Insurance Ireland Response to CBI Consultation Paper 138
Cross – Industry Guidance on Outsourcing

July 2021

INTRODUCTION

Ireland is a thriving global hub for insurance, reinsurance & captives and Insurtech. Ireland's insurance market is the fifth largest in the EU and our Reinsurance market is the second largest. Our members represent around 95% of the companies operating in the Irish market, making Insurance Ireland a strong leadership voice for the sector.

Insurance Ireland members are progressive, innovative and inclusive, providing competitive and sustainable products and services to customers and businesses across the Life and Pensions, General, Health, Reinsurance and Captive sectors in Ireland and across the globe.

In Ireland, our members pay more than €13bn in claims annually and safeguard the financial future of customers through €112.3bn of life and pensions savings. Our members contribute €1.6bn annually to the Irish Exchequer and the sector employs 28,000 people in high skilled careers.

The role of Insurance Ireland is to advocate on behalf of our members with policymakers and regulators in Ireland, Europe and Internationally; to promote the value that our members create for individuals, the economy and society; and to help customers understand insurance products and services so that they can make informed choices.

Insurance Ireland advocates for 135 member firms serving 25m customers in Ireland and globally across 110 countries (incl. 24 EU Member States), delivering peace of mind to individuals, households and businesses, and providing a firm foundation to the economic life of the country.

OVERALL OBSERVATIONS

Insurance Ireland welcomes the opportunity to share feedback on the CBI proposals contained in CP138 Cross-Industry Guidance on Outsourcing. As acknowledged in the Guidance, the financial services landscape is continually changing and as firms adapt to the changing technological environment, the use of outsourcing is a very valuable tool for managing risk for many firms as well as ensuring that firms have access to a number of other benefits. These include the effective and efficient employment of talent and expertise (particularly in intra-group contexts), economies of scale, and the ability for firms to benefit from relatively easy access to new technologies thus reducing and controlling operating costs and increasing efficiencies. At the same time, the ability to outsource frees up internal resources for other purposes, allowing the company focus on their core business and to deliver innovative products and services for customers.

While this consultation is cross sectoral, this paper is addressing the issue primarily from the standpoint of the (re)insurance and captive sector. If firms are to continue to service their customers in a cost-effective manner, they will need to be able to continue to leverage the flexibility and competitive advantage afforded by the use of Outsourced Service Providers (OSPs).

Effective use of outsourced services employs the available talent and expertise efficiently and leads to significant cost reductions for firms, a more efficient provision of cover at the point of sale and increased customer satisfaction. By focusing on their core business and outsourcing where appropriate and in areas that align with their business model, strategy and risk appetite, firms can ensure that they maximise economies of scale, are more agile, flexible, responsive and ultimately deliver better and fairer customer outcomes. New and innovative products and

services are coming to market regularly. The most successful firms in a well-functioning and competitive environment will do so by delivering suitable, timely and compliant products to the market thus achieving fair outcomes for their customers.

The increased flexibility, cost saving and agility afforded to firms by the use of OSPs means that they can concentrate on their business and create new and innovative product offerings that meet with the needs of the dynamic and ever changing environment that we live in.

Pooling of service provision by an OSP can scale up the return made on significant investment, i.e. on technology. There are many examples of outsourcing in the insurance industry, the use of insurance managers by certain (re)insurance firms such as captives and other managed (re)insurance undertakings as well as specialised services such as actuarial and underwriting and more generally applicable services such as HR and accounting. Policy holders can also benefit from the use of outsourced services where an OSP, having made significant technological investments, can explore new means of customer contact and service and interact with the customer more effectively. The benefits are not limited to customer service/front office activity, as the OSP can also mitigate some of the risks inherent in the customer journey thus enhancing the customer experience and improving customer outcomes. An illustration of this would be for instance where an OSP takes over some of the administrative functions in the sales process and policy administration areas, which were traditionally the sole remit of the insurance firm, freeing up underwriters to focus on risk management and product innovation. Effective risk management is about much more than defence and protecting value but also plays a part in the creation of real value by ensuring firms achieve their objectives.

