



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Feedback Statement

CP144 - Guidance on the Use of Service Companies for Staffing Purposes in the Insurance Sector

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1 Introduction

- 1.1 Consultation Paper 144 (CP144) outlined the Central Bank of Ireland's (the Central Bank's) proposal to introduce guidance on the use of service companies for staffing purposes in the insurance sector (the Guidance). Interested stakeholders were invited to provide feedback on the Guidance during the consultation period, which closed on 6 November 2021.
- 1.2 The Central Bank received two submissions during the consultation period, one from an industry representative body and the other, from an insurance group. Following detailed analysis of the comments received during the consultation process, in addition to further consideration of the feedback received on the preceding discussion paper (Discussion Paper 9 (DP9)), the Guidance has been finalised. The Central Bank is grateful for the time and effort taken by all stakeholders who responded to both the consultation and discussion papers.
- 1.3 The finalised Guidance remains largely unchanged from the version consulted upon during the consultation process. Where changes have been made, they do not alter the intent or purpose of the guidelines but instead seek to provide additional context to remove any perceived ambiguity or provide additional reassurance about the intent of the Guidance. The sections of the Guidance where additional context has been added are:
 - Basis of the staffing arrangement
 - Resolvability
- 1.4 This paper sets out a summary of the feedback received, and the decisions made on the proposals, following the analysis of the submissions received to both CP144 and DP9.

2 Summary of feedback on DP9

Rationale for use of staffing arrangements

- 2.1 Respondents outlined the various reasons why firms choose to use staffing arrangements (arrangements), i.e., to achieve economies of scale, financial, fiscal and administrative efficiencies, sharing and development of group expertise, flexibility and agility in responding to group and individual subsidiary needs, better opportunities for staff, enabling enhanced or more varied product offering for customers, etc.
- 2.2 Respondents stated that these arrangements are often the optimal choice to access appropriate insurance expertise, skillsets and capacity whilst maximising operational efficiencies to run a professional, sustainable, stable, and Solvency II compliant insurance operation.

Perceived risks of staffing arrangement

- 2.3 Respondents reported that they do not perceive a significant difference in overall risk between directly employing staff and engaging staff via a staffing arrangement. Insurance undertakings (firms) integrate staffing arrangements into their overall operational and governance frameworks (e.g., risk management, internal control, operational resilience, compliance, business continuity, etc.).
- 2.4 While the employment contracts are held with the services company, the day-to-day operation, monitoring of objectives and reporting is all carried out within and under the auspices of the regulated firm (and its' Board). Moreover, firms apply the Central Bank's F&P Standards, Corporate Governance Requirements, Minimum Competency Code, etc. in the same way to all staff engaged in the activities of the firm, whether they are engaged through a staffing arrangement or directly employed.
- 2.5 In many instances, the sole purpose of the services company is to act as an employee-holding vehicle and its role is limited to the employment and supply of staff to affiliated group entities.

Management of risks

- 2.6 Respondents cited a variety of methods by which firms do or can appropriately manage the specific risks arising from these arrangements. These included, inter alia;
- use of clear and binding agreements that set out the overall structure, roles and responsibilities, reporting lines and escalation procedures to be followed;
 - identification and documentation of material risks arising from the staffing arrangement at the outset and the explicit management and reporting on that to the Board throughout the arrangement;
 - ensuring that the arrangement is appropriately incorporated into the general governance framework and mechanisms of the firm; and
 - use of specific and relevant risk controls, e.g., Chinese walls, segregation of duties, implementation of appropriate oversight and reporting lines, measures to prevent undue influence or certain inappropriate combinations of activities and to ensure disclosure and mitigation of conflicts where identified.

The Central Bank wishes to thank all those who responded to DP9, the feedback from which has been considered and incorporated into the Central Bank's thinking on this matter.

3 Feedback on CP144

General comments

- 3.1 One respondent was of the view that the content of CP144 could have been included as part of CP138 – *Cross-Industry Guidance on Outsourcing* to mitigate the administrative impact on firms and to avoid confusion as to the Central Bank’s expectations.

