Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Notification Guidance for (Re)Insurance Undertakings when Outsourcing Critical or Important Functions or Activities under Solvency II

December 2024

Contents

1. Background

1.1 Under Solvency II, there are specific provisions[1] that apply where (re)insurance undertakings outsource critical or important functions or activities.

1.2 Regulation 51(3) of the European Union (Insurance and Reinsurance) Regulations, 2015 (the "Regulations") provides that an undertaking must notify the Central Bank (the "Bank"), in a timely manner, before outsourcing critical or important functions or activities and regarding subsequent material developments with respect to those functions or activities.

1.3 While undertakings are required to notify the Bank of the proposed outsourcing of critical or important functions or activities, supervisory pre-approval is not required under Solvency II. Prior notification to the Bank presents an opportunity for the supervisor to discuss any concerns with the undertaking in the event that the outsourcing appears not to comply with the outsourcing requirements under the Regulations and Commission Delegated Regulation 2015/35(the "Delegated Regulations") and, if necessary, the opportunity to object to the outsourcing where the Bank's concerns have not been dispelled.

1.1 EIOPA's Guidelines on the System of Governance (EIOPA-BoS-14/253)[2] requires that the undertaking should determine whether an outsourced function or activity is critical or important on the basis of whether it is essential to the operation of the undertaking as it would be unable to deliver its services to policyholders without it. The 4 key functions of the system of governance are considered to be critical or important functions.

2. Purpose and effect of this paper

2.1 The primary purpose of this paper is to assist (re)insurance undertakings in their compliance with their obligations under the Regulations with regard to the outsourcing of critical or important functions or activities. The paper does not purport to address, in detail, every aspect of outsourcing under Solvency II and it should be read in conjunction with the Solvency II requirements.

[1] Regulations 40 and 51 of the European Union (Insurance and Reinsurance) Regulations 2015, Article 274 (2)-(5) of Commission Delegation Regulation (EU) 2015/35 and Guidelines 14, 60, 61, 63 and 64 of the EIOPA Guidelines on the System of Governance (EIOPA-BoS-14/253)

[2] Guideline 60 of the EIOPA Guidelines on the System of Governance (EIOPA-BoS-14/253)

2.2 (Re)insurance undertakings are obliged to notify the Bank prior to outsourcing critical or important functions or activities, and also of any subsequent material developments with regards to these arrangements. This paper outlines the Bank's expectations with regards to the content, form and timing of these notifications.

2.3 The paper also provides information on the due diligence that the Bank expects (re)insurance undertakings to carry out prior to the outsourcing of critical or important functions or activities.

2.4 It should be noted that this paper applies to both individual insurance undertakings and mutatis mutandis at the level of the group.

2.5 The Bank may update or amend this paper from time to time, as appropriate.

3. Timing, form and content of the outsourcing notification prior to outsourcing critical or important functions or activities

3.1 Timing of the Outsourcing Notification

In accordance with Regulation 51(3) of the Regulations, formal written notification should be provided to the Bank, in a timely manner, prior to the commencement of any outsourcing arrangement of critical or important functions or activities. The Bank expects this notification to be provided at least 6 weeks before the outsourcing is due to come into effect.

3.2 Form of the Outsourcing Notification

The formal written notification should take the form of a letter/email sent to the relevant supervisory team in the Bank. This should be signed by the CEO or Captive Manager.

3.3 Content of the Outsourcing Notification

The outsourcing notification must contain the information as specified in the Appendix 1 to this paper. This is in accordance with the information required by Guidelines 14 and 64 of the EIOPA's Guidelines on the System of

Governance (EIOPA-BoS-14/253) and Section 4.4 of the Bank's Guidance for (Re)Insurance Undertakings on the Fitness and Probity Amendments 2015.

3.4 Supervisory Feedback on the Outsourcing Notification

The outsourcing arrangement can be considered as accepted where no concerns are raised by the supervisor and brought to the attention of the undertaking in advance of the date that the outsourcing arrangement is due to commence.

Where issues are identified by supervisors, the Bank expects undertakings to address these concerns prior to commencing the outsourced arrangement.

4. Notification of the occurrence of subsequent material developments

4.1 Subsequent material developments that require further notification to the Bank include all developments that are relevant for supervisory purposes, i.e. any circumstances that may give supervisors reasons to reassess the undertaking's compliance with Solvency II requirements or adversely affect the undertaking's ability to deliver its services to policyholders.[3]

This could, in particular, apply to material changes in the outsourcing arrangements, including any sub-outsourcings; a new service provider or major problems with the performance of the existing service provider, such as non-performance on account of business disruption, non-compliance with applicable laws and regulations, serious and repeated infringements of guidelines, inadequate risk management, insufficient granting of access to data and information or data or anything else that causes significant dissatisfaction to the undertaking or policyholders about the service.