Solvency II already provides for a comprehensive framework on outsourcing. The 2020 Review of the Directive will allow for a more efficient regulation on outsourcing, including the treatment of intra-group outsourcing. It is of paramount importance that the cross-sectoral guidelines on outsourcing recognise the sophisticated Solvency II regime and does not create a second set of requirements over and above the requirements laid down in the Directive, thereby creating a potential barrier for (re)insurance firms. In addition to the Solvency II framework, we also consider the respective EIOPA guidelines as an important prerequisite to safeguarding the insurance industry under these cross-sectoral guidelines. Insurance undertakings should not be exposed to artificial banking inspired regulation which potentially conflicts with the EU-wide regulatory framework. The EBA guidelines, upon which the guidance appears to be based, are written having consideration for the specifics of the Banking sector and are therefore not necessarily easily 'transferable' to the (Re)insurance and Captive Sector.

For example, the CBI propose adopting the EBA guidelines for notification of new outsourced services. This will result in a significant increase in the level of detail to be provided to the CBI as part of any notification. This detail will be required for every new outsourcing notification and for every notification of material change to existing outsourcing arrangements. Given the extensive use of outsourcing within the Insurance sector model, this will result in a significant increased burden over and above the prevailing requirements on the industry as set out in the 2016 "Notification Process for Re(Insurance) Undertakings when Outsourcing Critical or Important Functions or Activities under Solvency II[1]" and also potentially result in timing delays, all of which could ultimately impact on the delivery of services to the customer.

Additionally, the criteria to determine the criticality and importance of the outsourcing is to be derived from the EBA guidelines, but yet, (re)insurance and captive firms are to also consider the specific criteria applicable in the EIOPA guidelines. We expect this may cause confusion

[1] https://www.centralbank.ie/docs/default-source/Regulation/insurance-reinsurance/solvency-ii/requirements-and-guidance/outsourcing-notification-under-sii.pdf?sfvrsn=4

as to which guidelines take precedence where there is contradiction or overlap between the two.

In conclusion, we believe that the many and significant benefits to outsourcing are universally acknowledged and that it is an area that is likely to grow into the future, particularly with the development of digital and technological innovation in the industry. The use of OSPs allow companies to focus on core tasks, to lower costs, promote growth and create capacity for companies to consider the ever-changing external environment and develop new products to meet customer demand which is constantly changing. The use of OSPs can help maintain operational control, offer staffing flexibility, provide continuity and support risk management. For example, (re)insurance firms have found a double benefit from the adoption of technology - on the one hand digital claims processing reduce claim expenses while at the same time customer satisfaction has been shown to improve. It is therefore vital that any guidance associated with the use of outsourcing should support the process in providing clarity and comfort to firms and should not provide any unnecessary barriers to the utilisation of outsourcing.

Detailed comments

Scope

Article 13 of Directive 2009/138 (**Solvency II** Directive) stipulates that **outsourcing** means an "arrangement of any form between an insurance or reinsurance undertaking and a service provider, whether a supervised entity or not, by which that service provider performs a process, a service or an activity, whether directly or by sub-outsourcing, which would otherwise be performed by the insurance or reinsurance undertaking itself."

The proposals contained within CP138 are particularly focused on outsourcing relating to Information and Communications Technology (ICT) and the outsourcing of "critical or important" services to Cloud Service Providers (CSPs). Some key risks are identified in both the consultation and the guidance:-

- Data Security/Data Protection, risks inherent in the use of OSPs including intra-group;
- Governance and oversight, risks particularly where sub-contracting occurs;
- Off-shoring, challenges posed to such oversight and governance where the OSP is outside the EU/EEA and;
- Concentration risk.

In this regard, we explicitly emphasise the need for a consistent approach with the EIOPA guidelines on the use of cloud services[2] and the EIOPA guidelines on ICT resilience[3].

We will address these risks separately.

Data Security/Data Protection

The guidance makes many references to data protection. Firms are expected to be aware of and take steps to mitigate against data security risks which the CBI sees as inherent in the use of OSPs, irrespective of whether these OSPs are intra-group or not. This is especially the case with regard to cloud service providers. However, given that data protection is now enshrined in legislation with the introduction of the General Data Protection

[2] Guidelines on outsourcing to cloud service providers | Eiopa (europa.eu)
[3] EIOPA finalises Guidelines on Information and Communication Technology Security and Governance | Eiopa (europa.eu)

Regulation (GDPR), this means that OSPs, as data processors, have their own obligations in relation to this which match the obligations of the outsourcer. OSPs are subject to the GDPR legislation in their own capacity as data processors and controllers and they have legal responsibilities in relation to how they process personal data. OSPs have taken the necessary steps to ensure the security of the personal data under their control. OSPs are directly accountable to the Data Protection Commissioner, as are (re)insurance and captive firms. The concept of the protection of an individual's personal data is now safeguarded by legislation and policed by the Data Protection Commissioner. Furthermore, an OSP with scale is more likely to be able to maintain cutting edge IT security than a large number of (re)insurance companies or captives trying to do it independently without the same scale or deep expertise. (Re)insurance and Captive firms remain ultimately responsible for the OSP and oversight frameworks must include appropriate oversight of DP security.

