IIMU newsletter

Irish Insurance Market Update

Welcome to the August edition of the quarterly Irish Insurance Market Update (IIMU). This update provides you with a summary of the latest accounting, actuarial and regulatory developments in the insurance market. In this edition you can find out more about the following topics:

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- IFRS 4 Update
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Events

Deloitte will be running Solvency II and Financial Reporting sessions over the coming weeks- invites for same will issue shortly.

This newsletter was prepared by the Deloitte Irish Insurance Group. We hope you find it informative and would welcome any feedback or suggestions.

Insurance Ireland

Insurance Ireland announces Deloitte as their Market Intelligence Strategic Alliance Partner

Deloitte is pleased to announce that it has become Insurance Ireland's Market Intelligence Strategic Alliance Partner.

Deloitte is working with Insurance Ireland (II) on the design and development of an industry market intelligence portal that will enable II to distribute valuable data and insights to their members. Through the application of Deloitte's analytics tools, the innovative portal will provide enhanced functionality and data visualisations, improve processing time by utilising online automation functionality and produce timely reporting of market information. On a quarterly basis, the II-Deloitte partnership will also provide commentary on the results and will give insight and perspective on industry trends and developments.

Central Bank activity

CBI publishes "Solvency II Matters" Newsletter

Since our last quarterly update, the CBI has published editions 18, 19 and 20 of "Solvency II Matters" for May, June and July 2015 respectively.

Solvency II Matters is a now a monthly publication produced by the Prudential Policy Department and is intended to provide undertakings with updates on policy development and implementation activities related to Solvency II. The topics covered in the May edition include:

- Go-live of Solvency II Preparatory Phase Reporting;
- Reporting deadlines for the Solvency II Preparatory Phase;
- Submission deadlines and requirements for Solvency I and Solvency II reporting throughout 2015 and 2016;
- Feedback on firms' Forward Looking Assessment of Own Risks (FLAOR).

The topics covered in the June edition include:

- Update on Preparatory Phase reporting;
- CBI is reviewing their website to reflect Solvency II requirements;
- Update on EIOPA's activities, noting that the publication of the second set of Guidelines will mark the completion of the regulatory framework for Solvency II;
- Reminder to undertakings to watch the EIOPA website for the finalised reporting requirements, expected to be published in September 2015.

The topics covered in the July edition include:

- Update on Preparatory Phase reporting;
- CBI is reviewing all existing Certificates and Conditions of Authorisation to transition them to Solvency II. They will provide progress updates in future editions of Solvency II Matters;
- Publication of the second set of draft Implementing Technical Standards (detailed later in this Newsletter).

Each edition contains a checklist for undertakings, which the CBI advises should be checked regularly and cross-referenced against undertakings' Solvency II preparation.

Links to the full newsletters are given below.
Issue 18: May 2015.
Issue 19: June 2015.
Issue 20: July 2015.

CBI publishes Macro-Financial Review

On 16 June, the CBI published its first Macro-Financial Review of 2015 offering an overview of the current state of the macro-financial environment in Ireland by evaluating developments since the previous review, published in December 2014.

Non-life Sector:
With the recovery in the Irish economy and the increase in both rates and volume of business, premium income from Irish-risk business rose by 5.3% compared to 2013. However despite this, a number of high-impact firms still had an underwriting loss in 2014. This has been attributed to a combination of the severe weather earlier in the year and the deteriorating claims environment, brought about by an increased frequency of claims associated with the improving economic conditions and increased large claims. There has also been notable profitability issues caused by the increase in competition.

Challenging conditions in the sector have led to a slight dip in solvency positions in 2014, but all firms are above minimum solvency ratio requirement of 150%.

Life Sector:
Backed by the improving financial markets and an increase in the value of companies' sovereign bond holdings, the solvency positions of member firms mostly improved over 2014. Premium income remained stable between 2013 and 2014. In the same period, the retail protection and investment segments of the life market decreased by 5.6% and 38%. Low interest rates continue to create difficult operating conditions for variable annuity (VA) firms. The difficulties posed in offering new products and the unprofitable book of existing business also mean that the future of the VA business model is unclear.