Central Bank Response

CP138 outlined the Central Bank’s expectations regarding the management of outsourcing risk in regulated financial service providers (RFSPs) across the financial sector. The reasons for issuing a separate consultation are two-fold. Firstly, CP144 focuses primarily on the use of service companies for staffing purposes (staffing arrangements). Outsourcing, while relevant in the context of hybrid arrangements, is not the focus of CP144. Secondly, the use of staffing arrangements is more commonplace in the insurance sector. Consequently, the Central Bank decided to issue a separate, specific, and targeted consultation on staffing arrangements used in the insurance sector.

Due diligence

- 3.2 One respondent interpreted that this provision applies only to all new arrangements rather than applying in respect of existing arrangements also.

Central Bank Response

The Central Bank expects firms to conduct appropriate and proportionate due diligence in respect of a prospective arrangement prior to entering into the arrangement. The Guidance does not stipulate an expectation that this be carried out on all existing arrangements; however, the Central Bank does expect firms to take the necessary steps to review existing arrangements and ensure they are updated and augmented, as appropriate, to align with the expectations set out in the Guidance.

Conflicts of Interest

- 3.3 One respondent stated that the provision set out under section 1.4.3 (c) appears to undermine the nature and use of service companies.

Central Bank Response

Section 1.4.3 stipulates that where a material element of a hybrid arrangement relates to other activity outsourcing¹, the responsibility for overseeing the delivery of the outsourcing element should be assigned to a direct employee of the undertaking. Due to the nature of such an arrangement, i.e., an arrangement, which comprises a significant amount of outsourcing activity, the Central Bank considers it more appropriate for a direct employee of the undertaking to assume this responsibility. This is to ensure that the person responsible can monitor the performance of the outsourcing element of the arrangement objectively and raise challenge where necessary.

Hybrid arrangements are, by their nature, more complex than pure staffing arrangements due, not only, to the combination of staffing and other activity outsourcing, but also the increased risk of conflict of interest or legal complexity they may introduce. Section 1.4.3 (c) seeks to recognise the distinction between a pure staffing arrangement and a hybrid arrangement and to reduce the potential increased risk where a material element of the arrangement relates to other activity outsourcing.

Operational resilience / Business continuity planning

- 3.4 One respondent expressed the view that once regulated entities adequately cater for staffing arrangements in their operational resilience and business continuity planning, there should be no need for duplication of plans within the internal service company.

Central Bank Response

The Central Bank expects firms to appropriately consider and incorporate staffing arrangements into their overall operational resilience framework / business continuity

¹“Other activity outsourcing” should be considered to mean “outsourcing” as defined under Directive 2009/138/EC12 (Solvency II).

planning. The Guidance does not stipulate that separate or duplicate plans must be maintained within the services company.

Resolvability

- 3.5 With regard to recovery planning, respondents queried some of the examples provided. In particular, one respondent highlighted the reference to “ring-fencing six months’ salary and associated costs for all employees employed through a staffing company”, indicating the requirement to be burdensome and unnecessary.

Central Bank Response

This is not a requirement. The examples provided in the Guidance are intended to be illustrative only. The Central Bank expects firms to have appropriate plans and measures in place in order to disentangle arrangements where necessary and provide seamless continuity of service to policyholders in a stressed scenario. The example provided is one way in which a firm might do this, however other measures, that achieve similar outcomes, may also be used by firms.

4 Next steps

- 4.1 The Central Bank will publish the finalised *Guidance on the Use of Service Companies for Staffing Purposes in the Insurance Sector* in conjunction with this Feedback Statement.
- 4.2 The Central Bank expects firms to review the Guidance and adopt appropriate measures to ensure that staffing arrangements are properly integrated in their governance and risk management frameworks, in line with this Guidance, and to be able to demonstrate how they have done this, if requested to do so by the Bank. Supervisors are likely to engage with undertakings in respect of these arrangements as part of their normal supervisory engagement.
- 4.3 The Central Bank expects firms to conduct a review, and augment as necessary, existing staffing arrangements to align with the expectations set out in the Guidance within 12 months' of the publication of the Guidance.



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