We would expect that the CBI and the Data Protection Commission (DPC) would be working together to ensure that the integrity of the legislation be upheld without the addition of or duplication of requirements. We believe that is important to ensure that no unnecessary regulatory burden or disincentive is put in the way of firms which would affect the use of OSPs and in no way should regulated firms be in a position whereby compliance with one legislative or regulatory requirement raises a risk of non-compliance with another. This risks leading to unfair consumer outcomes as firms need to prioritise the rules and ensuring communication and collaboration between the CBI and DPC will mitigate this risk.

Governance and oversight

Our members are equally committed as the CBI to the mandate of strengthening resilience within the financial system, of strengthening consumer protection and of ensuring the stability of the financial system.

The consultation and guidance expects firms to "*assign responsibility for oversight of outsourcing risk and outsourcing arrangements to an appropriately designated individual, function and/or committee, to enable a holistic view of outsourcing to be maintained and reported on. This designated function should be directly accountable to the board*:"

We are aware of conflicting feedback given to individual firms from the CBI regarding ultimate responsibility for the ownership and oversight of outsourcing and we welcome the opportunity for clarification to be made at an industry level. As above, the (re)insurance or captive firm remain responsible for the risks within the entity, including third party/outsourcing risk, ownership of which ultimately rests with the Board of the (re)insurance or captive firm to manage effectively as noted in the paper. This will depend on a variety of individuals within the firm, particularly the business owners within whose remit the outsourcing occurs and second line risk oversight of these areas and the appropriate governance structure for monitoring these risks. All these individuals must work collectively within a robust governance structure to ensure appropriate risk management. This is an area where the principle of proportionality needs to be applied and consideration given to the nature, scale and complexity of the organisation. In some organisations, it will be prudent to have a three-layer (or 'three lines of defence') approach where the business manager manages the OSP on a day to day basis, the COO is responsible for coordination across the company and the Board is responsible for policy and oversight of the COO. However, such an approach would be contingent on the "nature, scale and complexity of the organisation".

Again, depending on the nature, scale and complexity of the outsourcing within an organisation, there may be a necessity for a specific Third Party Oversight/outsourced oversight function. This would ensure that an adequate governance structure is in place to meet all regulatory requirements and that sufficient consideration is given to critical and important outsourcing arrangements with appropriate engagement from senior management.

This would also be important in respect of the oversight, reporting and due diligence (initial and ongoing) in respect of the OSPs..

In general, we see the business manager (first line) as the appropriate person to have responsibility for the due diligence, contracts, risk profiling and updating of the firm's risk register. The Head of Compliance, CRO or CEO is viewed as the most appropriate person to have responsibility for ensuring that the Board has adequate oversight and that there are established governance processes in place for filing regulatory notifications to the CBI in line with the Guidelines.

As the Department of Finance are in the process of drafting a Heads of Bill relating to the Individual Accountability Framework and a new Senior Executive Accountability Regime, we suggest that a wider discussion on responsibility and accountability can be considered as part of the CBI's consultation process relating to expectations on mandatory responsibilities for firms, statements of responsibilities and responsibility maps.

Off-shoring

Members acknowledge that the oversight of service providers poses a great degree of challenge for them where the OSP is outside the EU/EEA. Before commencing with the specific guidelines, we would highlight the need to differentiate between an outsourcing activity to an external service provider and a service provider belonging to the same group as the outsourcing entity. In cases of intra-group outsourcing, the group governance and control framework apply to both the outsourcing undertaking and to the service provider. One of the advantages of intragroup is access to control reports, while these may not directly affect the company in question, they may help inform future decision making and/or risk scoring. This enhanced level of visibility and control must be considered, acknowledged and factored into the CBI's cross sectoral guidance.

Quarterly visits are costly and time consuming and this is an area where pooled audits and Service Organisation Control (SOC) reports could effectively be used. The pandemic has proven that much can be done remotely so we believe that the location of the OSP should not pose a material problem. With the correct framework of governance and control, supported by strong oversight and monitoring, it is immaterial where the OSP is located.

