



**Insurance Ireland Response to CBI Consultation Paper 144  
Guidance on the use of Service Companies for Staffing Purposes in  
the Insurance Sector**

**6 November 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 CP144, in particular the clarification that this iteration following Discussion Paper 9 focuses purely on staffing companies rather than outsourced service companies. As such, we note that companies utilising intra-group *outsourced* arrangements in strict adherence to CBI and Solvency II outsourcing and other applicable regulatory requirements are outside the scope of this consultation. The use of service companies for staffing purposes is not a new phenomenon within the insurance industry, these types of structures have a long and successful history as a risk management tool.

We appreciate that the CBI understands the benefits that the use of staffing companies provides for insurance firms and recognises the many uses that these structures provide. We are disappointed that the CBI has decided to issue feedback separately to the Outsourcing proposals contained in CP138, which would look at services provided by these entities. Particularly, as some of the text in the guidance comes straight from article 274 of the Solvency II, Delegated Regulation. While we recognise the rationale as the CP138 is aimed at providing cross-sectoral guidance, staffing companies appear to be mainly an insurance sector structure. However, it seems that the staffing companies consultation could have been included as part of CP138, given the fact that the frameworks and the management information (MI) needed to oversee these structures and any risks within are very similar. From a practicality point of view, it would have made sense to combine the two in order to mitigate the administrative impact on insurance firms and confusion as to the CBI's expectations.

From discussions with our members, in order to manage the risks involved with staffing companies in the most pragmatic manner, the oversight and governance of these areas will be done under Supplier Management Framework (SMF); the ORSA, the Consumer Protection Risk Management (CPRM) or the Risk and Controls Self-Assessment (RCSA) or other risk management frameworks. All of these are likely to already include some metrics designed to oversee the behaviour and performance of staff, including staff which are employed through the service company as well as controls in place designed to reduce any accompanying inherent risk.

### **Link to recovery planning**

The CBI has recently finalised guidance relating to pre-emptive recovery planning, this requires that all insurers have a recovery plan completed by 31 March 2022. As part of this, steps will be put in place to deal with any risk event once a trigger has been identified. This oversight of recovery planning starts well before the trigger event and therefore, the guidance is designed to ensure that steps will be taken earlier to avoid the necessity of a recovery situation. Indeed, the concerns of the CBI that the ability of Irish domiciled firms may not be able to respond quickly and flexibly in times of stress due to only having a percentage of a key individual's capacity or workforce through a staffing company would be addressed under the Business Continuity Planning /Disaster Management elements of the overall Operational Resilience planning. With the implementation of this guidance in addition to Operational Resilience, the requirement to ringfence six-months' salary and associated costs for all employees employed through a staffing company is unnecessary and burdensome, particularly where the service is not a 'critical or important function' as set out in CP140. This is simply an informal additional capital requirement over and above the levels dictated in Solvency II and once more demonstrates the divergence of the CBI's approach when compared to its peers across the EU.

### **Applicability of the F&P regime**

Regardless of whether the Pre-Approval Control Function (PCF) or Controlled Function (CF) role holders remain as direct employees of the insurance firm rather than indirect employees via the service company, the CBI's Fitness and Probity (F&P) regime applies to the role holder. This means that the CBI has direct oversight and approval for material role holders as well as requiring other relevant staff to demonstrate that they are, and remain, fit for the position which they fill and that they discharge their regulatory and consumer protection responsibilities appropriately. With the introduction of the Senior Executive Accountability Regime (SEAR), we are already seeing changes to the framework for the PCF holders and senior managers overall and we look forward to continuing to work with the CBI as the thinking on the regime develops. The ability of the CBI to be able to take action on individuals who were legally employed by the services company for detriment caused while carrying out regulated activity is already in place and this will be further cemented by the introduction of the Individual Accountability Framework.

We look forward to continuing to work with the CBI in this area to ensure that the concerns raised by the Bank in terms of oversight and governance of the possible risks involved with staffing companies can be mitigated in a pragmatic and practical manner.

**Ends**