By email: codereview@centralbank.ie

Risk, Governance & Accounting Policy Division
Central Bank of Ireland
PO Box 559
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1 October 2013

Re: Consultation Paper CP69 – Review of the Corporate Governance Code for Credit Institutions and Insurance Undertakings

Dear Sirs,

Introduction

We welcome the publication of the *Consultation Paper* on the *Review of the Corporate Governance Code for Credit Institutions and Insurance Undertakings* and are grateful to have the opportunity to comment on its content. This submission is made on behalf of Zurich Insurance plc and Zurich Life Assurance plc.

Zurich and Corporate Governance

The Zurich business units in Ireland form part of the Zurich Insurance Group. As a major international group, Zurich is committed to the highest standards of corporate governance and regulatory compliance.

Periodic Review of Code

We welcome the CBI's decision to conduct a review of the current Code and publish a consultation paper which details proposed revisions to the Code. The review initiative demonstrates openness on the part of CBI to consider concerns and to evaluate suggestions which have been made by the industry.

The external environment in which the initial consultation paper was published in 2010 and the context in which the review is being conducted today, is also very different. We support your view that the Corporate Governance Code should continue to evolve so that it is reflective of the current external environment, such as international best practice in corporate governance, developments within the insurance industry, the evolving economic environment, and the changing nature of risks posed to the industry and to the wider financial services sector.

We are of the view that the Corporate Governance Code should be reviewed periodically, perhaps every three years. A commitment to such a review should be expressly stated in the Code, perhaps in Section 3.

Insurers and Banks

In our previous submissions to CBI in the context of earlier consultation processes, we have suggested that CBI consultation papers ought more explicitly to differentiate between credit institutions and insurers.

We are of the view that adequate recognition should be afforded to the different operations, risks and types of business conducted by insurers as against that of banks. It is unhelpful to, uniformly and without any distinction whatsoever, apply the same corporate governance requirements to banks and insurers.

CBI has previously published separate Consultation Papers directed at particular elements of the financial services sector. For example, CP 53 - which set out the proposed Corporate Governance Code for captive Insurance and captive Reinsurance Undertakings. A further example is CP62 - which contained proposals for a separate Fitness and Probity regime for credit unions.

We are of the view that adequate recognition must be afforded to the different operations, risks and types of business conducted by insurers as against that of banks. Accordingly, we submit that a separate set of corporate governance

requirements should be applicable to insurers as distinct from the corporate governance requirements applicable to banks.

Sequence of Submission

This submission addresses all of the issues in the sequence in which they appear in the proposed revised Code which is set out in Appendix 1 of CP 69.

Section1, p.18

We propose the insertion of an additional paragraph following the proposed new Section 1.4, as follows:

> "On a case-by-case basis derogation requests in respect of certain requirements imposed by this Code will be considered by the Central Bank.".

Section 2, p.21 - Definitions

Regarding the definition of "Group director", CBI proposes to add one further sentence at the end of this definition. Zurich is of the view that the addition of the new text to this definition does not add anything substantive and in fact raises the prospect of giving rise to confusion. On that basis, we would propose that the words proposed to be added should be omitted.

If the new wording is included, a question which arises is whether its effect precludes a director who is an independent non-executive director of another Group subsidiary or of the main holding board (and therefore appears to be treated as a Group director under the new definition) from satisfying the requirements of director independence so as to qualify as an INED. This would be unhelpful. We would strongly support permitting a Group director to also serve as an INED and believe any of our INEDs who are also Group directors have demonstrated independence. It is challenging for companies particularly High Impact, to identify sufficiently well qualified persons who are not associated with competitors to become INEDs. At Group level, our directors are always INEDS and therefore they already meet the applicable criteria. In addition, our experience has been that it is helpful for an Irish regulated entity to have a representative on the Group board.

Section 3.6, p.24 – Conflict with Code

At Section 3.6, CBI proposes to add an additional sentence which explains that where a conflict arises between the Code and another corporate governance obligation or standard, the stricter of the obligations or standards should be met so as to ensure compliance with all sets of obligations.

However, it is important to note that compliance with a standard which is more strict in certain respects, might not in practice constitute compliance with each aspect of the CBI requirement or may even make it impossible to also comply with the Code and might therefore require a derogation.

Section 3.8, p.24 – Saving Provision

We note the addition of the saving provision in Section 3.8 and would suggest that the following text be added to the end of the proposed saving provision:

> ", provided however that the right to institute legal proceedings, investigation, disciplinary or enforcement action existed at the time of the alleged contravention. "

Section 5, p.27 – Transitional Arrangements

In respect of new requirements which might be contained in the proposed new Code, we would request that sufficient time be afforded for firms to achieve full compliance with any such new requirements. This would be especially important where aspects of the proposed Code would necessitate changes of personnel.