In relation to data protection, all offshore data processers need to follow the guidelines mandated by data controllers to ensure compliance with GDPR.

We note that European regulation, including the EBA guidelines, allow for pooled audits as follows:

"Without prejudice to their final responsibility regarding outsourcing arrangements, institutions and payment institutions may use:

a. pooled audits organised jointly with other clients of the same service provider, and performed by them and these clients or by a third party appointed by them, to use audit resources more efficiently and to decrease the organisational burden on both the clients and the service provider;
b. third-party certifications and third-party or internal audit reports, made available by the service provider."

This is an area where we see that the CBI appears to diverge from supervisory guidelines at EU level as the expectations of the CBI in relation to pooled audits and SOC appear more onerous on the regulated firm.

Where regulated firms utilise third party certifications provided by the OSP and/or pooled audits, the Central Bank expects that:

a) Regulated firms assess and document the circumstances in which third party certifications and pooled audits are deemed to provide appropriate levels of assurance, in line with their outsourcing policy and risk assessment. In this context, regulated firms must be mindful that the level of assurance required may be more onerous given the nature, scale and complexity of their business and the criticality and importance of the outsourced functions that are the subject of the review.
b) When utilising third party reports or certifications or availing of pooled audits, the regulated firm is satisfied and can evidence that:
    i. The scope and process for the review is appropriate, and provides sufficient coverage of the outsourced activities and functions and related risk management controls;
    ii. The review criteria are up to date and take account of all relevant legal and regulatory requirements;
    iii. The third party commissioned to conduct the review has the appropriate skills and expertise (in line with the general requirements relating to the use of independent third parties referenced in Part B Section 8.2 of the guidance); and
    iv. The regulated firm has the appropriate skills and expertise to review, challenge and make informed decisions as to the quality and outcomes of the review (in line with the general requirements relating to use of independent third parties referenced in Part B Section 8.2).

While Section 5.5.1 of the Guidance sets a high expectation around the level of due diligence to be completed by firms wishing to engage in offshore activities in countries where the level of supervision is low, it is somewhat unclear as to whether this applies to both regulated and non-regulated activities (e.g. processing). We are unclear how the process around offshoring constraints would work, for example, a firm's ability to be aware of the existence of any regulatory relationship between the CBI and the regulatory authority in the proposed jurisdiction.

The Guidance also suggests that where a risk is identified by a firm in respect of an off-shore arrangement that this must be communicated to and agreed to by the CBI. If this is the case, this would appear to contradict the current process for notification of critical / important outsourcing arrangements.

We feel that the guidance is unclear if an off-shore activity is automatically classed as a critical or important function. We could expect the CBI to clarify this point in the feedback.

Finally, we also feel that the UK deserves special consideration. As far as an Irish firm is concerned, the UK does not pose the same risk as other non-EU/EEA countries. The UK and Ireland are culturally aligned, share a common language, are both common law jurisdictions have similar regulatory systems and historical ties and we believe that this should be acknowledged.

Concentration Risk

There is a limited pool of service providers in some areas making it unrealistic to think that concentration risk can be avoided, however with robust risk management protocols in place and effective monitoring and oversight, we suggest this is a manageable issue. This is also relevant for managed (re)insurance and captive companies where the(re)insurance manager provides multiple services - some of which are critical or important. This is an inherent part of the business models for these companies and under the contracts of engagement the (re)insurance managers are required to have appropriate contingency arrangements in place

to ensure continuity of service in order to manage the risk. In addition, it should be acknowledged that these (re)insurance managers are themselves regulated entities. This is not a new feature but something that managed companies have always considered and managed. A good example to demonstrate this would be the change in working arrangements as the industry responded to Covid-19.

With respect to how systemic concentration risk related to outsourcing can be effectively monitored and managed by both regulated firms and the Regulator, we note that concentration risk is not transparent, and individual (re)insurance firms are not best positioned to measure this risk across OSPs. The Regulator is best placed to obtain the necessary information from local regulated entities. Insurance Ireland has examined the EU's Digital Operational Resilience Act (DORA) and we support the proposed union oversight framework for monitoring of critical ICT third-party providers that is planned to be identified by the ESAs based on a set of quantitative and qualitative criteria outlined in **Chapter V**, **Article 28 (2) DORA**. In the area of cloud technology in particular, the insurance industry has been calling for direct supervision of cloud service providers for a long time, due to cross-industry importance and high market concentration.