Reinsurance Sector:
The reinsurance sector in Ireland has been profitable in recent years. It has seen an 18% increase in gross written premium between 2013 and 2014. However the outlook for the sector has been rated negative by

all of the major rating agencies due to oversupply of capacity and increased primary insurer retention.

A greater focus is being put on diversification of business lines and geographical exposures because of an excess supply of reinsurance capacity. This is seen through the increase in merger and acquisition activity and in firms seeking new opportunities for future growth.

A link to the review is given here.

CBI publishes additional guidance on new PCF roles

On 27 May, guidance was published on how an entity may notify the CBI in relation to the due diligence undertaken in respect of six new Pre-Approval Controlled Function (PCF) roles introduced in December 2014.

The guidance notes that persons in situ in any of the six new PCFs on 31 December 2014 do not require the approval of the Central Bank to continue to perform that PCF. However, the regulated financial service provider is required to comply with Section 21 of the Act in respect of persons in situ.

For this purpose, a regulatory return report has been added to the CBI's Online Reporting System ('ONR'). This return was made available via the ONR on 28 May and the deadline for submission was 30 June.

The six new PCFs affected are:

- Chief Operating Officer;
- Head of Claims;
- Signing Actuary;
- Head of Client Asset Oversight;
- Head of Investor Money Oversight;
- Head of Credit.

A link to the guidance is here.

Other Irish News

Justice Committee Invites Submissions on Civil Liability (Amendment) Bill

The Oireachtas Joint Committee on Justice, Defence and Equality has proposed legislation to amend the Civil Liability Act 1961 to provide for Periodic Payment Orders and are inviting submissions from interested groups or individuals.

Chairman of the committee David Stanton TD says: *"The Committee is now seeking submissions from interested groups and individuals on the draft legislation, which sets out to provide for Periodic Payment Orders to cover the future costs of those seriously injured requiring long term care. It would replace a lump sum award which is what people must rely on under the present system. The Committee will consider any suitable written submissions received and may decide to invite a number of contributors to public hearings should it be considered necessary."*

Written submissions were accepted until Friday 31 July. Further information can be found here.

Solvency II

EIOPA calls for high quality public disclosure under Solvency II

On 29 June, EIOPA published a Note stressing the importance of high quality public information and the relevant use of external audit services in relation to Solvency II public disclosures.

In the Note, EIOPA points out that public disclosure under Solvency II can be considered as a paradigm shift in communication between reinsurance companies and their stakeholders, which previously – in terms of prudential information – was quite often limited to reporting to supervisory authorities. It provides consumers and all other stakeholders with the opportunity to receive consistent and comparable information on the solvency and financial condition of those companies.

However EIOPA admits that this will be accompanied by some challenges in that only high quality disclosed figures and public reports can satisfy the objectives outlined in Solvency II. Any alternatives could potentially mislead stakeholders' judgements when comparing them to other public disclosure like financial statements, which are strictly regulated and scrutinised. In response, EIOPA and its members will be very attentive to the application of the Solvency II public disclosure by (re)insurance undertakings and to potentially divergent levels of quality in different Member States.

EIOPA believes that external audit can be a powerful tool in ensuring high quality public disclosure and believes that individual and group level main elements of Solvency and Financial Condition Report (SFCR) should fall within the scope of any external audit under Solvency II. Statutory auditors are deemed qualified to carry out external audits to obtain a reasonable assurance opinion on the information publically disclosed. This permits the issue of a public opinion by the auditor on whether the disclosed elements have been properly prepared, in all material respects, in accordance with the Solvency II regulatory framework. EIOPA indicates that auditors should be mindful of the rigorous system of authorisations, supervisory approvals and internal validations carried out in accordance with the Solvency II Directive. For example, in relation to internal models approved to be used for the determination of capital requirements.

A link to the Note can be found here.

