.

"The importance of the Compliance Officer function in embedding a culture of compliance and the expectation of higher standards cannot be underestimated," she says.

"Compliance Officers provide a valuable contribution to firms in terms of providing balanced impartial advice, keeping boards aware of regulatory developments, monitoring the implementation of compliance, and reporting to the senior management. It is important to note however, that the role of the Compliance Officer is designed to supplement and support, not supplant the responsibility of the Board and the senior management to ensure compliance with legislation and applicable guidelines. I acknowledge the unique role of the Compliance Officer, within their respective organisations, to promote a culture of compliance and assist in achieving the overall aim of putting the concept of "doing the right thing" at the front and centre of the way regulated entities interact with their customers and conduct their business. This is not an easy task and requires courage and strength and it's important



that Compliance Officers feel sufficiently independent in their role to fulfil their function effectively. It is noteworthy, that from the 31 of December 2014, the role of Chief Compliance Officer for all regulated financial service providers will be included in the ambit of pre-approved controlled functions pursuant to the Fitness and Probity regime. This is an indication of the importance that the Central Bank places on the Compliance Officer function.

"When we set about building the directorate, we recognised the importance of ensuring, within the confines of the legislative provisions within which we operate, that our processes and procedures would be as transparent as possible. This transparency is demonstrated firstly in the detailed settlement agreements which we publish after a sanction has been imposed on a regulated entity. These settlement agreements offer guidance for all firms irrespective of the industry sector and demonstrate what we care about and what firms should care about. They allow firms to examine their own business and remedy similar issues before things go wrong.

"Another example of demonstrable transparency is the annual publication, since 2010, of our enforcement priorities. Our priorities highlight the pre-defined themes which are



the areas of greatest concern to us. In 2014, we broke down our priorities by industry sector. This helped to focus our enforcement resources on these particular areas in order to promote compliance in the areas of greatest importance to the Central Bank. Our enforcement actions do not relate solely to these 'predefined' enforcement priorities. We make provision in our resourcing to allow us to take 'reactive actions' in response to serious issues identified through day-to-day supervisory work and from other information sources, for example whistleblowing," says Derville.

"In line with our continuing focus on transparency, we will publish revised enforcement priorities in 2015. This will ensure that the Central Bank's expectations are clear and will aid the process of improving industry compliance.

"People often ask me what they should do when a serious issue arises. The answer to this is that the best way is often the simplest way – contact the Central Bank and engage with us as early as possible in relation to the matter. We expect firms to act responsibly when an issue arises and inform the Central Bank as soon as they become aware of the issue. In this regard, we expect the industry approach to all potential issues to be responsible, straightforward and open."

The benefit of alerting the Central Bank to a potential regulatory breach as soon as the firm becomes aware of it is that the conduct of the entity, and in particular how quickly the firm alerts the Central Bank and remedies the problem, are some of the circumstances that are taken into account in determining the appropriate regulatory response. "The decision by the Central Bank to commence enforcement action is taken on a case-by-case basis, having regard to all the relevant circumstances," she adds.

Derville also adds that her office does not have any thresholds or targets when it comes to imposing sanctions: "We have a very well-structured and developed set of factors to be taken into account when considering what sanctions to impose. These have been published and include: the nature and seriousness of the breach; the duration - how long it went on for; the numbers of customers affected, if any; is the breach also a criminal offence; is there any dishonesty involved; and were members of the public put at risk? We would also look at what kind of risk occurred, and the conduct of the firm in bringing it to our attention. We also consider remediation; did it happen quickly, was it voluntary or did we have to compel the firm to fix the issue?

"These are all factors that we take into consideration when deciding an appropriate sanction. In relation to taking cases, we continue to take cases across the PRISM spectrum, against larger entities with high impact ratings and lower impact entities. We not only take cases where serious breaches have occurred but also where problems are recurring and prolific. The range of sanctions available to us is quite broad and therefore we do not have fining targets because we think it's important that any sanctions imposed are commensurate with the seriousness of the matter and are imposed on a case-by-case basis.

"On the topic of sanctions, it is worth noting that since the commencement of the Central Bank (Supervision and Enforcement) Act 2013, we may impose a monetary sanction on a firm of the greater of €10,000,000 or an amount equal to 10 per cent of the turnover of a firm or €1,000,000 on a natural person. Prior to the commencement of the 2013 Act, and in respect of all cases to date, the maximum sanction that the Central Bank could impose on a firm was €5,000,000 and €500,000 on natural persons.

"As the readers are no doubt aware, to date, all of our administrative sanctions procedure cases have settled,

with the various regulated entities accepting the Central Bank's findings and agreeing to the imposition of various sanctions, including fines and disqualifications.

"I anticipate that this position will change in 2015 and administrative sanctions procedure cases will be referred to Inquiry. In fact we recently published the list of our Inquiry members, drawn from industry, the judiciary, practitioners and internal Central Bank employees. As the Inquiry process is rolled out, it will inevitably be challenged. We are prepared for this and consider it to be an unavoidable part of the refining and maturing of the procedure.

The Director of Enforcement's other responsibility is leading the development and enforcement of anti-money laundering regulations, an area that looms large on her agenda.

"The Anti-Money Laundering Division (AML) in the Central Bank is responsible for the supervision of credit and financial institutions compliance with AML and financial sanctions legislation.

"The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 introduced an AML framework in line with EU law and the recommendations of the Financial Action Task Force (FATF), the international AML standard setting body. Ireland, as a member of the FATF, adheres to and implements the supervision standards set by it, and the Central Bank is currently preparing for the next peer review of Ireland by the FATF due to take place in 2016. It is important that Ireland gets a positive review by the FATF in 2016 to show that Ireland takes its AML regulatory obligations seriously and that its financial system is not susceptible to being used for money laundering or terrorist financing purposes.

The Anti-Money Laundering Division (AML) in the Central Bank is responsible for the supervision of credit and financial institutions' compliance with AML and financial sanctions legislation.

"At European Level, the fourth EU directive which will increase AML regulatory obligations is at an advanced stage of negotiation. We expect this directive to be adopted shortly. The AML Division continues to engage with the European Supervisory Authorities and the FATF to ensure that Ireland's regulatory perspective is being considered.

"It is recognised that there are a number of challenges in the areas of anti-money laundering, terrorist financing and financial sanctions for both regulators, such as the Central Bank, and for industry. The regulatory framework for AML is continuing to evolve at the international and domestic levels, with the focus shifting from ensuring that the financial sector has preventative measures in place to ensuring that those preventative measures are effective. At the centre of AML regulation is the need for proper risk assessment to be conducted and implemented effectively with participants having a clear understanding of the risks faced and ensuring that they take steps to mitigate those risks.

While acknowledging the challenges faced by the financial sector in the changing world of AML, she says that the her office is committed to ensuring that it communicates with the industry and the public, the reasons for AML regulation, any changes being made to the AML regulatory framework, and its own AML inspection findings.

"In that regard, we continue to engage with the various sectors' representative bodies on an on-going basis and it is planned to increase the level of engagement with Money Laundering Reporting Officers in 2015. We have also recently updated information on the Central Bank's website to give more information about AML legal requirements and the forthcoming FATF review and we are planning to publish in the coming months sectoral reports that will highlight issues identified during recent AML inspections," she says.

Nearly two years into the job as Director of Enforcement, Derville Rowland is a lot more sanguine about the perception of her office by both the public and indeed the financial services sector: "We have worked hard to restore public confidence. The integrity and the independence of what we do has got to be absolute, and I think it is. And of course accountability is vital. After all a more ethical, accountable and transparent financial sector benefits all of us," she concludes. **ICQ**

Preparing for FATCA

From January 2015 onwards, financial and certain non-financial institutions based outside the US will have to comply with FATCA regulations and this will have implications for the many US firms operating in Ireland.

WHAT IS FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a legislation adopted in the US in 2010 that aims to combat tax evasion by US taxpayers with offshore accounts. It also improves the exchange of information between tax authorities in relation to US taxpayers with offshore accounts. In addition, it introduces a 30% withholding tax from payments of US source income (interests, dividends, proceeds from sale or disposition of US property which can produce interest or dividend) made by US paying agent to any non US Financial Institutions, unless that institution is FATCA compliant.

FATCA IN IRELAND

The FATCA Regulation was signed into Irish Law in June 2014 and came into operation in Ireland on 1 July 2014. The regulations are accompanied by detailed guidance notes, published on the Revenue Commissioners' website in early

October, and are aimed at providing guidance on how to comply with the FATCA obligations set out in Ireland.

Ireland was one of the first countries that has actively engaged with the US to ensure compliance with FATCA by signing an Inter-Governmental Agreement (IGA) with the US in December 2012.

At the time of writing, around 40 countries have signed a Model 1 IGA with the US, a limited number of countries have signed a Model 2 IGA and a list of other countries are treated as having an IGA in effect as they are in the process of completing their adherence.

The difference between the two main types of IGAs stays with the type of interaction between the entity under FATCA and the US Internal Revenue Service (IRS), operating through the relevant local tax authority in the case of entities established in a country with a Model 1 IGA in place or without any local intermediation in the case of entities established in a country that has signed a Model 2 IGA.

Ireland was one of the first countries that has actively engaged with the US to ensure compliance with FATCA by signing an Inter-Governmental Agreement (IGA) with the US.

