

WILLIAM FRY III

The Life Assurance Industry in Ireland – Some Legal and Regulatory Perspectives

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The Life Assurance Industry in Ireland – Some Legal & Regulatory Perspectives

- Overview of insurance activity in the Irish market
- Profile of the Regulatory Environment
- The Nature of an Insurance Contract

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Part I Overview of the Market

Overview of the Market

- Gross premium income (life, excluding reinsurance): €25.109bn
- Gross premium income (non-life, excluding reinsurance): €2.2bn
- No. of insurance and reinsurance undertakings with a head office in Ireland: 272
- In excess of 15,000 staff employed by insurance companies in Ireland (Source: PwC Report Commissioned by Insurance Ireland)
- Estimated that an additional 13,000 employed by companies directly related to the industry e.g. outsourced professionals and service centres, financial advisors, consultants (Source: PwC Report Commissioned by Insurance Ireland)

Source: *Insurance Statistics 2013*, Central Bank of Ireland

Overview of the Market

- Authorised insurance entities in Ireland, July 2015
 - Life insurance undertakings with HO in Ireland: 49
 - Life insurance undertakings with HO in other EU states: 11
 - Non-life insurance undertakings with HO in Ireland: 104
 - Non-life insurance undertakings with HO in other EU states: 31
 - Reinsurance Undertakings: 77

Source: Central Bank of Ireland Registers, 7 July 2015

Overview of the Market

Insurance market in Ireland – Domestic focus

- Non-Life
 - AIG
 - Allianz
 - Aviva*
 - AXA
 - FBD
 - IPB
 - Vhi
 - Zurich
- Life
 - Aviva
 - Friends First
 - Irish Life
 - New Ireland (B of I)
 - Standard Life*; and
 - Zurich

* Carry on business in Ireland through a branch

Overview of the Market

Insurance market in Ireland - International

■ Non-Life

- ACE
- Allied World
- AXIS Specialty
- Markel International*
- QBE*; and
- XL*

■ Life

- Allianz Global Life
- AXA Life Europe
- Canada Life International
- Liberty Life*
- Mediolanum
- MetLife
- The Lawrence Life; and
- UBS International

* Carry on business in Ireland as a branch

Overview of the Market

Insurance market in Ireland – International Reinsurance

- Atradius Re
- Berkshire Hathaway Re
- Catalina Re
- Greenlight Re
- Hannover Re
- Partner Re
- RGA
- SCOR
- Unipol Re

Overview of the Market

Advantages of Ireland (1)

- EU membership - insurance and reinsurance activities are passportable across the EEA under EU Directives
- Central Bank has a reputation as a responsible yet reasonable regulator
- Attractive corporate tax rates.
- Network of double taxation treaties - 72 signed, 68 in force
- Good supply of service providers (eg insurance managers and third party administrators) and professional services firms

Overview of the Market

Advantages of Ireland (2)

- No Irish premium taxes where the risks are located abroad
- No VAT on supply of insurance services
- Life companies enjoy “gross roll-up” on policyholder funds- no tax payable in Ireland
- Reasonably quick speed to market
- Political stability and good infrastructure

Overview of the Market

Competitive challenges

- Increased competition from other European member states.
- International image
- Central Bank's skill, expertise & resources keeping pace with changes/growth of industry
- Insurance sector being tarred with the same brush as banking sector

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Part II

Profile of the Regulatory Environment

Profile of the Regulatory Environment

- 4 main sources of insurance law:
 - EU law (eg Solvency II Directive and implementing Regulations)
 - Domestic Irish legislation (eg Central Bank Acts)
 - Court Decisions (i.e. common law)
 - Legacy English influences (eg Marine Insurance Act 1906, Assurance Companies Act 1909)

Profile of Regulatory Environment

Methods of regulating insurance companies

- Prohibition on providing insurance unless authorised ✓
- Regulation of ownership ✓
- Review of managers and directors ✓
- Prohibition on placing insurance with non-authorized reinsurers X
- Solvency requirements ✓
- Control of investments ✓
- Control of premium rates X
- Control of policy conditions X
- Regulation of marketing practices ✓

Profile of the Regulatory Environment

- Central Bank of Ireland – single regulatory authority for all financial services providers
- Responsible for **prudential supervision** in respect of both domestic and international activities
- **Conduct of business rules** the responsibility of the regulatory authority where the policyholder is based
- Benefits of a European Passport
 - Freedom of establishment (branch)
 - Freedom of services
 - Hybrid activities

Profile of the Regulatory Environment

- Probability Risk and Impact System (“PRISM”) is the risk-based supervision framework of the Central Bank
- Implemented in respect of insurers and banks on 25 November 2011. Other firms from early June 2012
- Supervisory resources and activities are focussed on the regulated firms that pose the greatest risk to financial stability and consumers
- 4 levels of risk category
 - high-impact
 - medium-high impact
 - medium-low impact; and
 - low-impact
- PRISM does not seek to prevent all firms from failing.