EIOPA publishes Set 2 of Solvency II Technical Standards and Guidelines

On 6 July, EIOPA published the second set of draft Implementing Technical Standards (ITS) and Guidelines for Solvency II. The set covers different areas from all three Solvency II pillars. The ITS and Guidelines were finalised following the public consultation earlier this year, during which EIOPA received over 4500 comments.

Gabriel Bernardino, Chairman of EIOPA, said: *"The publication of these Standards and Guidelines is a milestone for Solvency II and for EIOPA. It culminates a long and thorough process of development and public consultation. I want to thank all the different stakeholders that provided comments and engaged with EIOPA during the consultation phase, in particular the members of EIOPA's Insurance and Reinsurance Stakeholder Group. Their comments and suggestions contributed to a better balanced regulatory package."*

EIOPA has released the XBRL taxonomy based on the published ITS. See the next section for details.

A link to the outcome of public consultation on the Set 2 of the Solvency II ITS and Guidelines is given here.

EIOPA release Taxonomy 2.0

On 30 July 2015, EIOPA released the EIOPA Solvency II data point model ("DPM") and Extensible Business Reporting Language ("XBRL") taxonomy package (2.0.0). This is the first version aligned with the outcome of the Public Consultation of Solvency II. It should be used by the undertakings and solution providers to start preparation of their IT systems for Solvency II reporting and provide feedback from this implementation. A new version, 2.0.1, will be published by the end of September 2015. It will include fixes to the discovered issues and a second set of validations to be used for report production

The release note, published by EIOPA, outlines the content and scope of the taxonomy package and identifies areas which are subject to change.

A link to the release note is given here.

EIOPA publishes Annual Report 2014

On 26 June 2015, EIOPA published its Annual Report 2014 ("the Report") detailing their achievements in their ongoing objective of further developing regulations which support the EU internal markets. EIOPA has identified these goals as:

- Increased consumer protection;
- Developing sound and prudent regulations;
- Ensuring quality and consistency of oversight;
- Supporting financial stability;
- Developing as a modern and competent organisation.

The Report highlights EIOPA's primary achievements in 2014, which include its work on the regulation of Packaged Retail and Insurance-Based Investment Products ("PRIIPs"), its work towards the implementation of Solvency II, reporting on the equivalence of the insurance frameworks of Japan, Bermuda and Switzerland, the Stress Test of the European Insurance Sector, publishing consultation and discussion papers on consumer protection issues and establishing a Supervisory Oversight Team which assessed 10 National Competent Authorities ("NCAs") in 2014.

The Report discloses information on EIOPA's management of resources and how it faces the crucial challenge of utilising them to complete tasks and obligations assigned to them.

Gabriel Bernardino, Chairman of EIOPA, said: *"In 2014, consumer protection and financial stability continued to guide EIOPA's priorities. Our ultimate goal is to ensure that insurance companies and pension funds are soundly managed, have a robust solvency position and treat policyholders, members and beneficiaries in a transparent and fair manner. In our work we continued to have independent and objective judgement. Our conclusions were based on reliable analysis and solid evidence. We adhered to the transparency and accountability towards our stakeholders."*

A link to the report is given here.

New jurisdictions to receive Equivalence Status

On 5 June 2015, a press release published by the European Commission stated that it has adopted its first third country equivalence decisions under Solvency II.

These equivalence decisions take the form of delegated acts and once equivalence is received, EU insurers in third countries can use local rules to report on their operations. It is not mandatory for third countries operating in the EU to adhere to all EU rules.

Jonathan Hill, EU Commissioner for Financial Stability, Financial Services and Capital Markets Union stated that *"the decisions taken today will lead to more choice and competition for European consumers and also enable European insurers to compete more effectively in overseas markets. So this should be good for European businesses and the European economy."*

Following a report by EIOPA, the Swiss insurance regulatory framework is fully equivalent to Solvency II, having been granted full equivalence in all three areas – solvency calculation, group supervision and reinsurance – of Solvency II for an indefinite period.