OBLIGATIONS UNDER FATCA

All entities under the scope of the regulations must comply with a new set of obligations introduced by FATCA. In particular they are required to:

- Define and establish their FATCA status and be ready to communicate such status to third parties, upon request. In relation to this point, it is important to note that the scope and applicability of FATCA is very broad and it impacts all non-US Financial Institutions, also called "Foreign Financial Institutions" (FFIs) including

INTERNAL REVENUE SERVICE

certain Non- Financial Foreign Entities (NFFE) if owned by a US Controlling Person. The definition of FFI has been refined under the applicable Regulations in Ireland and it includes the following type of entities: Custodial Institutions, Depository Institutions, Investment Entities, Specified Insurance Companies, Relevant Holding Companies, and Relevant Treasury Companies.

The heading Investment Entities includes, among others, Collective Investment Schemes (CIS), as well as Fund Managers, Investment Managers, Fund Administrators, Transfer Agents, Depositories and Trustees of Unit Trusts because all of these entities could be investing, administering or managing Collective Investment Schemes. However, in such case, these entities will only have reporting obligations if they hold Financial Accounts.

- Register with the IRS before 31 December 2014, by accessing the IRS FATCA portal, in order to obtain a Global Intermediary Identification Number (GIIN) which, from 1 January 2015, will generally be requested by US Withholding Tax Agents as evidence that the 30% withholding tax does not have to be applied to US source of payments. The registered entity will be included on a list available on the IRS website. (<http://apps.irs.gov/app/fatcaFfiList>). CIS can choose to register for a GIIN at either umbrella level or at sub-fund level.

- Identify reportable accounts (i.e financial accounts held by US account holders, maintained by a Reporting FFI and not subject to exemptions) and accounts held by non-participating financial institutions (i.e. FFI not FATCA Compliant) by using the detailed due diligence procedures as set out in the Annex I of the IGA and further described in Chapters 7 to 10 of the Guidance Notes.

The Identification Process of Reportable Accounts or Due Diligence Process applies to both existing accounts opened before 1 July 2014 and new accounts opened on or after 1 July 2014. However, the new clients on-boarding rules required to be implemented under FATCA are applicable to new accounts opened after 1 July 2014.

- Submit a Return to the Irish Revenue Commissioners containing details of Reportable Accounts by accessing the Revenue Online Service (ROS) and using a specific reporting scheme. Details on the transmission of the report to Revenue via ROS are described under Chapter 12 of the Guidance Notes on the implementation of FATCA in Ireland.

Reporting under FATCA will commence in 2015. The first return must be submitted not later than 30 June 2015. Reporting FFIs with no Reportable Accounts are still subject to reporting obligations and they will be required to submit a "NIL" return. In the case of CIS, reporting will be done at umbrella or sub-fund level, depending on the way

they have been registered with the IRS.

In case of errors related to reporting, the IRS will contact the Irish Revenue. The latter will liaise with the Irish FATCA Reporting FFI to resolve the issue. Each FATCA Reporting FFI is therefore required to have one or more Point of Contacts (the "Responsible Officer") liaising with the Irish Revenue in case of queries.

- Identify payments to FFIs that are not FATCA Compliant. FFIs not FATCA Compliant are for example Financial Institutions located in jurisdictions where an IGA is not in place with the US and the entity has not entered into an agreement with the IRS directly (Non-Participating Financial Institution in a non IGA Country).

This obligation will go live in 2015 and the first report containing details on payments in 2015 to Non-Participating Financial Institution is required to be submitted to the Irish Revenue by 30 June 2016.

The Guidance Notes issued by the Irish Revenue include a timetable indicating the phased-in approach to reporting over the years 2015, 2016 and 2017.

A FFI employing a third party to perform a broad range of onboarding and similar services is allowed to engage such third party (the "Sponsoring Entity") to register it with the IRS and to perform all of its FATCA obligations on its behalf. However, ultimate responsibility for any failure of the Sponsoring Entity to carry out those duties and obligations will remain with the FFI (the "Sponsored Investment Entity").

Significant non-compliance by an Irish FFI may be determined from either an IRS or a Revenue Commissioners' perspective. Significant non-compliance is regarded as: the intentional provision of substantially incorrect information; the deliberate or negligent omission of required information; ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence process and repeated failure to



file return or repeated late filing. In case of significant non-compliance, the Revenue will engage with the Reporting FFI in order to discuss remedies and will apply any relevant penalties under the legislation.

In the event that the issue remains unresolved after a period of 18 months, then the Irish FFI will be treated as a Non-Participating FFI.

FATCA requires huge efforts and great coordination at international level. The IRS, recognising so, will regard 2014 and 2015 as a "transition period" for the purpose of the enforcement of the law. This must not be taken as a sign of relief in relation to the impending deadlines, but as a way to move towards the goal of ensuring high standards in terms of FATCA Compliance not only for the benefit of the US but for the benefit of an enhancement of the exchange of information among tax authorities on a worldwide basis.

This article was written by Antonella Narducci, ACOI Funds Working Group. ICQ

FATCA requires huge efforts and great coordination at international level. The IRS, recognising so, will regard 2014 and 2015 as a "transition period."

Delivering Positive Results

Following another busy year for the ACOI, John Murphy reflects on the Association's progress on its educational programmes and looks forward to 2015.

Jamie McNamara the ACOI's first Education Officer left us mid-year to pursue a new career in heritage skills in the UK. The ACOI appreciates all his efforts as Education Officer and wish him the best for the future.

I am currently the Interim Education Officer until the end of 2014 and am delighted to announce that Finbarr Murphy BA, hDip, MSc, QFA will join the ACOI in January 2015 as Director of Education and Professional Development. He is currently a senior programme manager with the Institute of Banking where he has been actively involved with the ACOI educational programmes. Congratulations to Finbarr and we look forward to working with him in 2015.

In November we held our 2014 graduation ceremony at the Royal College of Physicians and you can see some photographs of the ceremony elsewhere in the ICQ. Bill Prasifka, Financial Services Ombudsman, was our special guest on the night and he presented the PDC Certificates, PDC Diplomas and LCOI Certificates to the attendees.

There was a total of 219 PDC Certificate, 143 PDC Diploma and 190 LCOI recipients eligible to attend the event. The LCOI is now the benchmark qualification for members working in



Pictured at the recent award ceremony were Sarah Browne, PDC Gold Medal winner with her parents.

compliance and there are in excess of 800 members with the LCOI designation.

Enrolment for the January 2015 examinations has now closed but further examinations will be held in May and September 2015 and students can enrol for these examinations now.

The PDC Gold Medal was awarded to Sarah Browne and she is the first person to be awarded the medal for some years. Congratulations to Sarah.

The PDC programme continues to be extremely popular with students and numbers enrolling continue at a high rate. There are in excess of 375 students enrolled for the January 2015 PDC examinations. The programme

content is reviewed annually and manuals updated. We are very grateful to our authors, subject matter experts and examiners who undertake this work. The process to update the PDC manuals for 2015 will commence in January. In addition, the overall PDC programme is scheduled to undergo a UCD review to ensure it remains fit for purpose. As members are aware, UCD accredit the PDC Certificate and Diploma. Any recommendations for this review will be incorporated into the 2016 PDC syllabus and manuals.

In October the graduation ceremony was held in UCD for those who graduated with the Professional Certificate in Data Protection and the Professional Certificate in Financial Crime Prevention. This was the first graduation ceremony for these Level 9



David O'Dwyer.

Certificates. The graduates will shortly be offered the opportunity to take up the designation of Certified Data Protection Officer or Certified Financial Crime Prevention Practitioner. The CPD programme for both these designations will commence in 2015.

The top students in each of the Certificates were David O'Dwyer (Professional Certificate in Data Protection) and Niamh Bermingham (Professional Certificate in Financial Crime Prevention). Congratulations to David and Niamh.

There will be a graduation ceremony in early 2015 to present the top student awards and the designations to those who elect to take them up.

Both Certificates are currently open for 2015 enrolment with a closing date of 30 January 2015. Full details are available on the website (www.acoi.ie) under the Education/Qualifications tab.

Both the MA Ethics (Corporate Responsibility) and the MSc Compliance are now in their second year, the first student intake will graduate in September 2015 while



Niamh Bermingham.

the 2014 student intake are just commencing their studies.

The MA Ethics (Corporate Responsibility) is part of a professional development framework for ACOI members and individuals who wish to develop their leadership skills for business ethics and corporate responsibility. Topics in the MA Ethics include Introduction to Ethics, Business Ethics, Ethics in Finance, Corporate Governance and Shareholder Accountability and Implementing an Effective Ethics Programme. The MA Ethics is delivered by the Mater Dei Institute and accredited by Dublin City University. It is a two-year, part-time programme, with classes on Tuesday evenings and also two Saturdays in the first year.

The MSc Compliance is also part of a professional development framework for ACOI members and individuals who wish to develop their leadership skills in compliance management. Modules taught in the MSc Compliance include Corporate Governance and Ethics, Managing for Compliance, Financial and White Collar Crime Prevention, Data Protection Policy and Procedures,

The PDC Gold Medal was awarded to Sarah Browne and she is the first person to be awarded the medal for some years.

International Financial Services Regulation, Designing an Internal Governance Framework and Behavioural Decision Making. A Compliance Project also has to be completed. Modules are delivered by way of structured block release with each module being delivered over five days (Friday and Saturday) comprising six hours of teaching per day. It is a two-year part time programme, with two modules delivered each semester and there are four semesters in the programme. The MSc Compliance is accredited by University College Dublin.

The ACOI and its partners the Institute of Banking, LIA and III remain committed to our education programmes and along with new Director of Education and Professional Development will enhance our programmes in 2015.