Profile of Regulatory Environment

EIOPA - Function

- EIOPA is the European Insurance and Occupational Pension Authority
- Regulation establishing EIOPA entered into force on 1 January 2011
- EIOPA is part of the European system of financial supervision
- Reflects attempt to coordinate and harmonise national supervisory structures for insurances across the EU

Profile of Regulatory Environment

EIOPA – Scope and Tasks

- EIOPA acts within the scope of existing European insurance legislation.
- EIOPA has the following tasks, to:
 - Develop legally binding technical standards;
 - Ensure a “consistent application” of European rules by national supervisory authorities;
 - Settle disagreements between national supervisory authorities; and
 - Safeguard stability of financial markets in emergency situations based on special powers for specific actions

Profile of the Regulatory Environment

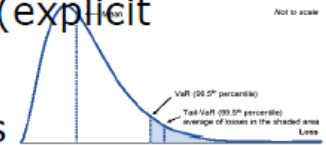
Solvency I

- Framework dates from the 1970s
- 14 Directives
- 'Prudent' valuation of liabilities reflect local accounting practices, non-harmonised valuation of TP
- Simple 'volume-based' capital requirements
- Asset risk managed by quantitative restrictions
- Diverging supervisory practices



Solvency II

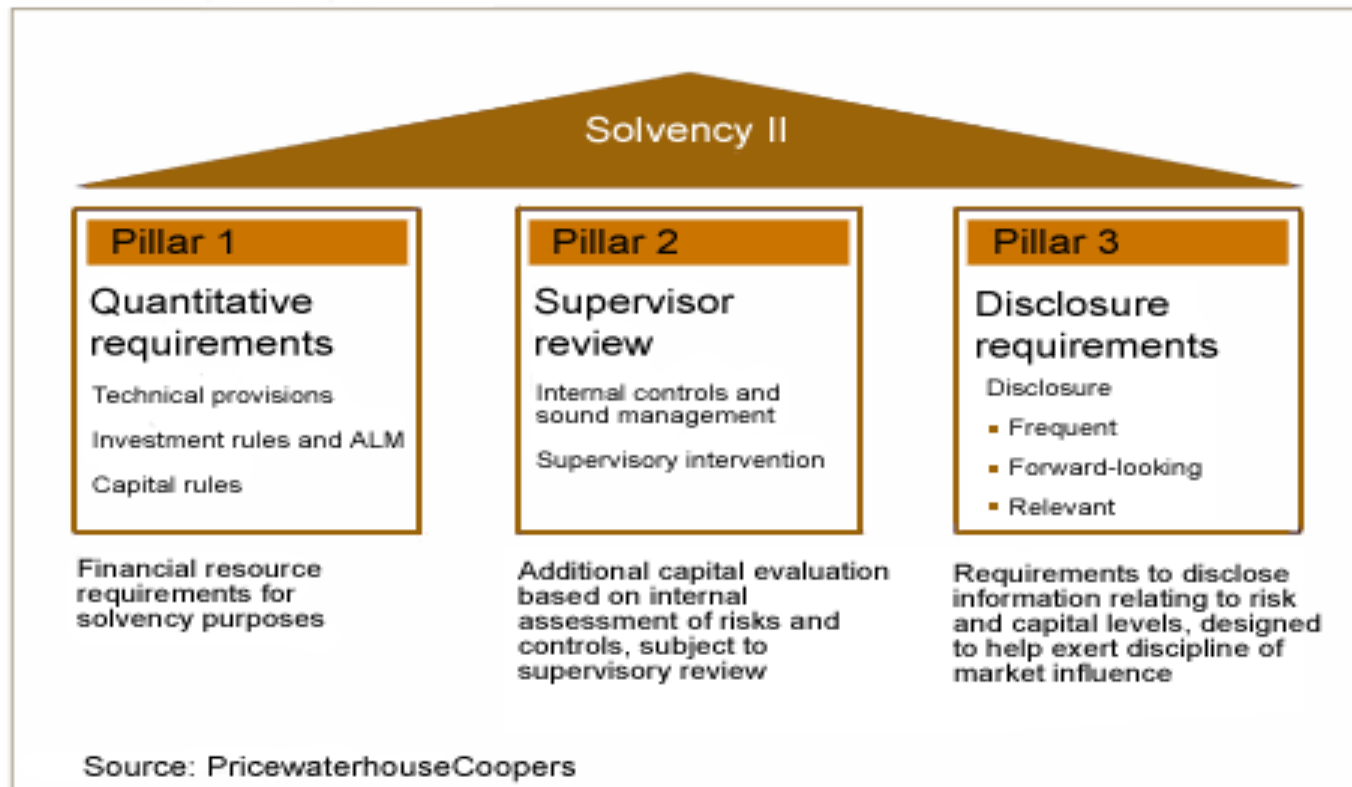
- Three pillar structure
- A risk-based approach
- Unified legislative basis for prudential regulation of insurers & reinsurers
- Employs Lamfalussy arrangements
- Non-zero failure regime (explicit ruin probability)
- Two capital requirements
- Market consistent valuation
- Importance of risk management
- Streamlined group supervision



Source: EIOPA

Profile of Regulatory Environment

Solvency II Directive: 3 pillar approach



Profile of Regulatory Environment

Future developments – Europe

- Harmonised policyholder protection schemes
- Harmonised approach to product transparency and distribution requirements for “substitute” retail investment products

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Part III

The Nature of an Insurance Contract

The Nature of an Insurance Contract

- Normal principles of contract law apply to the interpretation of insurance contracts as modified by the doctrine of “utmost good faith” and by consumer protection rules
- The requirement for policyholder to have an insurable interest in the lives assured still exist
- Law Reform Commission has recommended its abolition (July 2015)

The Nature of an Insurance Contract

- Policyholders do not have any interest in the underlying investments, instead have a contractual right against the life company
- On insolvency insurance claims are given priority over the technical reserves (may be an exception for liquidators fees)
- There has never been an insolvency of an Irish life assurance company (touch wood!)



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