

Governance, Accounting and Auditing Policy Division  
Policy and Risk Directorate  
Central Bank of Ireland  
PO Box 559  
College Green  
Dublin 2

10<sup>th</sup> June 2011

Dear Sir/Madam

DIMA welcomes the opportunity to comment on the consultation paper issued by the Central Bank of Ireland (CBI), Consultation Paper 53, titled "Corporate Governance Code for captive Insurance and captive Reinsurance Undertakings". DIMA appreciates that the CBI has recognised that captive insurance and reinsurance undertakings are significantly different from other types of insurance and reinsurance undertakings, and is recognising the principle of proportionality in the application of a specific corporate governance code. We note that the CBI is using the definition of a captive as it appears within the Solvency II framework directive. We also note that the Frequently Asked Questions document for the corporate governance code for credit institutions and insurance undertakings does not apply to this code.

As a general comment, the proposals within the consultation paper are appropriate and relevant for the captive community, and we recognise the CBI's expertise in developing a code which has the potential to become a wider industry standard. We would suggest that the CBI revisits the terms of this code once the corporate governance standards under Solvency II are finalised to ensure that the code is not in conflict with future Europe-wide requirements, nor that it is excessive compared to future industry standards.

We would also request that the CBI reviews the six month timeframe proposed to implement the requirements of this code. The board of each captive will be required to review and approve a corporate governance code for the entity, thus we propose that the time frame be extended to nine months to take into account the large number of entities which will be covered by the code.

Finally, where a captive undertaking has ceased underwriting and is in run-off, we propose that it be exempted from the terms of the code since it is in the process of closing its business.

#### **Specific comments:**

##### **Key issues in relation to proportionality**

9c We understand that SI220 of 2010 is at present under review with respect to its applicability to captives. While we appreciate that currently there are obligations under this legislation for certain requirements, this may not be the case in the future, and since the corporate governance code for captive insurance and captive reinsurance undertakings will be in place after such decisions have been made, we propose that the wording in this item be amended to reflect that there might be such changes, and read:



“The Central Bank is however mindful that captives may be obliged elsewhere in the law to undertake other corporate governance requirements.”

## **1.0 Scope**

- 1.4 We propose an addition to this item for clarification, so the item reads:  
“Captives are required to disclose in their annual report that they are subject to the Code and whether they are required to comply with additional corporate governance requirements as specified by the Central Bank of Ireland.”

## **4.0 Reporting to the Central Bank**

- 4.4 This item proposes a timeline of a maximum of five days for notification to the Central Bank should a captive no longer comply with the definition of a captive. Such a determination may take longer, including notification to the board, therefore we propose this item be amended to read:  
“Where a captive no longer complies with the definition of a captive (set out in section 2 of this code) it shall notify the Central Bank within a reasonable timeframe.”

## **7.0 Composition of the board**

- 7.4 A captive undertaking is a core element of the parent company’s risk management programme, and therefore a core feature of the parent company’s risk manager’s key responsibilities. As such, therefore, the timing provisions relating to directors are inappropriate to individuals within this type of role since these are central criteria to their full-time position.

## **8.0 Chairman**

- 8.1 Due to the nature of a captive, it may be excessive to require a Deputy Chairman, and such a requirement may require a change to the Articles of Association of many captives. Table A of the Companies Act states that if a Chairman is not present, any director can assume the role, and we propose that this would be sufficient for many captives rather than a formal Deputy Chairman role.

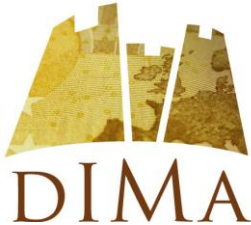
## **10.0 Directors**

- 10.1b Parties other than captive managers may be involved in developing strategies for the captive entity. Therefore we propose a change to this item to read:  
“To participate actively in constructively challenging and developing strategies.”

## **12.0 Appointments**

- 12.1 Although the majority of captives outsource their operations to a captive manager, there are several which are of a sufficient size that they are self-managed. In order to encompass this particular structure, we propose that this item be amended to read:  
“Where a captive manager is engaged, the board shall be responsible for appointing a captive manager with appropriate integrity and adequate knowledge, experience, skill and competence for their roles.”

- 12.2 We propose, for sake of clarity, an amendment to this item to read:



“The board shall be responsible for endorsing the appointment of professional advisers who may have a material impact on the risk profile of the captive and monitoring on an ongoing basis their appropriateness for the role.”

- 12.3 We agree that it is vital that the board has the requisite knowledge and information about the captive’s operations and performance to undertaken its role properly. There may not be appropriate formal training available and this information will need to be obtained from other channels, such as information from the parent company or other sources. Therefore we propose this item is amended to read:

“The board shall be responsible for either the appointment of directors or where appropriate identifying and proposing the appointment of directors to shareholders and the board shall ensure that directors are given adequate knowledge about the operations and performance of the captive. The board shall be adequately briefed on an ongoing basis as necessary to ensure that they make informed decisions.”

### **13.0 Risk appetite**

- 13.1 We propose the following amendment to more appropriately reflect proportionality and risk measurement in the captive context:

“The board is required to understand the risks to which the captive is exposed and shall establish a documented risk appetite for the captive. The board is required to develop suitable measurements to enable the risk appetite to be established proportionate to the nature, scale and complexity of the business (e.g. leverage ratios, acceptable stress levels).”

- 13.2 The nature of captives is such that often there is no differentiation between short, medium and long term horizons. Therefore we propose that the second sentence of this item be deleted.

- 13.4 We would like clarification whether this item foresees a “material deviation” as being identified by the board of directors or the manager.

- 13.5 A captive frequently has its internal audit function outsourced. Therefore we propose this item is amended to read:

“The board shall satisfy itself that all key Control Functions such as compliance and risk management are operating effectively.”

We would be willing to meet with you and discuss any aspect of this submission.

Yours faithfully

Sarah Goddard  
CEO  
DIMA

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