If members have an interest in participating in our education programmes via Education Committee membership, subject matter experts or authors, please contact me and I would be delighted to hear from you.

John Murphy LCOI. ICQ

CPD: The Year in Review

The ACOI's Continuing Professional Development programme had a busy 2014 with 24 different events held during the year.

The ACOI is an association of members and its focus is and will remain as an association serving those members. To this end education and the continuing professional development of our members remains our key focus.

We all know the importance of education and continuing professional development and such a commitment in time and effort should not be underestimated – it has become a career-long obligation for practicing professionals. At its core it is a personal responsibility and commitment of professionals to keep their knowledge and skills current so that they can deliver the high quality of service that safeguards the public and meets the expectations and the requirements of all the respective stakeholders.

As 2014 draws to a close we reflect on the ACOI Continuing Professional Development programme and how the ACOI have helped our members meet this requirement during 2014.

As we have said in a previous article, the ACOI CPD Programme for 2014 continued our focus on member feedback and keeping our knowledge as Compliance Officers current in the areas which have been highlighted as being of particular importance to us.

In 2014 the Association organised a total of 24 events attracting a total of 35 CPD hours to ensure that our members have substantial choice in fulfilling their LCOI CPD requirements. Those events varied from one-hour lunchtime lectures and half-day workshops to after work workshops/lectures with some all important networking opportunities included. The events covered a broad remit of compliance related topics addressing:

- Legislative change including the Protected Disclosures Act, Regulatory developments in the Funds industry, Consumer Protection Regulation, Credit Reporting Act among others
- Behavioural aspects of compliance including the human/individual perspective on ethics, the annual ethics debate on ethics in financial services, dispute resolution, raising the bar on Compliance, Culture and Conduct among others;
- Core compliance tasks including AML control frameworks, dealing

with the role of compliance officers, social media policies among others;

- Hot Topics including PPI, Whistleblowing, Personal Insolvency among others.

We've also run a specific CPD event for the Credit Union sector, for the first time, which we intend to further expand in 2015, in conjunction with the ACOI Credit Union Working Group, to address the growing appetite for specific events relevant for this sector.

2014 also marked the launch of our series of workshops focusing on the role of the Compliance Officer from a practical perspective (for Compliance Professionals by Compliance Professionals). Recognising the challenges facing our members, the concept of a series of seminars/forums was developed where compliance officers can discuss the day-to-day challenges they face in their roles – some of which were outlined in the Compliance in Financial Services in Ireland Survey 2013 published earlier in the year. The key to the success of these seminars is an open dialogue and the sharing of views, and we thank all who have participated to date for their generous contributions. We intend to elaborate on this series further in 2015.

We've also worked with, and ensured that, many events organised and run by our partners (IOB, LIA and III)

In 2014 the Association organised a total of 24 events, attracting a total of 35 CPD hours.

also attract CPD hours applicable to our qualifications and your CPD requirements, and many of our members and indeed directors have spoken at these events.

We always listen to your feedback on our events which thankfully has been over-whelmingly positive with quotes like:

"CPD is the best thing the ACOI does for its members."

"Speakers were excellent giving real life practical examples I could take back to the office and use."

But 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 Professional Development Services Committee on

PDS@ACOI.IE with any comments you may have.

We'd particularly like to hear from you on ideas/topics for events you would like to see in 2015 and also how we can reach out to our membership outside the greater Dublin area – we have piloted video recording some of our events this year and would like to continue to explore this, technology and speaker permission allowing us to.

Some areas we are already looking at for 2015 include conduct risk, a prudential regulation seminar, data privacy, compliance risk assessments and workshops targeted at both the credit union sector and helping those smaller institutions/operations in addressing their compliance challenge.

The key success factor in all of our CPD events 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 involved.

Finally to you, our members, a thank you for continuing to support our CPD programme and for attending the events in such large numbers. As we said at the start of this article, education and the continuing professional development of you, our members, remains the key focus of the ACOI and one which we will maintain during 2015.

This article was written by the ACOI's CPD Committee. ICQ



An Issue of Trust

The financial services sector still has a lot to do when it comes to restoring trust amongst the public. Good corporate governance and ethical behaviour, however, will go some way in restoring this trust.

The past number of years have been eventful in the financial services sector and while great strides have been taken to ensure that a culture of compliance is in operation throughout the sector, the reality is that the public does not trust the financial services sector.

This continuing message in 2014 is supported by the Edelman Trust Barometer Ireland¹ and by a recent study by PWC.² This is nothing new. How many times have you heard companies state that they have developed codes of conduct, staff training, putting the customer at the heart of their decision making and integrity being one of their core values?

And yet, this year, we have seen scandal after scandal reported which has only supported the public's view and cynicism about big business. Clearly, we still have a lot of work to ensure that our statements are reinforced by real action and real leadership.

In the wake of the recent foreign exchange rigging scandal only last month Philip Augar's opinion article in the *Financial Times* on November 13th, led with the headline suggesting that the forex debacle is – "a scandal

to end all scandals" but finished with a cautionary tale quoting the financial journalist Christopher Fildes that "moments of maximum danger arise when the last person to have experienced the previous crisis departs. There are no grounds for complacency."

In this time when ethical behaviour has never been more important it is essential that the language of ethics is continued to be used and more importantly understood by the leaders in our sector because without it any attempt to rebuild trust with the public will not succeed.

It is at this important stage that in the ACOI we are delighted to announce that we have formed a stronger relationship with one of the leading global institutions in the area of business ethics by becoming associate members of the IBE, the Institute of Business Ethics (www.ibe.org.uk).³

The IBE is a registered charity, based in the UK, funded by corporate and individual subscribers to research, publish and provide training and tools to assist in the development of ethical business practice. It was established in 1986 to promote high standards of business behaviour based on ethical values and has produced first-class research and publications over the years. These publications are being made available to members of the ACOI at a discounted rate and their weekly newsletter on ethical issues will be highlighted each week in the ACOI website in 2015. In the following sections we have referenced and highlighted some of the FAQ work from the IBE website.

WHAT IS BUSINESS ETHICS?

Business ethics is the application of ethical values to business behaviour. Business ethics is relevant both to the conduct of individuals and to the conduct of the organisation as a whole. It applies to any and all aspects of business conduct, from boardroom strategies and how companies treat their employees and suppliers to sales techniques and accounting practices.

Ethics go beyond the legal requirements for a company and is, therefore, about discretionary decisions and behaviour guided by values.

Operating according to ethical values is playing an increasingly important



role in business today. Companies do not operate in a vacuum, but are part of a society which expects a certain standard of behaviour from businesses. Companies require what is often called 'a license to operate'.

Stakeholders want to be associated with responsible organisations. Being treated fairly, honestly and consistently is of value to a business's customers, suppliers, investors and employees. It builds trust.

At the same time, employers cannot take for granted that their staff understand what ethical standards are expected of them in carrying out their work on behalf of the company. Provision of guidance is therefore essential for creating and sustaining an ethical culture and avoiding misconduct.

Avoiding costly crises and scandals is of value to businesses. Reputation hits can be hard to recover from without a foundation of trust. Furthermore, having clearly articulated values and an ethics policy is seen to be good governance practice; it is one of the hallmarks of a well-run business. Operating with integrity is then a key part of sustainable success for business.

THE ROLE OF THE COMPLIANCE OFFICER

Good corporate governance and ethical behaviour in business build and ensure public trust in organisations. An ethical culture is established and maintained by the Board of Directors supported by Codes of Conduct which articulate and require adherence to the highest ethical standards. Employees must also be empowered to draw attention

to lapses of ethics, should they arise, through robust reporting policies and procedures.

Compliance plays a key role in the development, implementation and monitoring of compliance with core company policies and procedures and as such is best placed to support the Board of Directors in developing and maintaining an ethical culture in organisations. This role has gained recognition in the US and further afield with the emergence of the "Ethics & Compliance Officer" as a key company role with responsibility at Board level and this is supported by two recent publications from the IBE that we can recommend: *The Role and Effectiveness of Ethics and Compliance Practitioners* by Fiona Coffey and *Ethics, Risk and Governance* by Peter Montagnon.

During 2015 it is the intention of the ACOI to continue to highlight and expand on the role that leaders have in rebuilding trust but also how you, as Compliance Officers, can assist within your own organisations to make this happen.

The Professional Diploma in Compliance includes a module on Ethics and Integrity, which discusses the role of ethics in business and analyses the main strands of ethical thinking, and provides a framework for ethical reasoning to assist in finding the "right" answer based on sound principles.

When facing a difficult business ethical issue Ethics and Compliance Officers are encouraged to put structure on ethical reasoning by asking the following questions.

- Are my intended actions legal?
- Are they at a minimum consistent

with company policies and regulatory standards?

- Are they consistent with my values?
- Am I being fair and honest to my employer and to others?
- Do I have all the information I need, from all relevant sources?
- Will anyone be harmed by my action?
- What are the consequences of my action for myself, for other individuals and for the firm?
- Could I sleep easily if I took this decision?
- What would happen if I were caught?
- How would my actions look if it appeared in the papers?
- Will my actions stand the test of time?
- Will my actions contribute to or harm the reputation of the organisation?
- Will my actions benefit or harm me in my career?

Finally, as you may be aware, the ACOI has developed an MA in Ethics programme in conjunction with DCU and MDI to provide participants with the knowledge, skill and competence to examine ethical issues, challenges and dilemmas in professional and public life from a wide spectrum of ethical world views and theories. This Masters programme is now in its second year and will continue to be supported by the ACOI. We can highly recommend it for those who wish to advance their knowledge in the field of ethics.