Section 7, p.42 and p.12 – Boardroom Diversity

At p.12 of CP69, some of the benefits of boardroom diversity are outlined, with an emphasis on gender diversity. CBI has specifically invited feedback on whether boardroom diversity requirements should be introduced into the Code and if so, the nature of such requirements.

Zurich supports the need for board composition to reflect a variety of perspectives with members bringing different skill-sets and expertise in different areas. At Zurich we promote diversity and inclusion at all levels of our business and we recognise that a greater gender balance at board level is an area where further progress needs to be made.

However, we believe that it is important that board members continue to be selected on the basis of the relevance of their skill-set and expertise rather than out of a requirement to meet an imposed quota.

Zurich believes that rigid diversity requirements, such as gender quotas, should not be introduced into the Code, as this is likely to result in an overly-burdensome selection process. Zurich is of the view that the existing wording of Section 13.3 and Section 14.1 of the Code already provides for various requirements which are conducive to boardroom diversity, particularly with regard to "skills" and "competencies"; gender is just one facet of diversity.

In so far as any amendment of the Code is deemed to be necessary in the context of diversity, the Code could include a requirement which obliges the board to regularly satisfy itself that the entity has a strategy in place that provides for the building of an inclusive culture as well as enhancing diversity in leadership.

Section 8, p.35 - Chairman

Zurich welcomes the proposed revisions to Section 8.11 of the Code and suggests that the flexibility being afforded to non-High Impact institutions be extended to all High Impact designated institutions.

Alternatively we suggest that the Chairman of a High Impact designated institution be permitted to hold up to five Chairman roles in other group undertakings.

The blanket prohibition on the Chairman from holding the position of Chairman or Chief Executive of an institution does not afford adequate recognition to the dynamic which might operate in a group structure. It may well be that the holding of a Chairmanship along with another Chairmanship or Chief Executive role could be complementary to the primary role.

Facilitating dual roles in this way might allow for the aligning of the legal/entity view with the management/Group structures view, making the overall structure more effective and ultimately resulting in significant synergies in respect of the roles.

Section 9, p.36 – Chief Executive Officer

Management view often means a number of entities are managed as one. We would suggest that the first sentence in Section 9.2 be amended so as to read (with the addition of the underlined text):

> "The CEO shall not hold the position of CEO of a credit institution or insurance undertaking or reinsurance undertaking of more than one institution at any one time. This obligation also prohibits the holding of the position of CEO in a credit institution or insurance undertaking or reinsurance undertaking authorised outside of the State at the same time as the holding of the position of CEO of an institution to whom this Code applies, but this obligation does not apply to the holding of more than one position of CEO in group institutions."

It is proposed to revise Section 9.2 of the Code so as to permit the CEO of medium-low and low impact institutions to hold up to two additional positions as a CEO of a firm provided the firm has been assigned the same, or lower, impact rating.

We would like to see a similar degree of flexibility being extended to all High Impact Insurance undertakings

Section 12, p.40 – Chief Risk Officer

Section 12 of the Code introduces a requirement for firms to appoint a Chief Risk Officer.

As the CBI will be aware, at Zurich, risk management is a key function with the Group CRO being a Group Executive Committee member and a well established Board Risk Committee. We believe that Zurich has leading practice in Risk.

Therefore, Zurich welcomes the introduction of a formal requirement for the appointment of a Chief Risk Officer.

In particular, we support the strong direction as described in Section 12.3. We do, however, feel the current wording potentially overstates the responsibilities of the risk function, recognizing for example, that in a typical insurance enterprise a significant amount of monitoring and management of risk is done in the

"business" functions, such as underwriting. It is important to emphasise that the Board, the CEO and the business functions generally must be responsible for risk where the Chief Risk Officer assists and supports with his expertise and by creating structure and processes to identify and manage risks.

We might therefore suggest a modest change to the alternative phrasing, such as: "The CRO shall ensure the enterprise maintains effective process to identify, manage and monitor. He/she is responsible to report deficiencies in the system as identified by review functions or otherwise. The CRO shall promote sound and effective risk management both on a solo basis and at group level".

We would additionally suggest that the wording of Section 12.2 be revised so as to take into consideration the different layers of roles which exist in a group entity. The current wording of Section 12.2 conveys the impression that a local Chief Risk Officer is responsible for the risk management "across the entire organization".