The EU Commission has declared

- Australia;
- Bermuda;
- Brazil;

- Canada;
- Mexico; and
- the United States

to be "provisionally equivalent" for the purpose of the group solvency calculation, under Article 227 of Solvency II. This was announced by the EU's expert group on insurance, banking and payments; formed by specialists appointed by EU Member States wherein they act as an advisor to the EU Commission on the preparation of its delegated acts for Solvency II.

This "provisional equivalence" in respect of Article 227 of Solvency II arises in these jurisdictions due to the fact that the regulatory regime, in respect of group solvency calculation, is considered equivalent to that of the EU jurisdiction for 10 years. In the second quarter of 2015, the EU Commission is expected to adopt delegated acts in respect of the provisional equivalence status of the aforementioned jurisdictions.

The time limit is three months in which these decisions must be passed to the European Parliament and the Council for approval. This can be extended by a further three months. Following a successful completion of European Parliament and Council scrutiny, publication in the EU Official Journal and entry into force will commence.

This move will be welcomed by EU insurers operating in these jurisdictions as the regulatory capital requirements can be calculated using local solvency rules as opposed to Solvency II. Negotiations are expected to begin, in the second half of 2015, between the United States and the EU in regards equivalence in respect of reinsurance (Article 172 of Solvency II) and group supervision (Articles 260 of Solvency II).

A link to an overview published by EIOPA relating to the equivalence decisions adopted by the European Commission is given here.

Tax

BEPS Project: Update

The OECD BEPS Project continues apace with many revised discussion drafts being released in recent months. As discussed in our previous newsletter the revised discussion draft on Action 7 with regard to preventing the artificial avoidance of PE Status was released in May, including proposed changes to the dependent and independent agent provisions of the OECD Model Tax Convention.

The 7 BEPS Actions delivered in September 2014 will be consolidated with the remaining 2015 deliverables to ensure a coherent package which will be delivered to the G20 Finance Ministers in October 2015, together with a plan for the follow-up work and a timetable for their implementation.

In February 2015, OECD and G20 countries agreed three key elements that will enable implementation of the BEPS Project:

- A mandate to launch negotiations on a multilateral instrument to streamline implementation of tax treaty-related BEPS measures (Action 15);
- An implementation package for country-by-country reporting in 2016 and a related government-to-government exchange mechanism to start in 2017 (Action 13);
- Criteria to assess whether preferential treatment regimes for intellectual property (patent boxes) are harmful or not (Action 5).

In 2014, Deloitte conducted its first 'OECD Base Erosion and Profit Shifting (BEPS) survey' to gauge the views of multinational companies on the increased media, political and activist group interest in 'responsible tax' and BEPS.

Significant change is fully expected, with the key findings as follows:

- Over 90% of respondents are anticipating that their corporate tax compliance burden will substantially increase;
- There is concern over the consequences of unilateral action and over 75% of respondents are expecting double taxation will occur as a result of BEPS;
- Over 90% of respondents agree that tax structures are under greater scrutiny;
- 58% agree or strongly agree that the BEPS project will have a greater effect on their business than they originally thought; and
- There is a perception that reaching agreement on actual policies following the BEPS project will be difficult, which may increase the risk of unilateral action.

To view the results in further detail, please click here.

FATCA Update

The FATCA deadline (for 2015 only) was extended to 31 July 2015 which was a welcome move for companies still unclear on their FATCA obligations.

Revenue's removal of the categories of 'Relevant Holding Company' & 'Relevant Treasury Company' from the definition of 'Financial Institution' for FATCA purposes is also a welcome move. Accordingly a holding company or treasury company will now only be considered a Financial Institution if it meets the definition of "a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company" as defined. In effect, this means that many groups which operate predominately outside the financial services industry who previously may have had an obligation to register and report for FATCA, due to the presence of a group treasury company or certain holding companies may no longer have to do so, which has been widely welcomed.