Material referenced in this article

¹ <http://www.edelman.ie/edelman-ireland-trust-barometer-2014>

² www.pwc.co.uk/fsrr

³ <http://www.ibe.org.uk/frequently-asked-questions/3>

This article was written by Alan McGilton and Mary Noonan of the ACOI's Ethics Committee. ICQ

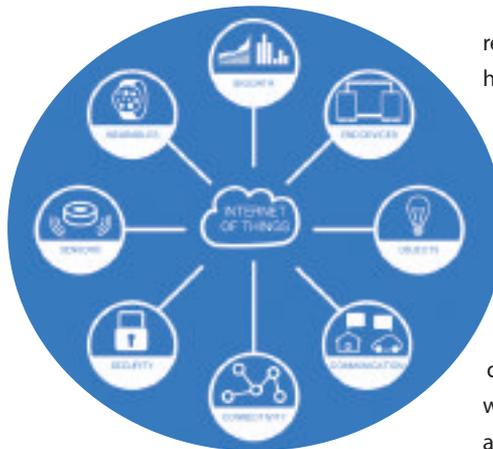
Data Protection and the Internet of Things

Thanks to sweeping advances in technology smart connected devices are already having an impact on the daily lives of people and they will ultimately play an important role in enabling business to deliver new products and services in the future. This will pose all kinds of data protection challenges.

A new opinion issued by the Article 29 Working Party, an independent European Union data protection advisory body provides guidance on the data protection challenges arising from recent development to the so-called Internet of Things (IoT) which it describes as being on the “threshold of integration” with our daily lives. The guidance is of interest to a broad range of IoT stakeholders and puts forward a number of helpful recommendations to assist compliance in the context of IoT.

WHAT IS THE INTERNET OF THINGS?

The term ‘the Internet of Things’ refers to the connectivity of everyday devices and how these devices are able to communicate with other devices or systems using network capabilities, in some cases without a user being aware that such communications are taking place. An example might be how a pedometer, which records the number of steps taken by a user, communicates that information back to an application on the user’s computer. While the use of such ‘smart’ or ‘connected’ devices can



bring many benefits to a user, they can also reveal intimate details about a user’s environment or habits through the sensors which they contain and accordingly trigger some challenging privacy and data protection concerns.

Acknowledging the vast future possibilities for IoT, the Opinion focuses on the following three specific IoT developments: wearable computing with embedded sensors (e.g. smart watches and glasses), quantified self (items used to record one’s own activities and lifestyle, such as sleep trackers or fitness indicators) and domotics (home automation, such as devices for the control of lighting, heating and ventilation and security locks). However, the opinion issued by the Working Party points out that the principles and

recommendations set out within it may have a broader application.

CHALLENGES ARISING

The opinion identifies a number of specific challenges which arise from developments in IoT. It recognises the potential risk of data being shared and used for different purposes following collection without the data subject being aware of it, more particularly, where communications between devices can be triggered automatically. Such lack of awareness, it notes, constitutes a significant barrier to demonstrating valid user consent for the purposes of data protection requirements. The risks identified are amplified due to the fact that IoT devices can collect and process enormous quantities of data. The Working Party also recognises the limitations on the possibility for users to remain anonymous when using IoT devices or applications and the risk of re-identification of a user where anonymisation techniques are employed.

The issue of security is also raised as a specific challenge within the context of IoT arising due to the limited security and encryption capabilities offered by smart devices.

These challenges, the Opinion notes, will need to be given specific consideration in line with that the application of EU data protection laws to the processing of data through the different types of devices and applications employed in relation to IoT.

APPLICATION OF DATA PROTECTION LAWS

The Working Party also recognises that IoT processes will often involve the processing of data from which an individual can be identified and accordingly are likely to give rise to a processing of personal data within the meaning of the EU data protection framework.

EU data protection laws will apply to the processing of such personal data, where the applicable data controller is established in the EU or makes use of equipment within the EU. The opinion clarifies that in this context equipment may mean the smart devices themselves and may also mean any tablets or other devices which have applications installed that can communicate with those devices.

Accordingly, a supplier of smart devices, which processes personal data, will by virtue of such equipment being used in the EU, be subject to EU data protection laws irrespective of where they themselves are established.

The opinion also recognises that a broad range of IoT stakeholders could assume the role of data controller for the purposes of the legislation, and thus be responsible for ensuring compliance with the rules including the manufacturers of a device, social media platforms to which a device posts information or third parties provided with access to the data collected by these devices.

RECOMMENDATIONS

In the context of IoT, the Working Party's opinion regards user consent as the best way to show compliance with the obligation to ensure that the processing of personal data is legitimate for the purposes of EU data protection laws. However, the Opinion recognises that traditional methods of obtaining consent may not be appropriate when faced with the specific challenges put forward by the IoT environment. It also puts forward a number of practical recommendations to assist IoT stakeholders with compliance. These include:

- ensuring that privacy impact assessments have been carried out before launching any new applications or devices in the IoT;
- applying the data minimisation principle that data which are not strictly necessary for the purpose they are collected should not be kept by ensuring that underlying raw data would be deleted as soon as a stakeholder has extracted the required information from it;
- performing security assessments of systems as a whole including at component level;
- adopting the principle of Privacy by Design and Privacy by Default, so as to ensure that privacy issues are dealt with throughout the entire process;
- empowering users with control over their data in accordance with the principle of self-determination of data; and
- ensuring that users are provided with information about the processing, together with a right to refuse consent in as user-friendly a way as possible.

In addition, it sets out additional specific expectations for operating system and device manufacturers,

app developers, social platforms, data platforms, IoT device owners and other data recipients.

Operating system and device manufacturers are advised to provide users with information on the types of data that will be collected by sensors and how they will be processed. They should also inform other stakeholders when a user withdraws their consent; use simple tools to notify users and vulnerability; and obtain consents that are granular i.e. broken down into the category of data collected and the time and frequency at which the data is collected. Device manufacturers should also co-operate with standardisation bodies to create a common protocol for users to indicate their preference with regard to data processing.

Opinions of the Working Party are not legally binding documents; but are of persuasive authority throughout the Member States.

The challenges identified within the Opinion highlight the difficulty in applying existing data protection laws to the IoT ecosystem. While the Opinion does not perhaps provide all the answers to the challenges faced, it focuses on the concepts of data minimisation, user control and consent and, where possible, data anonymisation.

A key message put forward by the Opinion is that it is essential that IoT stakeholders recognise and address privacy concerns at as early a stage as possible.

This article was written by Andrea Lawler of A&L Goodbody. ICQ

Advertising and the Consumer

Central Bank representatives addressed an ACOI seminar during the year about the advertising of financial services and products while outlining its role in ensuring advertisers comply with the codes and regulations.

In July 2014, Verona Hanlon and Toni McIntyre from the Central Bank of Ireland addressed a lunchtime seminar organised by the Consumer Protection Working Group of the ACOI, during which they delivered an informative presentation on its advertising requirements and provided an insight into how consumers view advertising from financial services companies.

First of all, the Central Bank speakers noted that financial advertising requirements emanate from a number of pieces of rules and legislation,

both Irish and European. These are:

- Consumer Protection Code (CPC)
- Consumer Credit Act 1995;
- European Communities (Consumer Credit Agreements) Regulations 2010;
- European Communities (Markets in Financial Instruments) Regulations 2007; and
- Consumer Protection Code for Licensed Moneylenders 2009.

The speakers also noted that Central Bank receives many requests to consolidate the rules around advertising, and note the frustration at the level of overlap between the different pieces of legislation. In this regard, the Central Bank has contacted the Department of Finance and notified it of this issue.

THE 5 Cs

At the heart of the Central Bank's mandate are the so-called "5 Cs" – confidence, challenge, compliance, culture and the consumer.

Confidence: the aim is to reinforce consumer confidence in financial services, products and regulation.

Challenge: the Central Bank aims to challenge both itself and the firms it regulates. The Central Bank will not accept poor practices within such firms.

Compliance: the Central Bank encourages compliance with the spirit of the CPC and other requirements and that the compliance function be involved in the early stage of the development of an advertisement to ensure compliance.

Culture: the Central Bank wishes to promote a consumer-focused culture within firms (including in the development of advertisements).

Consumer: Ultimately the consumer is at the heart of the regulatory framework.



THE SUPERVISORY APPROACH

Due to the size of the financial services market and the sheer volume of advertising, the Central Bank does not pre-approve advertisements. However, the speakers noted that it provides clarification on the requirements of the CPC while it also provides results from consumer research, guidance notes, and desk-based reviews. They also reiterated that the compliance function within firms should ensure compliance with advertising requirements.

THE CONSUMER VIEW

Consumer research carried out by the Central Bank noted a number of key findings about how consumers view advertising. The research found that of all the respondents to a survey carried out, some 48% of consumers disagreed with the statement that “financial advertisements are clear and easy to understand.” Furthermore, 50% felt that financial advertisements are often misleading while 55% felt that small print in financial advertisements should be kept to a minimum. In addition, 46% disagreed with the statement that “financial advertisements contain too much information.”

The research also indicated that younger consumers consider that an advertisement’s role is to ‘grab attention’, while an older audience was more focussed on key information and its transparency. The respondents also noted that there is a fine balance between insufficient information and information overload while they would like specific key information to be clearly set out in the main body of the advertisement, as it makes the advertisement more understandable and is likely to be of more interest.

