



Guidance on the Use of Service Companies for Staffing purposes in the Insurance Sector

Irish Life and Canada Life Companies Submission

November 2021

INTRODUCTION

ABOUT IRISH LIFE AND CANADA LIFE

Canada Life was founded as Canada's first life insurance company in 1847. It has now grown into one of the world's largest and most financially secure providers of life insurance. Since 2003, Canada Life has been a part of Great-West Lifeco Inc., one of the leading financial service providers in Canada. Great-West Lifeco Inc. cares for more than 28 million clients around the world.

Irish Life empowers its customers to look to the future with more confidence and certainty. We manage the financial needs of more than 1.3 million Irish customers. We think ahead to find opportunities and anticipate challenges to help deliver more security and certainty for their futures. We have over 75 years' experience serving corporate and private customers in Ireland. So we pride ourselves on having a deep understanding of our customers' needs, interests and concerns for themselves and their families.

Irish Life Group (ILG) includes inter alia Irish Life Assurance and Irish Life Health as well as its associated companies Irish Life Investment Managers and Setanta Asset Management. We currently have 2,400 people working at our campuses in Dublin and Dundalk, and we continue to grow.

Canada Life Assurance Europe plc has been operating in Germany since the year 2000 and is regulated by the Central Bank of Ireland and regulated by the German regulator Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) for business conduct purposes.

Canada Life International Assurance (Ireland) dac sells unit-linked life assurance and capital redemption bonds to UK residents through UK independent regulated intermediary channels.

Canada Life Re Ireland dac forms part of the Reinsurance Division of Great West Lifeco. The primary focus of the Reinsurance Division is on life and non-life reinsurance business in Europe and the United States.

EXECUTIVE SUMMARY

Irish Life Group and the Canada Life companies welcome the opportunity to share its views in relation to the Guidance on the use of Service Companies for Staffing Purposes in the Insurance Sector.

The Irish Life Group companies and the Canada Life companies based in Ireland make up one of the largest and most diverse financial services groups in Ireland. The companies are focussed on providing a wide range of investment, reinsurance, protection and health insurance products to a diverse range of customers. As such, we actively seek opportunities to ensure better outcomes for our customers through meeting their needs in a cost efficient, flexible and timely manner.

Submission

Both the Irish Life Group companies and the Canada Life companies utilise the services of a large number of staff who are employed by a small number of services companies within the group. The use of a single employing company allows for standard terms and conditions, one HR system, standard HR policies and greater ease in transferring the activities of staff between different group companies. However, although all employment contracts are between the employee and the single group company the substance and mind of the business rest within each regulated entity.

Each regulated entity has its own Board who sets the strategy for the entity, and its own Senior Management Team who is responsible for implementing the strategy and for leading individual teams and oversight functions i.e. there are individual compliance and risk functions dedicated to each regulated entity. Each staff member within the regulated companies has a role profile and annual objectives set (against which their performance is monitored) by the regulated entities. Performance management is all carried out within the regulated entity itself as is the setting of salary and bonuses. Hence, while the legal contract maybe held with the employing company the day to day operation, implementation, monitoring of objectives and reporting is all carried out within the regulated entity.

Irish Life Group companies and the Canada Life companies would argue that useful principles to determine where the substance of activities takes place could be the tests as set out within the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003¹ (the 'TUPE regulations'). The main factor that comes into play when considering whether TUPE applies when a business is sold from the group or purchased by the group, is whether the employees of that entity, or related entities like a group services company, practically and legitimately work on the business of the company being bought/sold. TUPE protects the rights of the employees working for that business to transfer with the business and even if they are not readily identifiable as employed directly by the business in question, if they have been working solely/predominantly on the business of that company and can clearly demonstrate this, then they would have a right to transfer with the business also. Hence, the regulations recognise that the activities and management of staff contribute more to the substance of their employment than their employing entity.

¹ S.I. No. 131/2003

Companies that are used for the warehousing of staff that are based within the jurisdiction (or EU) will be subject to Irish labour law and recourse can be made to the Irish courts. Shared services within a group can span everything from HR and IT, to legal services and company secretarial support each of which carry differing risks to the regulated entity involved. Again as all of these services fall within the context of one regulated enterprise-wide proportionality of the activity and its scope within the Group should be a key considering when putting in place oversight arrangements.

Views on the Guidelines:

- 1.3 (e) we would note that the examples set out are for reference only and the issues of business continuity provisions in a stress scenario may be addressed in a number of ways and not limited to those within the guidelines.
- 1.4.2 – we would assume that this provision is for all new arrangements rather than a retrospective exercise that must now be carried out.
- 1.4.3 (c) – the provision set out would appear to fundamentally undermine the nature and use of service companies.
- 1.4.5/1.4.6 – if operational resilience plans and business continuity planning are already adequately catered for within the regulatory entities then there should be no need for duplication of plans within the internal service company. If the regulated entity can demonstrate that it has considered the service company functions within its plan then this should be sufficient.
- 1.4.7 – we would noted that the examples set out within this provision are only one way in which the issue of resolvability may be dealt with by the regulated entity.

Conclusion

The Irish Life and Canada Life companies are of the view that the use of companies to warehouse staff provides administrative ease for large Groups but in no way reduces the rights and responsibilities owed within regulated companies. Governance and board oversight all remain within the parameters of the regulated entity, including the powers to initiate remedial or disciplinary actions where required.

The administrative costs and consequences of having individual employment contracts within a regulated entity when they are part of a large group should not be underestimated. In the event, that warehousing services companies needed to be unwound this would great huge cost and disturbance to the business both in the short term and additional complexity in the longer term with little to no additional value to the consumers.

The Irish Life and Canada Life companies would welcome the opportunity to meet with the Central Bank to discuss any of the matters set out above.