Section 13, p.42 - Role of the Board

We would suggest that Sections 15.5 to 15.8 (pp.46 – 47) would be better located in Section 13 (pp.42 – 43) which addresses the 'Role of the Board'.

Section 15.4, p.46 - Risk Appetite

Section 15.4 seems to be overly prescriptive and fails to take account of situations in which the identification of the scale and root causes of a problem and also the formulation of remedial action cannot all occur within five business days.

Accordingly, we would propose that Section 15.4 be revised so as to read:

> "In the event of a material deviation from the defined risk appetite measure, the details of the deviation shall immediately be communicated to the Central Bank. Details of the appropriate action to remedy the deviation and the timeframe for implementation of such actions shall be agreed with the Central Bank."

Section 16, p.48 and Appendix 1, p.65 - Meetings

Section 16 of the proposed revised Code requires that the board meet "as often as is appropriate to fulfil its responsibilities effectively and prudently" and that in any event the board must meet at least four times per calendar year.

In Appendix 1 to the Code (p.65), a requirement for a significantly increased level of board meetings is imposed on "High Impact" institutions such that the board of a high impact institution is required to meet eleven times per calendar year.

At p.8 of CP69, CBI indicates that this requirement currently applies to 24 firms and owing to feedback received from supervisors and firms, CBI now seeks comments on this requirement.

Under the terms of the Corporate Governance Code which currently applies, both Zurich Insurance plc and Zurich Life Assurance plc are required to hold eleven Board meetings per year. We are firmly of the view that the requirement to hold eleven Board meetings is unduly onerous and is unwarranted.

For high calibre, international directors the requirement to commit to attending eleven Board meetings, and all of the related commitment that this entails, renders a directorship at an Irish-based insurer relatively unattractive.

Prior to the introduction of the Corporate Governance Code, the management and governance of ZIP had been structured around Board meetings and also Management Committee meetings, reflective of a two-tier board structure. Those arrangements had worked well and importantly, they served to ensure that there was monthly oversight of the operational issues.

Irrespective of the formal number of Board meetings which an entity is required to schedule, the need for additional and unplanned meetings will invariably arise. This has meant that over the past 12 months, the number of Board meetings which have been held by Zurich Insurance plc have been more than the eleven required. Our experience this year has shown that a mandatory requirement for eleven meetings is not justifiable.

The current requirement creates a significant administrative burden on all the directors and senior management rather than allowing more time, discretion and greater flexibility as to how to run the business operations. A significant amount of management time is consumed in the preparations for and holding of eleven Board meetings, plus the additional meetings which need to be called as matters arise.

A reduction in the frequency of Board meetings to six per calendar year for High Impact Institutions (which will be supplemented by additional unplanned meetings and also scheduled management meetings) would be more closely aligned with the needs of the Directors to effect proper oversight and control of the business. This would afford the Board some discretion as to how many meetings it requires in order to discharge its duties.

Section 19, p.52 and Appendix 1, p.65 - Committees of the Board

It is proposed to add a new Section 19.7 to the Code so as to provide that the Chairman of the audit committee shall be a member of the risk committee and that the Chairman of the risk committee shall be a member of the audit committee.

Currently, at Zurich the Chairman of the audit committee also serves as a Chairman of the risk committee. This works well and is conducive to a good degree of knowledge sharing between the committees. Accordingly, in respect of section 19.1 (p.65) contained in Appendix 1 to the Code, we would suggest that the sentence proposed to be added at the end of section 19.1 be omitted.

Since the Code introduced the Board Risk Committee requirement, we have been concerned about the prospect of a matter falling between both committees, as previously our Audit Committee dealt with all such matters. Also, where a matter straddles both committees and different committees decide different actions/strategies regarding the same issue this could give rise to confusion and could give rise to even a greater administrative burden on a senior management team.

In fact, some of our other Group affiliates are currently in the process of re-merging their audit and risk committees to avoid this situation arising. In the meantime, where common issues arise, they hold joint sessions of both committees to discuss that common issue and what actions to take.

In addition, we propose that the wording of Section 19.7 be revised so that, with the addition of the underlined text, it reads:

> "The Chairman of the audit committee shall be a <u>Chairman or</u> member of the risk committee and the Chairman of the risk committee shall be a <u>Chairman or</u> member of the audit committee."

Concluding Remarks

We would of course be happy to meet with you to elaborate on the points which we have made in this submission.

In the event that you have any questions or require further information arising from our submission, please do not hesitate to contact me.

Yours sincerely,

Dr. Brian Hunt
Head of Government & Industry Affairs, Zurich