If steps have not already been taken to ensure that you are FATCA compliant it is important that the relevance of this legislation to your business is established as soon as possible. Failure to be FATCA compliant will mean non-compliance with Irish tax rules, given that FATCA is now enshrined in Irish legislation. For example, failure to make a full and complete FATCA return, where required, by the extended reporting deadline of 31 July 2015 will result in an initial penalty of €19,045 with a further penalty of €2,535 for each day the failure continues.

In other developments, Revenue have issued supplementary FAQs on FATCA which can be accessed here and on the Common Reporting Standard (CRS) which can be accessed here. The CRS is a set of global standards for the annual exchange of financial information by Financial Institutions to the tax authorities of the jurisdictions in which their customers are tax resident.

Please visit our website here for further information with respect to FATCA or to get in contact with a member of the FATCA team today who can provide technical assistance during the due diligence process and in determining the reporting requirements of entities.

Companies Act 2014: Directors Compliance Statement

The Companies Act 2014 became effective from 1 June 2015. The Act incorporates changes and innovations in many areas including company types, governance, mergers and financial reporting. It also introduces further compliance requirements particularly for large Plc's, Companies Limited by Guarantee and large private companies. More information on the range of changes, how these may impact your business and what action may be required can be accessed here.

In particular, from 1 June 2015, S.225 of the Companies Act 2014 (which relates to the Director's compliance statement) has commenced.

The Director's Compliance Statement requirement applies to all PLC's excluding investment companies and private limited companies with a turnover > €25m and a balance sheet total > €12.5m. For the first time Director's will be required to make a statement that they acknowledge that they are responsible for securing and have reviewed the company's compliance with its relevant obligations including tax legislation.

The statement itself consists of four sections:

- The directors are required to acknowledge that they are responsible for securing the company's compliance with its relevant obligations;
- Confirm that they have drawn up a statement (to be known, and in this Act referred to as, a "compliance policy statement") setting out the company's policies (that, in the directors' opinion, are appropriate to the company) respecting compliance by the company with its relevant obligations;
- Confirm that they have put in place appropriate arrangements or structures that are, in the directors' opinion, designed to secure material compliance with the company's relevant obligations; and
- Confirm that they have conducted of a review, during the financial year to which the report relates, of any arrangements or structures that they have been put in place.

The section requires compliance or explanation but in the event that no statement is made a category 3 offence will be committed. More information can be found here.

New Financial Reporting Framework – Tax Considerations

From 1 January 2015, companies using existing Irish GAAP may, subject to certain restrictions, chose or be required to prepare their accounts in accordance with either full IFRS, FRS 101 or FRS 102 & 103.

When deciding which of the reporting options to choose consideration should be given, amongst other requirements to the tax consequences on transition. Changes in the reporting framework, in particular any changes in how P&L items are accounted for will likely require transitional adjustments (spread over 5 years) for tax purposes to ensure no amounts fall out of account for tax purposes and also that no amounts are doubly taxed. On transition there may potentially be changes or impacts on tax computations and calculations, the presentation of current and deferred tax, cash tax and the effective tax rate depending on the framework adopted.

While broadly in the long term the transition to a new accounting framework should not lead to additional taxation or additional taxable income, there may be an impact on the timing of recognition of income and expense items for tax purposes and the liability for current tax (i.e. one option may result in a cash tax benefit or disadvantage compared to the other, depending on the specific circumstances).

Whether any particular advantage or disadvantage would arise would depend on the details of the particular case which would need to be analysed and should be considered in advance of the changeover date. Further information can be accessed here.

Financial Transaction Tax: Update

On 18 June 2015, the working group of the 11 member states participating in the EU FTT project met in order to progress the EU FTT project ahead of a meeting of EU economic and finance ministers (ECOFIN) the following day. As previously reported, this working group is chaired by the Austrian Finance Minister and aims to provide stability on FTT discussions against the rotating EU presidency.

