



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

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



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1. Background

- 1.1** Under Solvency II, there are specific provisions¹ 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.
- 1.4** [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.

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. 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.
- 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 to this paper. This is in accordance with the information required by Guidelines 14 and 64 of the [EIOPA 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 policyholders³.

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 a detailed examination 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.

5.2 Prior to deciding on an outsourcing arrangement, the (re)insurance undertaking should ensure the following factors have appropriately been taken into account:

- a) The duties and responsibilities of both parties;
- b) The duration of the proposed outsourcing;
- c) How the undertaking will take account of the outsourcing arrangement in its risk management and internal control system (including compliance processes);
- d) How the outsourcing will be incorporated in the undertaking's internal audit processes;
- e) The fitness and probity of the relevant individuals in the service provider;
- f) The reporting to be provided by the service provider to the undertaking;
- g) The relevant management reporting that will take place in the undertaking on the outsourced function or activity;
- h) The process for monitoring the service provided by the service provider and performance against key performance indicators;
- i) The service provider's obligation to disclose information on material developments;
- j) The notice period for termination of the contract by the service provider
- k) That the (re)insurance undertaking is able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of services to policyholders;
- l) Contingency plans/exit strategy of the undertaking (i.e. for exiting the outsourcing arrangement and replacing it with other suitable internal or external arrangement);
- m) That the service provider will provide the (re)insurance undertaking (including its external auditors) and the Bank with access to data held by it (and premises) in order that the Bank can properly carry out its supervisory functions;
- n) Terms and conditions of any sub-outsourcing permitted and the impact of such arrangements;
- o) That the proposed outsourcing will not lead to any of the following:
 - materially impairing the undertaking's system of governance;
 - an undue increase in operational risk;
 - impairing supervisory monitoring of compliance with obligations; or
 - undermining continuous and satisfactory service to policyholders.

5.3 The Bank expects (re)insurance undertakings to carry out appropriate due diligence when selecting a service provider to carry out critical or important functions or activities. Examples of areas for consideration include, but are not limited to:

- a) Fitness and probity (how the service provider has verified that the relevant staff in the service provider performing the outsourced function or activity are sufficiently qualified and reliable);
- b) Resources of the service provider;
- c) Financial stability of the service provider;
- d) Internal controls and risk management systems within the service provider;
- e) The Service Provider's ability, capacity and relevant authorisations required in order for them to perform the outsourced function;
- f) Any actual or potential conflict of interest and how these are/will be managed;
- g) Data protection laws;
- h) That the service provider will protect any confidential information relating to the (re)insurance undertaking and its policyholders;
- i) The service provider should be subject to the same provisions on the safety and confidentiality of information relating to the (re)insurance undertaking or to policyholders/beneficiaries;
- j) That the service provider has adequate contingency plans in place to deal with emergency situations or business disruptions;
- k) Location of the service provider (e.g. where the service provider is located outside EU, how any potential restriction of access to data or premises have been considered and appropriately addressed);
- l) Details of the regulatory status of the service provider, if any (where the service provider is not a regulated entity how any increased risks that might arise from this have been considered and appropriately addressed);
- m) Evidence that the service provider is committed to complying with all applicable laws, regulatory requirements, guidelines and as well as policies approved by the (re)insurance undertaking and to cooperate with the Bank with regard to the outsourced function or activity;
- n) Where the service provider is a group company, consideration of the relationship between the parties and the controls or influence that the undertaking can exert over the service provider.

5.4 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. Examples of this documentation include, but are not limited to, the following:

- a) Documentation evidencing Board and management discussion/decisions related to outsourcing (e.g. minutes from Board meetings outlining the terms and conditions of the agreement, approving the decision to outsource, the service provider, etc.);
- b) The undertaking's outsourcing policy, which is to meet all relevant Solvency II requirements;

- c) Evidence that the relevant fit and proper assessments have been carried out;
- d) The written outsourcing agreement/service level agreement between the (re)insurance undertaking and the service provider, which is to meet all relevant Solvency II requirements;
- e) Any other policies/procedures relevant to outsourcing activities (e.g. policies to ensure the effective oversight of the activities being outsourced); and
- f) Any other relevant reports, for example reports carried out on due diligence or transaction flow charts for the activities involving outsourcing (i.e. details of the interrelationships of the various entities, timings etc.).

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

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.

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 activity⁴. As outlined in Section 4.4 of the Bank's [Guidance for \(Re\)Insurance Undertakings on 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 activity⁵. The Bank expects the undertaking to be able to demonstrate, at its request, that this person has been assessed as fit and proper⁶.

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 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



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