MONITORING OUTCOMES

The Central Bank speakers pointed out that the majority of advertisements are compliant with regulatory requirements and that, during 2013, of the 3,800 different advertisements issued during the year, just 82 were the subject of investigation. When issues did arise, firms are generally cooperative and Ms Hanlon noted that firms, and if requested to do so will agree to withdraw or amend the non-compliant advertisement.

5 KEY ISSUES RELATING TO THE CPC REQUIREMENTS

Ms Hanlon referred to five key issues relating to CPC requirements. These are:

Application to social media and online advertisements: When advertising in social media tweets/comment feeds, firms should include a hashtag (#) character and link to the terms and conditions.

Consideration of key information’ and ‘qualifying criteria: She stressed that key information must be included in the body of the advertisement. Through consumer research, the Central Bank found that the following were considered key pieces of information for savings/investments: actual product (lump-sum or savings), rate/type, term etc. For insurance products, the key information is: actual product (building or contents)/add-ons, excess, restrictions/exclusions i.e. new customers etc.

Use of regulatory disclosure statement: She also noted that the CPC is very prescriptive in this regard and that there should be not be any mistakes or variations of the statement in advertisements.

Avoiding misleading advertising:

In addition firms should be upfront about add-on products and should take into consideration how an advertisement is represented in visual and/or audio format.

References to independent, independent advice and free: The CPC sets out requirements for the use of the term ‘independent’, and also stated that consumers are sceptical of the term ‘free’ in an advertisement.

CONSIDERATIONS FOR ACOI MEMBERS

In conclusion, the Central Bank speakers recommended that compliance officers refer to the Central Bank’s guidance notes particularly when using new formats of advertising (e.g. tweets). They advised that a compliance officer should be involved in the development of advertisements from an early stage in the process. Finally, it was noted that firms should have in place systems and control checks, and should ensure that issues raised with advertisements are being discussed and escalated throughout the organisation as appropriate.

A number of queries were posed by members of the audience. Of note, audience members sought clarification as to whether there would be further guidance issued in relation to radio advertisements, and whether there are any plans to bring Credit Unions within the scope of the CPC. The speakers confirmed there are no immediate plans to issue new guidance on, or expand the scope of, the CPC.

This article was written by the ACOI’s Consumer Protection Working Group. ICQ

ON THE DOMESTIC FRONT:

Central Bank of Ireland updates life, non-life and composite reinsurance requirements. Irish Stock Exchange reduces clearing fees by 50%. CBI publishes Skilled Person's Report – Statement of Proposed Use.

ON THE INTERNATIONAL FRONT:

European Central Bank (ECB) assumes responsibility for euro area banking supervision. European Court of Justice (ECJ) press release relating to Advocate General's opinion on UK's challenge to remuneration provisions in CRD IV. Five major banks paid fines totalling \$3.4 billion in respect of price fixing in foreign exchange market.

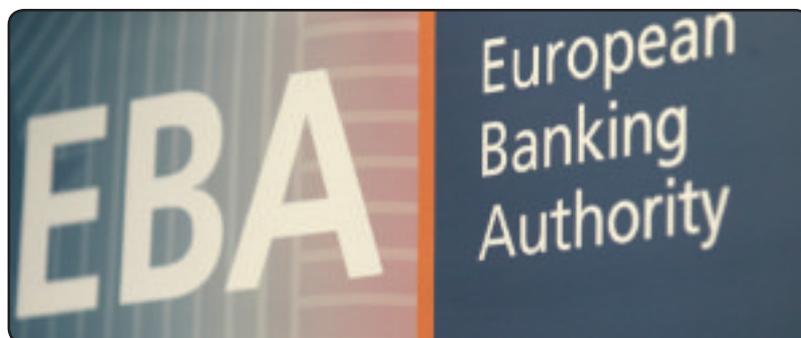
Banking

Domestic**PERMANENT TSB SUBMITS CAPITAL PLAN TO ECB**

Following the results of the ECB stress test in October, on 7 November Permanent TSB submitted a plan to the ECB outlining how it will remediate the shortfall in capital. Permanent TSB has said that 80% of the capital shortfall will be covered through, among other things, the conversion of bond. They have stated that they aim to raise the rest of the capital from private investors.

CENTRAL BANK OF IRELAND (CBI) IMPOSES FINE OF €3,500,000 IN RESPECT OF IT GOVERNANCE FAILURES BY ULSTER BANK IRELAND LIMITED

On 12 November, the CBI imposed a monetary penalty of €3,500,000 on Ulster Bank Ireland Limited, in addition to the redress scheme Ulster Bank had put in place for customers affected. The monetary penalty was



imposed for the IT systems failure that occurred during June/July 2012, which resulted in late payments in and out of accounts, as well as an inability to use online banking, amongst other issues. The CBI found that Ulster Bank failed to have sufficiently strong governance arrangements in relation to IT systems.

CENTRAL BANK OF IRELAND (CBI) PUBLISHES CONSULTATION PAPER ON NEW REGULATIONS FOR CREDIT UNIONS

On 27 November, CBI published Consultation Paper No. 88 on new regulations for credit unions. These regulations relate to reserves, liquidity, lending, investments, savings and borrowings. They should build upon existing prudential and governance requirements. Submissions are invited by 27 February 2015. The new regulations should come into effect at the end of 2015.

EU and International EUROPEAN CENTRAL BANK (ECB) ASSUMES RESPONSIBILITY FOR EURO AREA BANKING SUPERVISION

On 4 November, and after a year of a preparatory period, the ECB became responsible for the supervision of euro area banks. The Single Supervisory Mechanism is a new system of banking supervision, and is the EU's response to the financial crisis. It has the goal of ensuring stability of the European financial system and consistent

supervision. The SSM consists of the ECB, along with the national competent authorities of each participating EU member state.

EUROPEAN CENTRAL BANK (ECB) PUBLISHES LETTER FROM JEAN CLAUDE TRICHET TO BRIAN LENIHAN FROM 2010

On 6 November, the ECB published a letter written by Jean Claude Trichet in his former capacity as ECB president, to Brian Lenihan. The letter, dated 15 October 2010, referred to the provision of liquidity from the Eurosystem to Irish banks. It also contained a warning that such provision of liquidity should not be taken for granted. It was highlighted that the four-year economic strategy of the Irish Government would be assessed by the ECB.

FIVE MAJOR BANKS PAID FINES TOTALLING \$3.4 BILLION IN RESPECT OF PRICE FIXING IN FOREIGN EXCHANGE MARKET

Global financial regulators including the UK Financial Conduct Authority (FCA), the Commodity Futures Trading Commission (CFTC), and Finma in Switzerland, imposed fines totalling \$34 billion on five major banks (namely UBS, Royal Bank of Scotland, JP Morgan, Citigroup and HSBC). The largest penalties were imposed on UBS which paid fines totalling \$661 million to the FCA and CFTC and CHF134 million to Finma.



Insurance

Domestic

CENTRAL BANK OF IRELAND (CBI) SURVEY - SOLVENCY II PHASING-IN APPROVALS

On 10 November 2014, the CBI issued a survey to compliance officers of (re) insurers. The CBI will use the survey to determine whether (re)insurers intend to apply for and use the 'early approval' mechanisms as provided for under Solvency II. Early approvals can be sought in relation to, for example, ancillary own funds, undertaking specific parameters and the matching adjustment. The survey, which will close on 12 December 2014, does not cover phasing-in approvals related to groups or internal models.

CENTRAL BANK OF IRELAND (CBI) UPDATES LIFE, NON-LIFE AND COMPOSITE REINSURANCE REQUIREMENTS

On 13 November 2014, the CBI published updated versions of its summary papers on requirements for life, non-life and composite reinsurance undertakings. The revised papers do not introduce any new

requirements for reinsurers but rather take account of developments since the previous versions were published. These updates include references to, among other matters, (a) the CBI's Reserving Requirements published in May 2014 and (b) the incoming increase in minimum guarantee fund for reinsurers other than captives (to €3.6 million) on 31 December 2014.

HEALTH INSURANCE (AMENDMENT) BILL 2014 AND OTHER MEASURES

The Health Insurance (Amendment) Bill 2014 was published on 6 November 2014 as part of a package of measures announced by the Minister for Health on 5 November 2014. The measures are designed to alleviate the cost of health insurance premiums and to support growth in the number of policyholders in the sector. The Bill sets out risk equalisation credits and hospital bed utilisations credit to apply from 1 March 2015. According to the Department of Health, the revised credits should operate to reduce average net claims to 130% of market average, compared to 133% during 2014. Other key provisions in the bill include reduction in stamp

duty rates for products that do not provide advanced cover (no change to the rates for advanced products). Separately, the Department of Health has also announced an incoming reduction in the HIA levy to 0.01% of premium income. In a press release issued on 5 November 2014, the Department of Health also indicated that the Minister intends to amend the Health Insurance Act 2001 (Open Enrolment) Regulations 2005 to (a) standardise waiting periods for all individuals purchasing the same policy and (b) define 'pre-existing illness'.

EU and International INSURANCE DISTRIBUTION DIRECTIVE (IMD2) - FURTHER PROGRESS

On 5 November 2014, the Council of the EU announced that its Permanent Representatives Committee (COREPER) has agreed a general approach to the proposed IMD2. A note from the General Secretariat to the Council dated 7 November suggests that the Council (a) confirms its agreement to a revised version of the sixth Presidency compromise proposal (14791/14 REV1), containing clarifications to the recitals and (b) invites the Presidency to commence negotiations

with the Parliament, with a view to reaching agreement at first reading. During November, the Council also published information regarding communications received by it from Member States (including Austria, Spain, France, Luxembourg, Hungary and the UK) expressing concerns/ views regarding the draft IMD2.