We understand that a number of key points were discussed at this meeting including the following:

- **Tax Basis:** We understand that a preference seems to be emerging for the "issuer principle" as the basis for the FTT to apply. Under the issuer principle, tax would apply according to the territory the security was issued from regardless of the residence of the transacting parties. For example, the transfer of a German share between two US residents would in principle be in scope to FTT under the issuer principle. However, it is also understood that individual member states may be able to extend the application to include elements of the "residence principle" (which applies the tax according to the residence of the parties, regardless of where the security was issued from). If this were the case, the scope of the FTT is very likely to extend beyond any existing transaction tax, although it is not clear how the combination of the issuer and residence principles would work in practice.
- **Instruments:** We understand that a preference is emerging for FTT to apply to equities and some "derivatives" – specifically derivatives which reference equities. Please see below for further updates on the treatment of derivatives. There seems to be a consensus that Government bonds should be out of scope whilst the status of other fixed income instruments remains ambiguous at present.
- **Derivatives:** We understand that there is a preference for the tax base to be the premium for options and the notional amount for other derivatives. It is acknowledged that further work is required to arrive at a workable solution on this matter to determine whether the notional amount is the appropriate reference for the tax basis.
- **Gross v Net basis:** We understand that discussions are continuing as to whether those persons subject to EU FTT should be able to "net" their intra-day positions. This would result in these persons being subject to tax on their net end of day purchases, as is the case for Italian and French FTT. The meeting participants are aware of the need to balance their policy intention with the scope of any market maker exemption that may be included.

It is clear that further work is still required, but the above points are indicative of progress having been made and in some cases give a clearer direction for the EU FTT, including on fundamental issues such as whether the issuer or residence principle should apply. There is still evidently an appetite to move the FTT discussions along. Pierre Moscovici, the European Union Economic and Tax Commissioner, was quoted earlier in July 2015 as saying that "I have the impression that all of that (the talks) is going to wrap up during the autumn of 2015 with application at the start of 2017".

While completing talks by the end of the year seems ambitious, it does remain feasible (given the short time frame it took for the French and Italian FTTs to be implemented). This may prove challenging however given that Luxembourg, which has been opposed to the FTT, assumed the Presidency of the Council of the European Union from 1 July 2015. However they have included facilitating progress on the FTT as part of their priorities for the Presidency.

The next FTT working group meeting between the participating member states is expected to be held in September 2015.

iXBRL: Updated FAQs

Revenue has updated its FAQ on iXBRL filing, which can be accessed here. The update includes further clarity on a number of matters including:

- **Tagging the Detailed Profit and Loss Account (DPL):** The tagging of a DPL has been under discussion at TALC, as the format of the P&L prepared under the Companies Act does not provide the level of detail Revenue require on the CT1. Revenue notes that the DPL filing requirement will be met if a business fully breaks down its DPL income and expenditure and uses all the relevant tags in the taxonomies. An example of the detail required is provided.
- **Filing draft accounts**: A Revenue case manager may allow interim filing of draft financial statements in iXBRL format. The final accounts must also be filed in iXBRL format. Where the only change from the draft is the signing date and names of signatories there is no need to re-submit the final accounts.
- **Inactive companies exclusion:** There is a new facility on the CT1 where you can indicate that a company is inactive so as to exclude it from the iXBRL filing requirement.

Other Revenue Pronouncements in Brief

Revenue have issued a number of eBriefs since our last update. Some which may be of interest to the Insurance Sector are detailed below. More information on any of the eBriefs referred to below can be accessed by clicking here.

- **eBrief 69/15:** A new electronic Tax Clearance (eTC) service will be in place from 1 January 2016. As part of the transitional arrangements for moving to this new electronic service, Tax Clearance Certificates (TCC) issuing from 1 July 2015 will have an expiry date of 31 March 2016. TCC which issued from 1 April 2015 to 30 June 2015 have an expiry date of 31 December 2015.
- **eBrief 63/15:** Guidance related to the tax treatment in respect of the Reimbursement of Subsistence Expenses to Employees (including Directors) has been updated. Following an agreed recommendation made by the General Council under the scheme of conciliation and arbitration for the Civil Service (General Council Report 1531 refers), changes have been made to the Civil Service distance requirements and rates with effect from 1 July 2015. These changes are

reflected in Revenue Leaflet IT 54 - Employees' Subsistence Expenses.

