

Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

2011

**Corporate Governance Code for Captive
Insurance and Captive Reinsurance
Undertakings - Frequently Asked
Questions**

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The Corporate Governance Code for Captive Insurance and Captive Reinsurance Undertakings ('the Code') sets out the corporate governance obligations which apply to Captive Insurance and Captive Reinsurance Undertakings. This document contains information which is provided for guidance purposes only. This guidance reflects the questions which have been raised in relation to the Code. This guidance may be updated by the Central Bank from time to time.

This guidance has been updated to provide further clarification with regards to the interpretation of "attendance" (Q.3).

Governance, Accounting and Auditing Policy Division
October 2011

No.	<u>Section of the Code and obligation per Code:</u>	<u>Question:</u>	<u>Answer:</u>
Legal Basis			
1.	3.6.2 <i>The Central Bank hereby revokes the application of the 2007 Corporate Governance Requirements for Reinsurance Undertakings (the 2007 Requirements) in so far as those requirements relate to Captive Reinsurance Undertakings with effect from the date upon which the Code is introduced.</i>	What is the effective date of revocation of the 2007 Requirements?	The Code applies with effect from 1 September 2011. Captives will be given a maximum period of 9 months from this date to introduce the necessary changes so as to allow them to become compliant with the requirements introduced by the Code. The effective date of revocation of the 2007 Requirements shall thus be the earlier of the date of compliance with the Code as notified to the Central Bank or 31 May 2012.

2.	3.7	<p><i>A contravention of the Code may be liable to the Central Bank using any of its regulatory powers, including, but not limited to, any or all of the following:</i></p> <ul style="list-style-type: none"> • <i>the imposition of an administrative sanction under Part IIIC of the Central Bank Act 1942;</i> • <i>the prosecution of an offence;</i> • <i>the refusal to appoint a proposed director to any pre-approval controlled function where prescribed by the Central Bank pursuant to Part 3 of the Central Bank Reform Act 2010; and/or</i> • <i>the suspension, removal or prohibition of an individual from carrying out a controlled function where prescribed by the Central Bank pursuant to Part 3 of the Central Bank Reform Act, 2010.</i> 	<p>How will the Code interact with the Fitness and Probity regime?</p>	<p>The Code contains the minimum statutory requirements relating to the corporate governance of the captive at an institution level, including requirements relating to the membership of the Board of Directors and the role and responsibilities of the Chairman and captive manager/CEO.</p> <p>The Fitness and Probity regime sets standards for certain individuals within the captive relating to issues such as competence, capability, honesty, integrity and financial soundness.</p> <p>The two regimes thus do not conflict but rather complement each other.</p>
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Composition of the Board

3.	7.2	<i>Board members shall attend each board meeting, unless they are unable to attend due to circumstances beyond their control, (for example, due to illness) and their attendance and eligibility to vote at each meeting shall be evidenced in the minutes of each meeting.</i>	What constitutes 'attendance' at a Board meeting?	Directors should attend each board meeting in person wherever possible. However, the Central Bank is anxious to increase the pool of potential directors and recognises that because of the location of some directors, they may not always be able to attend each meeting in person, in which case videoconferencing or teleconferencing is permissible. The Central Bank is of the view that an individual director's active participation at board meetings is critical to the effective functioning of the board and the Central Bank will assess individual director performance and overall board participation and performance in this context.
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Risk Appetite

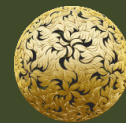
4.	13.4	<i>In the event of a material deviation from the defined risk appetite measure, the details of the deviation and of the appropriate action to remedy the deviation shall be communicated to the Central Bank by the board promptly in writing and no later than 5 business days of the board becoming aware of the deviation.</i>	Does this foresee a "material deviation" as being identified by the board of directors or the captive manager/CEO?	Regardless of who identifies the material deviation, the report should be submitted to the Central Bank. The board is ultimately responsible for determining whether a breach is material based on the particular facts of the case.
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5.	13.5	<i>The board shall satisfy itself that all key Control Functions such as internal audit, compliance and risk management are operating effectively.</i>	Does the Code <u>require</u> an internal audit function? The Code does not specifically require that such a function be established but yet refers to it as a key Control Function.	As per Solvency II, an undertaking must provide for an effective internal audit function that is objective and independent. It is permissible to outsource the internal audit function or to use the group internal audit function provided that the board of the captive satisfies itself that all the requirements of Solvency II, in this regard, are met.
Compliance Statements				
6.	18.1	<i>A captive shall submit to the Central Bank a compliance statement specifying, in accordance with any relevant guideline issued by the Central Bank, whether the captive has complied with this Code during the period to which the statement relates.</i>	Given that separate Compliance Statements are already in place for both Insurance and Reinsurance captives can existing texts remain in place with the inclusion of the following additional statement: "The board confirms that to the best of its knowledge, the Company complies in all material respects with the requirements of the Corporate Governance Code for Captive Insurance and Captive Reinsurance Undertakings"?	The Central Bank will require a separate Compliance Statement relating to the Code.

Requests for Additional Guidance

7.	1.0	<i>Scope</i>	Where a Captive has ceased underwriting and is in run-off, can it be exempted from the terms of the Code since it is in the process of closing its business?	The Code will apply to captives in run-off.
8.	6.3	<i>The system of governance shall be subject to regular review.</i>	How regularly must the governance and risk management systems be reviewed?	This is a matter for the board of the captive to decide.
9.	7.10	<i>Directors shall not participate in any decision making/discussion where a reasonably perceived potential conflict of interest exists.</i>	What constitutes a 'reasonably perceived conflict of interest'?	The board of the captive shall assess conflicts of interest.
10.	8.4, 9.3	<i>The Chairman (and CEO) shall have the necessary personal qualities, professionalism and integrity to carry out his or her obligations.</i>	What does the term 'necessary personal qualities, professionalism and integrity' include?	This will be covered in the Fitness and Probity requirements.

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