UK SUPREME COURT CASE – PAYMENT PROTECTION INSURANCE (PPI)

On 12 November 2014, the UK Supreme Court (in case citation number [2014] UKSC 61) 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 under the UK Consumer Credit Act 1974. The Supreme Court case concerned the sale of PPI in circumstances where a lender failed to disclose commission of 71.8% (payable to an intermediary, with which the plaintiff had previously settled a claim) on the PPI. The Court held that this created an unfair relationship as it involved a sufficiently extreme inequality of knowledge and understanding between the parties. The Court observed, however, that it can be difficult to determine the point at which a commission becomes so large that the relationship cannot be regarded as fair if the customer is unaware. Notably, the Supreme Court also held that the intermediary was the agent of the plaintiff rather than of the lender.

EIOPA CONSULTS ON SOLVENCY II RISK FREE INTEREST RATE

On 2 November 2014, the European Insurance and Occupational Pensions Authority (EIOPA) published a

consultation paper regarding the Solvency II risk free interest rate (to be used in the calculation of technical provisions) which EIOPA must determine. This describes the methodology and assumptions which will be used to calculate the rate. EIOPA intends to publish risk-free interest rates on a monthly basis from February 2015 in order to provide (re)insurers with a common basis for calculating the value of the financial information they are required to report to their supervisors. An updated version of the consultation paper was published by EIOPA on 5 November 2014 correcting a number of errors appearing in the original version.

EIOPA - DRAFT SOLVENCY II ITS ON SUPERVISORY APPROVAL PROCESSES

On 31 October 2014, EIOPA published its first set of draft implementing technical standards (ITS) on supervisory approval processes under Solvency II. The ITS define the processes for the approval by national supervisors of (group) internal models, matching adjustments, ancillary own funds, undertaking specific parameters and special purpose vehicles. The ITS are addressed both to (re)insurers and national supervisors. EIOPA has submitted the ITS to the European Commission, which has three months to decide whether to endorse them. If endorsed, the ITS will become legally binding. EIOPA has also published the final reports on its public consultations on the draft ITS, on its website.

IAIS GUIDANCE - G-SII LIQUIDITY

On 4 November 2014, the International Association of Insurance Supervisors (IAIS) recently published a letter (dated 22 October 2014) to its members together with guidance on liquidity

management and planning. The guidance is intended for group-wide supervisors of globally systemically important insurers (G-SIIs). The guidance addresses points which the IAIS considers to be central to effective liquidity management/planning. These include that liquidity management policies should be maintained by G-SIIs (which should be approved by the G-SII's Board) and that these should be integrated into the G-SII's risk management approach (and should inform business decisions). Additionally, there should be clear lines of liquidity reporting and responsibility.

LIST OF G-SIIS FOR 2014 – NO CHANGE

On 6 November 2014, the Financial Stability Board (FSB) published a list of G-SIIs for 2014. In July 2013, the FSB, in consultation with the IAIS and national authorities, identified an initial list of nine G-SIIs using an assessment methodology developed by the IAIS. The 2014 list is identical to the list published in 2013 but will continue to be updated annually. A decision on the G-SII status of reinsurers has been postponed pending further development of the assessment methodology.

EIOPA CONSULTS ON INSURER PRODUCT OVERSIGHT AND GOVERNANCE ARRANGEMENTS BY INSURERS

EIOPA recently published a consultation on proposed guidelines for national supervisors regarding product oversight and governance arrangements by insurers (but not reinsurers or distributors). Amongst other matters, EIOPA notes that arrangements involving the creation and design, marketing and monitoring/review of products must

be appropriate to the target market concerned (and should take into account consumer interests). The proposed guidelines focus on areas including (a) establishment, review and documentation of product governance and oversight arrangements, (b) management of conflicts of interest in product design and (c) knowledge and ability of staff. Comments are invited until 23 January 2015.

EIOPA COLLEGES OF SUPERVISORS - ACTION PLAN AND REPORT ON GUIDELINES

EIOPA recently published its two-year action plan for colleges of supervisors for 2015/2016. Key focuses in this regard (aimed at ensuring consistency and quality in Solvency II implementation) include discussing whether (a) own risk and solvency assessment and solvency calculations are consistent and (b) there are any plans for sub-group supervision. EIOPA also recently published a final report on its proposed guidelines on the operational functioning of supervisory colleges. This follows EIOPA's April 2014 consultation on the draft guidelines and the report includes a feedback statement setting out EIOPA responses to the submissions received by it. EIOPA has made certain updates to the draft guidelines, to reflect the submissions (e.g. comments received to the effect that definitions of sub-group supervision and specialised teams should be clear in order for group supervision to be effective). It is intended that, with limited exceptions (which will apply from 1 January 2016), the guidelines will apply from 1 April 2015.

UK DIFFUSE MESOTHELIOMA PAYMENT SCHEME REGULATIONS 2014 PUBLISHED

On 7 November 2014, the Diffuse

Mesothelioma Payment Scheme Regulations 2014 (in force from 28 November 2014) were published in the UK. The Regulations were made pursuant to powers in the Mesothelioma Act 2014 (which established a compensation scheme for mesothelioma victims in eligible cases). Key points that the Regulations cover include the requirement for insurers within scope (in short, UK employers' liability insurers authorised during a particular 12 month reference period) to pay a levy based on their gross written employer liability premium in the UK during that period. The Secretary of State in the UK must notify such insurers of the amounts due and the date of such payment.

MIS-SALE OF INSURANCE ADD-ONS - FCA FINES AND BANS

On 5 November 2014, the Financial Conduct Authority in the UK (FCA) published information concerning fines (amounting to over £900,000) and bans (from holding certain positions in financial services firms) imposed by it on three former directors of a general insurance intermediary. This follows prior actions taken against the intermediary itself for a sales strategy resulting in mis-selling of monthly insurance add-ons. Failings identified on the part of the directors included (a) not identifying signs of compliance issues, (b) operating a business strategy to maximise profits, resulting in the unfair treatment of customers and (c) failing to identify that a directors' share scheme could foster an environment which impacted negatively on dealings with customers.

PRA SOLVENCY II UPDATES

On 21 November 2014, the Prudential Regulation Authority in the UK (the

PRA) issued a Solvency II update letter to insurers. This provides information on the PRA's consultation paper on further measures for implementation of Solvency II (CP 24/14), also published on 21 November. The consultation proposes changes to the PRA's Rulebook to align it with Solvency II, including in respect of (a) rules on the appointment of actuaries, (b) run-off operations, (c) national specific templates relevant to the Society of Lloyds and minor changes to proposed new reporting rules and (d) draft supervisory statements in a number of areas. Comments are invited until 31 January 2015. The letter also refers firms intending to submit a pre-application for the matching adjustment to recently uploaded documents on the PRA's webpage to accompany the application.

INSURANCE EUROPEAN RESPONSE TO CONSULTATION ON INTERNATIONAL ACCOUNTING STANDARDS REGULATION (IAS REGULATION)

On 7 November 2016, Insurance Europe published response to the European Commission's consultation of Regulation 1606/2002 (the IAS Regulation). The IAS Regulation requires application of International Financial Reporting Standards (IFRS) to consolidated financial statements of EU companies whose securities are traded on a regulated EU market. In short, while Insurance Europe acknowledges that the IAS Regulation is still valid and adequate, and has given a credibility and momentum to the global use of IFRS; the replacement of the current interim requirements (IFRS 4) is of key importance for the insurance industry.

FCA - INTERMEDIARY BRIBERY AND CORRUPTION RISK MANAGEMENT

On 14 November 2014, the FCA published a report on its findings following a thematic review of management of bribery and corruption risks by UK wholesale insurance intermediaries. Key findings include that (a) most intermediaries in the sample reviewed (10 small or medium sized intermediaries, including nine Lloyd's brokers) did not adequately manage such risks, (b) only half of the intermediaries adequately identified and assessed those risks across their entire business, (c) the level of due diligence carried out was often inadequate and (d) senior management oversight of bribery and corruption risk management was often weak. The Report also provides examples of good practice identified during the review. The FCA will be updating its guidance on financial crime to include a new chapter on anti-bribery systems and controls for intermediaries and has now published a consultation paper for that purpose.

INSURANCE EUROPE PUBLISHES POSITION PAPER ON PROPOSED 'INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION' (IORP) DIRECTIVE

On 6 November 2014, Insurance Europe published a position paper on the proposed IORP Directive. While the broad objectives of the Directive are welcomed by Insurance Europe, the paper sets out detailed comments on many of its provisions. Interestingly, the paper comments that the Solvency II Directive does not make provision for reinsurers to provide cover directly to IORPs but that the Reinsurance Directive currently permits Member States to allow this. Insurance Europe states that clarification is needed in

this regard to ensure that IORPs can continue to make use of reinsurance for the benefit of their members and beneficiaries.

INSURANCE EUROPE PUBLISHES PAPER ON WHY INSURERS DIFFER FROM BANKS

On 5 November 2014, Insurance Europe published an interesting paper (dated October 2014) entitled 'Why insurers differ from banks'. The paper is critical of what it refers to as a 'flawed perception' that banks and insurers are similar and that regulatory initiatives developed in a banking context can therefore be used as a blueprint for insurance regulation. The paper states that banks and insurers have very different business models and roles and have fundamentally different risk profiles. Accordingly, applying banking-inspired regulatory frameworks to insurers has a materially negative impact on the insurance sector and the economy.

