Insurance Ireland response to CBI Consultation Paper on Authorisation and Supervision of Branches of Third Country Insurance Undertakings, CP 115

Insurance Ireland welcomes the opportunity to provide feedback to the Central Bank on the Consultation on Authorisation and Supervision of Branches of Third Country Insurance Undertakings by the CBI. This issue is primarily of interest to insurers who are operating in Ireland as a branch of a U.K. insurer and who are considering their options post-Brexit. There are a relatively small number of our members in this position with a wide range of business models and varying views on the feasibility of 3rd country branches. Our comments below are therefore to be seen as requests for clarification rather than as an industry position as such.

Timing

We would encourage that CBI publish its final paper as soon as possible to allow time for applications to be prepared and reviewed and approved by the CBI in advance of March 2019 Brexit deadline.

We would also propose that the CBI consider issuing authorisation in principle with final authorisation being dependant only on the UK leaving the EU.

Process for UK insurers with existing third country branches

There appears to be an increased obligation to provide comfort in relation to the soundness of the third country insurance undertaking of which the branch is part compared to the current obligations. The CBI is familiar with the prudential supervision of insurance undertakings carried out by the PRA in the UK. Will the independent assessment of the UK's regulatory and supervisory regime be required whilst the U.K. remains a member of the EU? Similarly will the analysis of the third country bankruptcy regime be required?

Substance

We would request that the CBI take a proportionate approach in relation to the requirement to have key functions based in the Irish branch. In particular we would propose that the Irish branch should be able to rely on the functions that are established within the head office of the third country insurer (including an equivalent of the HoAF).

Contribution to the Insurance Compensation Fund (ICF)

EU non life insurance branches carrying on business in Ireland today contribute to the ICF. Will the existing levies continue to apply to third country branches?

Supervisory approach

Under the proposed approach, Third Country branches are subject to the majority of the same regulatory regime as separate legal entity insurance companies established in Ireland. The CBI also reserves the right to determine that the Third Party Branch structure may not be an appropriate business model for an insurance business operating in Ireland due to the nature, scale and complexity of the business model or its customer base. The structure cannot be used to sell into other EU countries.

The CBI states that ultimate responsibility for the prudential supervision of the third country insurance undertaking including the branch rests with the home member state and not the CBI itself. It would be helpful to understand then why the CBI appears to be going beyond the requirements of Solvency II for Third Country Branches by imposing the Domestic Actuarial Regime, the requirement to submit NSTs, the Corporate Governance Code requirements to the Management Committee, the PRISM engagement model and the Fitness and Probity Regime. Will the supervisory model be similar to the current supervisory model for insurers or will it reflect the different structure?