4.2 Any such material developments should be notified, in writing in the form of a letter/email, to the relevant supervisory team. The Bank's expectation is that these notifications will be provided promptly. This letter/email should be signed by the CEO or Captive Manager.

[3] 2.313 of EIOPA's Final Report

5. The actions to be taken by a (re)insurance undertaking prior to outsourcing critical or important functions or activities

5.1 The Bank expects (re)insurance undertakings to carry out detailed due diligence to ensure that the service provider has the necessary ability to carry out the outsourcing function or activity. The Bank also expects the undertaking to take into account the impact of the proposed outsourcing arrangement on the operations of the undertaking. The Bank expects (re)insurance undertakings to have appropriate documentation evidencing that the above factors have been taken into account. This documentation should be available to the Bank upon request The Bank may request this information subsequent to receipt of the Notification Letter.

To assist the (re)insurance undertaking conduct this due diligence the following are to be completed, as part of the due diligence process that is submitted to the Board for consideration, and are accessed as a separate Excel spreadsheet titled “Notification Template”;

5.1.1 The first tab – Notification Guidance for (Re)Insurance Undertakings when Outsourcing Critical or Important Functions or Activities under Solvency II. (Always completed and addresses Solvency II CIFA requirements.)

5.1.2 Second tab – EIOPA Cloud. (Completed when outsourcing CIFA’s to cloud service providers.)

5.1.3 Third tab – EIOPA ICT Security. (Completed when outsourcing ICT services and ICT Systems.)

Appendix 1: Contents of the supervisory written notification of proposed outsourcing of critical or important functions or activities

1. Critical or Important Functions or Activities

The following information should be included in the outsourcing notification regarding the outsourcing of a critical or important function or activity from the (re)insurance undertaking to the relevant supervisory team:

- description of the scope and rationale for the outsourcing;
- The service provider's name.

2. Key Functions or Activities Related to Key Functions

Further information is to be included on the outsourcing notification when the proposed outsourcing **relates to a key function**:

- The name of the person **in the undertaking** that has been designated with overall responsibility for an outsourced key function or activity.[4] As outlined in Section 4.4 of the Bank's Guidance for (Re)Insurance Undertakings on the Fitness and Probity Amendments 2015 the undertaking must designate a current PCF holder within the undertaking with overall responsibility for the outsourced arrangement where key functions are outsourced. Details to be submitted include:

    - The identity of the individual(s) with designated responsibility for the outsourced key function;
    - The rationale for choosing this individual and information on their suitability for the role.

- Name of the person **at the service provider** that is responsible for the performance of the outsourced key function or activity.[5] The Bank expects the undertaking to be able to demonstrate, at its request, that this person has been assessed as fit and proper.[6]

[4] Guideline 14 of the EIOPA Guidelines on the System of Governance (EIOPA-BoS-14/253)
[5] Guideline 64 of the EIOPA Guidelines on the System of Governance (EIOPA-BoS-14/253). Note: For the purpose of Section 7.2, "activity" refers to an activity related to a key function, rather than just a critical or important activity
[6] 2.309 of EIOPA's Final Report

3. Declaration

The notification should include a declaration that the (re)insurance undertaking has taken the factors in Section 5 of this paper into account. It should be signed by the CEO or captive manager and sent to the relevant supervisory team within the Bank.

4. NOTE concerning Cross Industry Guidance on Outsourcing (December 2021) (Cross Industry Guidance)

Given the more prescriptive nature of this Guidance, firms are only required to address the requirements laid out in this document, and addressed above.

This is supported by the following paragraph on Page 11, of the Cross Industry Guidance, stating;

"In the event of a discrepancy between the Guidance and the relevant sectoral legislation, the primacy of the legislation will apply. Where existing relevant sectoral legislation, regulations or guidance is less prescriptive or is silent on certain matters, it is the Central Bank's expectation that regulated firms refer to the supervisory expectations set out in this Guidance, which is deemed good practice in the governance and management of outsourcing risk. If sectoral guidance is more prescriptive then it will take precedence over this Guidance."

T: +353 (0)1 224 6000
E: insurance@centralbank.ie
www.centralbank.ie

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