EIOPA HOLDS FOURTH ANNUAL CONFERENCE

EIOPA held its fourth annual conference on 19 November 2014. In his opening speech (published on EIOPA's website on that date), the Chairman of EIOPA spoke about EIOPA's strategic priorities for the coming years. These focused on three issues: (a) consistent implementation of Solvency II across all Member States and building

an EU-wide supervisory culture, (b) delivering adequate, safe and sustainable pensions to EU citizens and (c) risk-based regulation and supervision of conduct of business. EIOPA also commented on the need to strengthen EIOPA's operational independence and to find a stable solution for its continued financing (whether through central EU funding, by industry, or both). The desirability of an enhanced supervisory role for EIOPA for the largest and most important cross-border insurance groups, was also highlighted.

FCA AND PRA FOCUS ON SOLVENCY II 'APPROVED PERSONS'

On 26 November 2016, the FCA and PRA in the UK published separate (but related) consultation papers on changes proposed based on the requirements of the Solvency II Directive. The PRA's consultation paper (CP26/14) proposes changes to its rules on the governance and fitness and propriety of individuals, including in relation to a new senior insurance managers regime (SIMR). It is proposed that the SIMR will be broadly aligned with the regime for banks, imposing responsibilities to senior persons who are key function holders. In its consultation paper (CP14/25), the FCA proposes (amongst other matters) changes to its approved persons assessment regime and the application of new Conduct Rules for approved persons. Notably, the FCA has decided to postpone its consideration of whether non-executive directors will fall within its amended approved person regime for Solvency II firms (pending review of responses on a parallel consultation which should be read in conjunction). Comments are invited on both consultations until 2 February 2015.



Investment Firms

Domestic

CENTRAL BANK OF IRELAND (CBI) ISSUES WARNINGS ABOUT UNAUTHORISED INVESTMENT FIRMS

On 17 November, CBI issued a warning about an unauthorised investment firm, Zenith Capital Ventures (Hong Kong). On 24 November, CBI issued further warning in respect of two more unauthorised investment firms, namely Phoenix Financial Services (USA) and Miyako Mergers and Acquisitions (Japan).

IRISH STOCK EXCHANGE ANNOUNCES 50% REDUCTION IN CLEARING FEES

As of 3 December 2014, there will be a 50% reduction in clearing fees for order book trades in Irish equities and exchange traded funds (ETFs).

Funds

Domestic

UPDATED CENTRAL BANK AIFMD Q&A

The Central Bank published the 11th edition of the AIFMD Q&A. New questions ID 1078 (reporting by non-EU AIFMs) and ID 1079 - ID 1084 (loan originating Qualifying Investor AIFs) were added.

UPDATED CENTRAL BANK UCITS Q&A

The Central Bank published a third edition of the UCITS Q&A. A new question ID 1011 on master feeder arrangements (and anti-dilution levies) is included.

IRISH STOCK EXCHANGE (ISE) EXCHANGE TRADED FUNDS (ETFs) DISCLOSURE REQUIREMENT

The ISE has removed the requirement to provide daily disclosure of the portfolio details of actively managed ETFs listed on the ISE. As the number of actively managed ETFs

has increased and the market has developed, the ISE have reviewed their requirements and removed this disclosure requirement in order to align its requirements with those of other European stock exchanges.

EU and International ESMA Q&A ON AIFMD

The European Securities and Markets Authority (ESMA) published updated Questions and Answers document on the application of the AIFMD with new Q&As 27, 47, 48 and 49 in section III (reporting to national competent authorities under Articles 3, 24 and 42) and numbers 1 and 3 in section VIII (calculation of the total value of assets under management).

AIFMD PASSPORT AND THIRD COUNTRY AIFMS

On 7 November, ESMA published a call for evidence (closing 8 January 2015) on the EU passport under the AIFMD and third country AIFMs. This will feed into ESMA to provide the European Commission with:

- ESMA's opinion to the European Commission on the functioning of the passport for EU AIFMs and on the functioning of the national private placement regimes.
- ESMA's advice to the European Commission on whether the passporting regime should be extended to the management and marketing of AIFs by non-EU AIFMs and to the marketing of non-EU AIFs by EU AIFMs.

UCITS V

ESMA issued its Final Advice on two of the delegated acts on depositaries required by UCITS V dealing with the insolvency protection of UCITS assets when delegating safekeeping and the independence requirement



(between the management company or investment company and the depositary). This technical advice will be transmuted to formal delegated acts.

EUSEF AND EUVECA REGULATIONS

ESMA issued updated versions of its Questions and Answers (Q&A) on the application of the European Social Entrepreneurship Funds (EuSEF) Regulation (346/2013) and the European Venture Capital Funds Regulation (EuVECA) (345/2013). New Q&As 1b and 1c have been added looking at whether AIFMs above the threshold of Article 3(2)(b) of the AIFMD can manage and market EuSEF and EuVECA and which provisions should apply.

PRIIPS

On 10 November, the Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) had not yet been published in the Official Journal of the EU. The three European Supervisory Authorities (ESAs), namely EIOPA, ESMA and the

EBA will prepare draft Regulatory Technical Standards (RTS) in specific areas. Its requirements will be applicable two years after its entry into force. The three ESAs published a discussion paper on key information documents (KIDs) for PRIIPs. UCITS will not be subject to the regulation for five years and this may be extended.

MMFS

On 27 November 2014, the Presidency of the Council of the EU published its second compromise proposal for the proposed Regulation on Money Market Funds (MMF Regulation) On 17 November 2014, the European Parliament's Committee on Economic and Monetary Affairs (ECON) published its draft report on the proposed MMF Regulation. ECON is due to consider the draft report in December 2014 and January 2015 and to vote in February 2015. The European Parliament is scheduled to consider the MMF Regulation at its plenary session on 25 March 2015.

Cross Sectoral

Domestic

ON 5 NOVEMBER 2014 CENTRAL BANK OF IRELAND (CBI) PUBLISHED ISSUE 7 OF 2014 OF ITS MARKETS UPDATE

Topics include (i) the outcome of the consultation on possible exemption from capital buffers for SME investment firms from CRD IV/ CRR, (ii) Appointment of the CBI as the competent authority for EMIR (the European Union (European Markets Infrastructure) Regulations 2014), (iii) AIFMD – 11th Edition of the AIFMD Q&A published and (iv) the publishing of the Third Edition of the UCITS Q&A.

CENTRAL BANK OF IRELAND (CBI) PUBLISHES SPEECH GIVEN BY ITS GOVERNOR PATRICK HONOHAN AT THE MABS ANNUAL CONFERENCE

On 8 November, the CBI published a speech given by Governor Honohan at the MABS Annual Conference. The speech was focussed on household indebtedness. Governor Honohan discussed ways to prevent over-indebtedness, including addressing the responsibility of lenders.

EUROPEAN COMMISSION AND EUROPEAN CENTRAL BANK (ECB) STATEMENTS FOLLOWING CONCLUSION OF SECOND POST PROGRAMME SURVEILLANCE MISSION TO IRELAND

On 21 November, European Commission and ECB released a statement following their surveillance mission between 17 and 21 November. They made the following observations across various sectors in Ireland:



- The economic situation is improving since the end of the EU/IMF financial assistance programme;
- Investor demand for Irish assets has resulted in the wind-up of NAMA being accelerated;
- Government deficit in 2014 is likely to be slightly higher than forecasted;
- Unemployment remains quite high; and
- Recovery in the banking sector is ongoing.

CENTRAL BANK OF IRELAND (CBI) PUBLISHES SKILLED PERSON'S REPORTING – STATEMENT OF PROPOSED USE

The CBI has published guidance in the form of a Statement of Proposed Use in relation to its power under Part 3 of the Central Bank (Supervision and Enforcement) Act 2013 (the 2013 Act) to a direct regulated financial service provider to appoint an independent expert to review and provide recommendations on any matter(s) specified by the CBI for the purposes of proper and effective regulation of financial service providers.

EU and International BANK OF ENGLAND PUBLISHES UPDATED VERSION OF STRESS TEST SCENARIO UNDER CRD IV

The updated stress test scenario will apply to all firms to which CRD IV applies. Bank of England has updated the scenario that was previously published in April 2014, and provided information about how it should be used; namely to build their own scenario under Pillar 2.

UPDATES ON THE KEY INFORMATION DOCUMENT FOR PRIIPS

On 10 November 2014, the Council of the EU announced its adoption

of a Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPs).

G20 – LEADER'S COMMUNIQUE HAS BEEN PUBLISHED FOLLOWING THE BRISBANE SUMMIT

The G20 Summit took place in Brisbane on 15-16 November. The communique stemming from it outlines the need to build a stronger, more resilient global economy. It is noted that while the G20 welcomes the Financial Stability Board, it calls for regulatory authorities to make further progress to implement reforms. It also cautioned that global economic institutions need to be effective and representative to reflect changes to the world economy.