- **eBrief 56/15:** Revenue's new 'My Enquiries' service has launched. It replaces the secure email service which was withdrawn on 13 June 2015. The new service has a number of new features including the ability to keep a record of your enquiries, search for an enquiry and attach larger files for submission to Revenue. More information on the new service can be accessed here.

Department of Finance Consultations

Review of SARP published:

The Department of Finance has published a review of how the Special Assignee Relief Programme (SARP) operated in 2012 and 2013. The report noted that:

- While the initial uptake of the scheme was low, the numbers of claimants increased significantly in 2013.
- 121 employees claimed SARP in 2013 at a cost €1.9 million.
- Employers reported that 49 jobs were created and 215 jobs were retained in 2013 as a result of the relief.
- The sectors of the economy in which the assignees are located are spread among IT, Financial Services, Pharmaceutical and Medical, Consumer and Industrial and Other services.

The Department of Finance report can be accessed here.

KDB Feedback Statement issued:

The Department of Finance has published a 'Feedback Statement' following the public consultation on the Knowledge Development Box (KDB). The paper outlines responses to the views expressed in the consultation and possible approaches to aspects of the KDB.

Those who have an interest in this issue and wish to provide comment on the draft legislation should submit comments to the Department of Finance by 31 August.

The paper can be accessed here.

Travel and Subsistence consultation launched:

A consultation on the tax treatment of travel and subsistence expenses for employees and office holders has been launched.

The Office of the Revenue Commissioners will liaise with the Department of Finance in regard to matters arising in/from the Review which could give rise to the need for further examination of legislative provisions relating to the treatment of expenses.

The consultation document can be accessed here.

Company Law Updates

Companies Act 2014 Commencement Order

The commencement order for the Companies Act 2014 was published on 5 May 2015. The Act modernises the law relating to Irish Registered Companies. While largely a consolidation of the existing law, it does contain certain reforms.

Among others, some of the key impacts of the new law include:

- Companies whose financial statements are approved after 1 June 2015, will have to convert their statutory annual report to the new company law regime.
- The following six obligations in Part 6 will commence for financial years beginning on or after 1 June 2015:
  - Audit Committees (S.167);
  - Directors' Compliance Statement (S.225);
  - Disclosure of Directors' Share Options (S.305 (1)(b));
  - Disclosure of payments to connected persons (S.306(1));
  - All Directors' names (S.326(1)(a));
  - Statement on relevant audit information (S.330).

An overview of the Act along with what companies need to do now can be found here and Deloitte's guide to the Companies Act 2014 can be found here.

European Union (Insurance Undertakings: Financial Statements) Regulations 2015

Along with the amendments resulting from the Companies Act 2014, the 1996 insurance accounts regulations were superseded by the Statutory Instrument No. 262 of 2015 in June 2015. Set out in Schedule 1 (entity) and 2 (group) to these regulations are the legally required form and content of financial statements when adopting the Companies Acts framework of accounting.

This statutory instrument applies to the financial statements of insurance undertakings approved on or after 17 June 2015 regardless of year end date.

Financial Reporting Update

IFRS4 Update

On 19 May 2015, the IASB held an education session in which it discussed the implications of the variable fee approach (discussed in the March 2015 papers) in the following areas:

- Mutualisation;
- Revenue;
- Transition requirements.

In addition, the IASB also discussed:

- The accounting that would apply to contracts with participation features that would not be accounted for using the variable fee approach;

- Whether to provide an accounting policy choice when an entity presents interest expense using the effective yield approach or the current period book yield approach;
- An update from the staff on the interaction between IFRS 9 Financial Instruments and the Insurance Contracts project.