A centralised union oversight framework offers much in terms of efficiency and is preferable over the numerous and steadily growing sector-specific requirements. In order to be of maximum benefit, the establishment of an oversight framework should bring corresponding relief of requirements on financial entities when using the critical ICT third-party service providers that fall under its scope. Direct supervision will also enable easier access to cloud solutions by removing barriers to their use, such as the requirements for on-site inspections, considered by (re)insurance firms and captives to be very burdensome. More widespread development and use of certification mechanisms would also greatly help financial entities to make use of ICT and cloud solutions.

In any event, we believe that the CBI should not place specific obligations in respect of concentration risk on Irish firms that go beyond any relevant requirements finally adopted by the EBA, particularly given that it is the EBA guidance upon which these proposals are based. It is not realistic to think that a firm can impose their contract terms on a large multi-national technology company or cloud service provider, as the companies operating in this market, operate to a scale that their customers have to accept their terms and conditions not vice versa.

In addition, it is commonplace not to have a broad choice of suppliers for certain services. There is relatively little competition particularly in spheres such as ICT and Cloud where there are few providers. Staff are highly trained specialists and the technology is evolving constantly - the set-up costs both in terms of hardware and skills ensure barriers to entry are maintained and choice non-existent. It is impractical for the Regulator to expect that firms would have the capability to bring these specialised and technology intensive services back in house. Again, this is of particular relevance to managed (re)insurance and captive companies whose contingency plans would not include taking services back in-house as they generally do not have any employees (with perhaps the exception of a small team of employees for some entities) however this is also applicable to all firms where the intent of the outsourced activity deliberately eliminates the need for the expertise in-house. We would expect a more appropriate response would be for it to be reflected in the relevant business continuity plan and that other alternatives would have been considered.

Notification/Registers - Part B Section 10 – Provision of Outsourcing Information to the Central Bank

This section addresses the CBI's expectations with regard to the requirements for regulated firms to maintain registers and the information that should be contained therein.

The timescale as outlined in the consultation for the submission of these registers to the CBI in the current environment is overly ambitious and impractical. We are still operating in a pandemic, a situation likely to continue for many months yet. The consultation period runs until 26th of July, at the earliest it would be September before feedback could reasonably be expected. In such a scenario, we believe that a January filing date is neither realistic nor achievable. This short turnaround period does not allow for companies to complete the necessary gap analysis and the internal oversight, governance, control and monitoring processes that would be required to meet the January timescale. In our opinion this would prove an unnecessary administrative burden and we would support the application of the principle of proportionality.. The industry has proven its resilience and responded very well to the pandemic ensuring that customer outcomes were not adversely impacted. Firms moved their staff to "working from home" almost overnight. It would be helpful to understand the rationale for proposing the tight timescale for these notifications.

Furthermore, while the consultation sets out the information that should be contained in the register, neither the consultation nor the guidance specifies how the registers should be laid out. We understand that the EBA final report on outsourcing discussed the possibility of having a centralised register within groups or cooperative networks/IPSs and that this was included in the guidelines. Clarity is needed on whether the CBI is proposing a register separate to that discussed under the EBA guidance and if so, how any EBA register would interact with a domestic one and if it is appropriate to be imposing a register designed for one sector across all sectors.

In addition, different firms will report data in different ways and therefore in order to maximise the benefit from the register, the CBI should set out a clear template of requested information and establish a portal to allow for standardised and efficient completion of information. If all firms were populating the same template it would be more efficient and in addition, when reporting back to their clients, the OSPs would be working to the same template for all their customers.

Overall, while the Solvency II review is ongoing it is our view that it would be more appropriate to wait until this has been finalised before introducing further requirements in relation to information/notifications. This is particularly true as the level of detail prescribed in the consultation appears to exceed what might be reasonably expected. From discussions with our cross-border members, the information as outlined appears to be in excess of that required in other European jurisdictions e.g. the Netherlands, and the imposition of these requirements would put Irish operations at a competitive disadvantage vis-à-vis these other jurisdictions. In a European context Irish (re)insurers should be able to operate on a level playing field and it is important that the CBI allows for regulatory convergence across the EU to support his.

Timescales

As mentioned above the timescales are particularly aggressive given that the EIOPA guidelines allow for a two-year lead in time. This consultation does not close until July. The guidelines will take some time to be finalised and published especially as the closing date coincides with the summer vacation period. Taking all that into consideration a commencement date for submission of information of January 2022 seems overly onerous,

places a significant burden on financial service providers and risks insufficient time to adequately deliver on the objective of the new guidelines.