EUROPEAN COURT OF JUSTICE (ECJ) PRESS RELEASE RELATING TO ADVOCATE GENERAL ISSUES AN OPINION ON UK'S CHALLENGE TO REMUNERATION PROVISIONS IN CRD IV

On 20 November, the ECJ published a press release on the Advocate General's opinion on the UK's ECJ challenge in respect of certain remuneration provisions in CRD IV. The UK's argument consists of a number of parts, namely that the definition of 'material risk taker' is too broad and brings too many of its staff members into the definition, disclosure of the number of staff who earn over €1 million breaches privacy laws and the bonus cap provision is too wide. The opinion itself is not yet available, however the press release states that the Advocate General has opined that the UK challenge should be rejected. The ultimate ECJ judgment

is expected to be released in early 2015.

THE PRUDENTIAL REGULATION AUTHORITY (PRA) HAS PUBLISHED CONSULTATION PAPER: THE PRA RULEBOOK: PART 2

The consultation paper sets out proposals to redraft certain modules of the PRA Handbook. It is the second in a planned series of consultations aimed at reshaping Handbook material the PRA inherited from the Financial Services Authority (FSA) to create a Rulebook, containing only PRA rules.

PRIIPS

On 10 November, the Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) had not yet been published in the Official Journal of the EU. The three European Supervisory Authorities (ESAs), namely EIOPA, ESMA and the EBA will prepare draft Regulatory Technical Standards (RTS) in specific areas. Its requirements will be applicable two years after its entry into force. The three ESAs published a discussion paper on key information documents (KIDs) for PRIIPs.

This bulletin first appeared in an A&L Goodbody publication December 1st 2014. 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 2014.. ICQ

Raising the Bar on Compliance

The 2014 ACOI Annual Conference took place on the October 23rd at the Radisson Blu, Golden Lane in Dublin. The theme for this year's conference was "Irish Financial Services: Raising the Bar on Compliance, Culture and Conduct".

The conference was a lively, informative and thought provoking event with enlightening and entertaining speeches and presentations from a myriad of political, industry and regulatory experts including Philip Brennan, Chairman, ACOI and Managing Director, Raiseaconcern.com; Simon Harris TD, Minister of State at the Departments of Finance, Public Expenditure and Reform and the Department of the Taoiseach; Anthony Smith-Meyer, Editor-in-Chief, Journal of Business Compliance and Professor of International Management and Business, Miami University – European Campus; Ann Nolan, Second Secretary, Department of Finance, Ireland; Dr Michael Dowling, Programme Director of the MSC in Finance, DCU Business School; Clive Kelly, General Manager and Executive Director Partner Re Insurance and Professor Niamh Brennan, Michael MacCormac Professor of Management, University College Dublin.



Clive Kelly, Niamh Brennan, Micheal Dowling and Melanie Blake



Diarmuid Whyte and John Morgan



Melanie Blake and Dr Michael Dowling



Sean McCrave, Laura Tobin, Simon Harris TD and Caroline Hollick



Anthony Smith Meyer, Philip Brennan, Simon Harris TD and Ann Nolan



Breandan Bonar, Declan McHugh, Diarmuid Whyte and John O'Sullivan



Simon Harris TD



Mick Stewart and Martin Purdy



Patricia Dardis and Lisa Knox



Philip Coburn and Francis Coll



COMPETITION



Winner



Following a great response to our Membership Survey which was announced in the last issue of ICQ, we are pleased to announce that Alan Melia is the lucky winner of our iPad which was put up as a prize for all those who entered. The ACOI would also like to thank all those who took the time to participate in the Membership Survey.

The 2014 ACOI Graduation was held on November 26th in the Royal College of Physicians at No. 6 Kildare Street. The venue was fitting for a night of celebration, marking the educational accolades achieved by our ACOI members. Some 552 Graduates were invited to join us to collect parchments across the various qualifications and designations (Professional Certificate in Compliance, Professional Diploma in Compliance and the LCOI Designation), with many picking up multiple awards on the night. We also had the honour of presenting Sarah Browne with the ACOI Gold Medal, to mark her outstanding achievement. Sarah met a demanding set of academic criteria for this award, which is not granted every year. The student has to achieve a distinction across all four modules of the PDC and complete the exams without any resit. Congratulations again to Sarah Brown and to all our 2014 ACOI Graduating Class. On hand to award the various certificates and diplomas were Bill Prasifka, the Financial Services Ombudsman and Philip Brennan, Chairman of the ACOI.

All the pictures of the Graduation Day are also on the ACOI's website www.acoi.ie.



Alistair Barugh



Austin Garvey



Camilla McDonagh



Careena Fitzpatrick



Cathryn Kendal



Cathy Hamilton



Chidi Ibe



Ciara Elizabeth Naughton



Ciaran Shields



Claire McCarthy



Corinna Mitchell



David Guy



Dearbhail Greany



Deborah Mularkey



Deirdre O'Neill



Elaine Duffy



Gerard White



Hannah O'Neill



Jarome Livinus Duru



Joanne Lynch



John McWalter



Josephine Black



Kate Nugent



Kathleen Elizabeth Gormley



Lamanda Nangle



Lorraine Carroll



Mariantonietta Suppa



Mark Delany



Mary Geraghty



Matthew Reilly



Michael Deegan



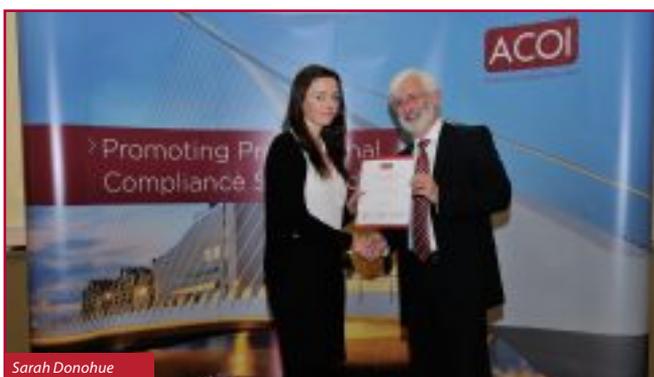
Natalija Sviridova



Niall Daly



Noelle Rogan



Sarah Donohue



Sonya Gaffney



Susan Naughton



Tara Glynn



Tracey Keightley



Aidan Larkin



Aileen O'Donnell



Aine Suttle



Alan Cooper



Alex Kitching



Anne McGill



Aoife McGee



Beata Jakubiak



Caitriona De Burca



Ceila Rudden



Christopher McManus



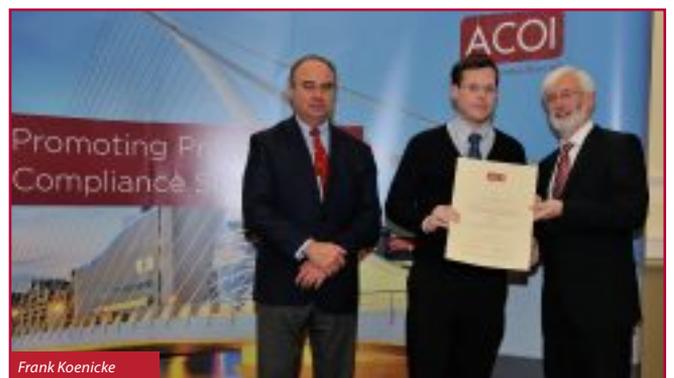
Clare Gleeson



Clare Lammas



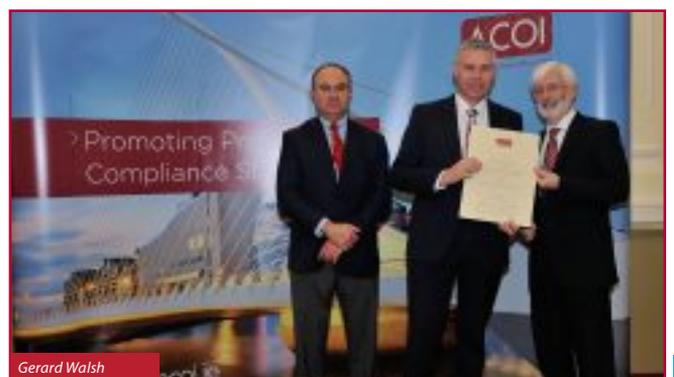
Cormac O'Braonain



Frank Koenicke



Ger Griffin



Gerard Walsh



Gregory Crowley



Ian Kelly



Jane Foley



Jennifer Coogan



John Bowe



John Donovan



Keavy Gallagher



Killian Banks



Kim Lloyd



Lorraine Rooney



Luna Pennisi Momodu



Marian McCabe



Mary Nixon



Michelle Reade



Niamh Boylan



Niamh O'Mahoney



Ruta Songailaite



Ruth Dowd



Sharon Byrne



Serena Bennett



Tom Crowley



Una Breathnach



Valerie Deasy



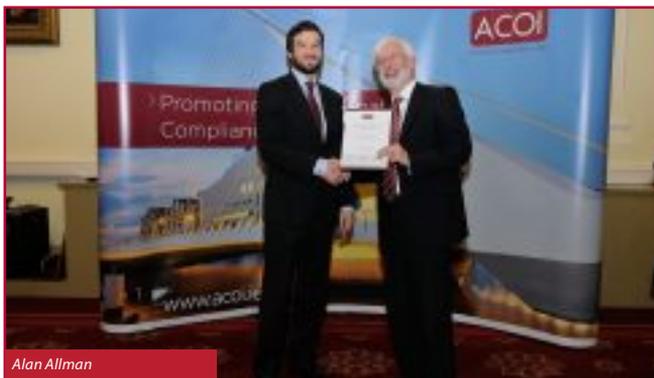
Valerie McGovern



Vikki Mernagh



Viktoria Munkacsi



Alan Allman



Alexander Hill