On 23 June 2015 the IASB held another education session to discuss the following topics:

- The implications of applying the requirements of IFRS 9 Financials Instruments (effective date 1 January 2018) prior to the affectivity of the new Insurance Contracts Standard (expected to be one or more years later);
- The implications if IFRS 9 is deferred for insurers and the scope of the deferral;
- The potential accounting mismatches that could occur if variable fee for service approach is applied to direct participating contracts where the insurer hedged financial market risks, e.g. duration mismatch with a derivative and the approaches that could be explored to address these mismatches.

No decisions were made at these education sessions.

On 25 June 2015, the IASB met to start its re-deliberations on accounting for participating contracts. The Board discussed the variable fee for service approach for direct participating contracts and the recognition of the contractual service margin ("CSM") to profit and loss for contracts with participation features ("participating contracts").

The Board tentatively decided that for participating contracts, the general measurement model to account for insurance contracts will be modified so that changes in the estimate of the fee the insurer expects to earn from the contract are adjusted in the CSM. The fee the insurer expects to earn from the contract is equal to the insurer's expected share of the returns on underlying items less any expected cash flows that do not vary directly with the underlying items.

The Board also tentatively decided to define direct participating contracts for which the variable fee for service approach will be applicable. Please see details of the criteria here. The Board also tentatively decided that insurers should recognise CSM in profit or loss on the basis of passage of time.

On 20 July 2015, the IASB held a meeting to address the consequences of different effective dates of IFRS 9 Financial Instruments (IFRS 9) and the new insurance contracts Standard. At this meeting the IASB took a decision to amend Insurance Contracts (IFRS 4) to permit an entity to exclude from profit or loss and recognise in other comprehensive income, the difference between the amounts that would be recognised in profit or loss in accordance with IFRS 9 and the amounts recognised in profit or loss in accordance with IAS 39 Financial Instruments: Recognition and Measurement (IAS 39), subject to meeting certain criteria. Please click here for our Deloitte observer notes for details of the IASB's discussion.

The IASB intends to discuss the scope of the amendments to IFRS 4 and whether the effective date of IFRS 9 should be deferred for the insurance industry during its September 2015 meeting.

Once issues relating to participating contracts have been addressed, the IASB Staff will consider whether tentative decisions reached for non-participating contracts will need to be revisited.

It is expected that re-deliberations will continue during the remainder of 2015 with the final standard expected to be published in 2016. The IASB Staff indicated that they do not expect to consider the mandatory effective date of the new Insurance Contracts Standard until the Board's re-deliberations have been completed. The Board has previously indicated its intention for an effective date that is approximately three years from the publication date of the new Insurance Contracts Standard.

IAS Plus - IFRS Project Insights: Insurance Contracts
IFRS - Insurance Contracts Project Updates

New Irish GAAP

The commencement date of the New Irish GAAP was 1 January 2015 and most companies are now advanced in their conversion process.

The new standards are mandatory for all companies who prepared their statutory accounts under "old" Irish GAAP. At this stage, at a minimum, companies should have completed the following actions:

- Ensured the board of directors/audit committee have decided what their go forward framework will be (FRS 101 vs 102/103 vs IFRS as adopted by the EU);
- Assessed the impact of new framework on accounting policies;
- Assessed the impact of new framework on chart of accounts;
- Conversion of 2013 balance sheet to new framework to ascertain opening reserves on 1/1/14.

As always, Deloitte are available to assist companies with their conversion process as required.

Events

We are planning a series of Solvency II briefings and financial reporting briefings and other events in the coming months. Please look out for emails containing further details of these.

About this newsletter

This publication is designed to keep readers abreast of current developments, but it is a general guide only and is not intended to be a comprehensive statement of the law or regulations and not an exhaustive treatment of those current developments. Accordingly, the information in this publication is not intended to constitute accounting, tax, legal, investment, consulting, or other professional advice or services. It therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication.

Deloitte would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. If you would like to discuss any of the issues set out in this newsletter please contact your usual Deloitte contact or any of the Deloitte insurance contacts listed on the following page and they will be able to help you.

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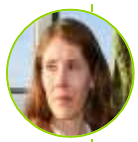

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