If we take the EBA outsourcing guidelines as a comparison, these guidelines were published on 30 September 2019 with a transitional period running until 31 December 2021. The EIOPA final guidelines on Cloud Outsourcing were published on 6 February 2020 following consultation in July 2019. These guidelines allow for undertakings to review and amend existing cloud outsourcing arrangements before 31 December 2022. The CBI expectation that undertakings would be in a position to comply by January 2022 seems overly ambitious and out of step with our EU partners.

As one of the major risk areas targeted by the guidelines is the outsourcing to the cloud, Insurance Ireland believes that proceeding with the current guidelines at a time when there is a full review of the Solvency II framework and work underway in relation to DORA (which both include guidelines in this area) could prejudice that work. In particular we are concerned that moving forward to formalise the guidelines at this stage could jeopardise improvements in regulatory and supervisory convergence under Solvency II and the consistent regulatory framework of the EU single market for (re)insurance and captive firms. This raises a material risk that the CBI activity in this area will result in a differing national approach, leading to fragmentation of the European regulatory framework and significant gold-plating. If firms were to find that the burden of the use of OSPs in some areas was such that it no longer made sense, any cost savings that had been made would be eliminated and the consumer would ultimately end up paying more without any benefit in the form of enhanced market protection.

Proportionality

S4.5 of CP 138 notes that the Guidelines are "*proposed for application, in a proportionate manner, to all regulated firms. However, the Central Bank acknowledges that the manner in which it may be adopted may differ based on the nature, scale and complexity of the regulated firm's business and the extent to which they rely on outsourcing of critical or important functions as part of their business model*".

While we welcome references to proportionality, we feel further clarification is required and a clear distinction must be made between entities for whom there is a direct consumer impact (conduct risk) and those where there is not e.g. the (Re)insurance Sector and Captives.

Captives

The proposed Guidelines do not specifically acknowledge captives and the differing operating model of captives compared to other (re)insurance firms. This differential is acknowledged in other CBI guidance papers such as the Corporate Governance Requirements for Captive Insurance and Captive Reinsurance Undertakings [4]and Pre-emptive recovery planning for insurers[5]. This fundamental difference should similarly be recognised when considering the appropriateness and applicability of these guidelines to captives.

The application of proportionality is considered a fundamental component of any regulatory regime as evidenced through the recent Solvency II 2020 review, with EIOPA recognizing that the effectiveness of proportionality needed to be addressed.

The application of proportionality is considered by captives to be one of the most important aspects of the CBI's regulatory oversight as it is intended to differentiate between the business

[4] Corporate Governance Requirements for Captive Insurance and Captive Reinsurance Undertakings 2015 (centralbank.ie)

[5] feedback-statement-to-cp131.pdf (centralbank.ie)

model and risk profile of captives compared to those of (re)insurance firms. Outsourcing of specialised functions is common amongst captives and ensures the appropriate level of skills and experience are employed for the effective management of the relevant function or role. Captives by their very nature do not usually employ specialised actuarial, internal audit, compliance and/or risk management personnel inhouse and may require the services of an outsourced provider or a specialised captive (re)insurance manager to fulfil these roles. This provides greater governance and oversight, thus improving the mitigation of operational risk.

The introduction of these Guidelines will result in a differing national approach which will negatively impact the attractiveness of Ireland as a captive domicile. This will also disproportionately increase costs on a section of the (re)insurance industry that already has appropriate requirements in place to address outsourcing risks through Solvency II. The imposition of further requirements (e.g. exit strategy to include possibility of reintegration of services) are not reasonable considering the nature, scale and complexity of captive operations and this should be specifically addressed in the Guidelines through specific derogations.

While these set out some of the reasons that Captive entities should be viewed as a specific sector, the ability to apply regulation proportionately depending on the nature, scale and complexity of the business is of utmost importance for the insurance industry. In no way should the guidelines be prescriptive, as this unfairly restricts the scope for proportionate application.

Three Lines of Defence

S8.2 of CP 138 appears to reference the three lines of defence system. Current regulatory requirements, including Solvency II, do not require the use of the three lines of defence system and, as a result, some regulated entities employ alternative approaches. We are concerned that reference to this system in CBI guidelines could result in the expectation that it is adopted by all regulated firms.