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Country Guides: Insurance

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Ireland

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Ireland's insurance industry covers a wide variety of business lines across the life, general, captive, reinsurance and special purpose sectors, with both a domestic-focused and an international-focused industry. Supported by a large number of third-party administrators, captive managers and professionals (actuarial, legal, tax and accounting) current industry statistics show: 59 life insurers; 131 non-life/general insurers (including captives); and 122 reinsurers (including captives and special purpose reinsurance vehicles) with Irish head offices. At the end of 2007, direct employment numbers in the insurance industry were in the region of 11,500.

On the international side, Ireland is one of the leading European jurisdictions for domiciling head office insurers that target the wider European market place. Latest available aggregate industry statistics for end 2007 show that life business gross premium income amounted to €38.6bn, split between €18.1bn of Irish risk and €28.5bn of foreign risk, which represents a 25 per cent and 29 per cent increase respectively on the prior year. On the non-life side, gross premium income in 2007 was €7.56bn, with the split between Irish domestic and foreign risk being €4.02bn and €.54bn respectively.

Overview of regulatory regime

The development of its international industry has been due to Ireland's membership of the European Union and the creation of a single market for insurance products; however, Ireland has a long established legislative framework for insurance business that stretches back to the Life Assurance Act 1774 (which remains applicable). The main legislative framework, however, is found in:

- The Insurance Act 1936.
- The Insurance Act 1989.
- The European Communities (Non-Life Insurance) Framework Regulations 1994.

- The European Communities (Life Assurance) Framework Regulations 1994.
- The European Communities (Reinsurance) Regulations 2006.

Future EU-driven developments are coming down the line, such as Solvency II.

There are some important distinctions between the regulation and the authorisation and supervision regimes for life, non-life, reinsurance and captive, and SPRV businesses. They are governed, however, by reasonably similar frameworks, with each allowing for cross-border passporting within the EU on either a freedom of services or on a branch basis.

To be considered established in Ireland, an insurance undertaking must: (a) have an office in Ireland which is open during business hours for the transaction of insurance business (once it is authorised); and (b) must employ at such office persons duly qualified to carry on the business transacted and empowered to issue cover for the authorised classes of business and to settle claims. The classes of business are those set out in the relevant EU Life, Non-Life and Reinsurance Directives. Insurers are obliged to limit their operations to insurance business and operations that arise directly therefrom, to the exclusion of all other commercial business.

Authorisation process

The principal conditions for an applicant to receive Irish Head Office authorisation are as follows:

- It must be a company established either under the Irish Companies Act 1963 to 2006 or as a European Company (SE).
- It must submit to the Financial Regulator a scheme of operations to include particulars or proof concerning:
    - The nature of the risks which it proposes to cover.
    - Its guiding principles as to reinsurance.
    - The items that constitute its minimum guarantee fund.
    - Estimates of the cost of setting up the administrative services and the organisation of securing business and financial resources it intends to meet those costs.
- In addition, for its first three financial years, it must submit to the Financial Regulator:
    - A plan that sets out detailed estimates of premium income and claims along with estimates of management expenses.
    - A forecast balance sheet.
    - Estimates that relate to the financial resources intended to cover its underwriting liabilities and solvency margin.
- It is required to possess a minimum guarantee fund (equal to one third of the solvency margin, subject to a minimum of €3.5m with effect from January 1, 2010).
- It must have a paid-up share capital of at least €635,000.

- It must demonstrate that it shall be effectively run by persons of good repute with appropriate professional qualifications or experience.

It is important to note that the above are minimum figures only. The Financial Regulator will determine the actual financial resources requirement respectively, in line with the applicant's business plan. Full details of all entities that have a shareholding in excess of 10 per cent or more of the capital or voting rights (directly or indirectly) in the applicant must also be disclosed to the Financial Regulator.

Draft policy documents etc., must be submitted as part of the application for authorisation, although there is no requirement for prior approval or systematic notification of general and special policy conditions, scales of premiums, forms and other printed documents which the insurance undertaking intends to use in its dealings with policyholders.

General good and other Irish legal requirements

Irish insurers are also required to comply with Irish general good requirements, which include:

- The provisions of the Sale of Goods and Supply of Services Act 1980, which are applicable to insurance contracts in the marketing and selling of insurance products.
- The Consumer Protection Act 2007 and the unfair contract terms legislation.
- The Investment Intermediaries Act 1995 (as amended), which relates to the supervision and regulation of insurance intermediaries.
- The Electronic Commerce Act 2000 and the Electronic Privacy Regulations.

Ongoing supervisory requirements

The main ongoing supervisory requirements that are applicable to Irish insurers include the following:

Procedures, reserves and accounts

- Every Irish Head Office insurer is required to have administrative and accounting procedures and internal control mechanisms which the Financial Regulator deems sound and adequate.
- Details of any proposed transaction of a material nature with a related company must be pre-notified to the Financial Regulator.
- An obligation to establish and maintain technical reserves, including mathematical reserves in respect of all underwriting liabilities assumed by it; an adequate solvency margin and guarantee fund in respect of its entire business.
- The insurer must keep a register that shows the assets which represent the technical reserves and mathematical reserves in respect of each class of insurance business and it must furnish the Financial Regulator with a certificate of the value of those assets annually.
- The accounts of the insurance company must be forwarded to the Financial Regulator annually.
- The appointed actuary of a life insurer must carry out an investigation into the financial condition of the insurance undertaking's business on an annual basis, which must be submitted to the Financial Regulator.

Compliance function

Insurers must have a compliance officer and compliance function designed to supplement, not supplant, the responsibility of the board and senior managers to ensure compliance with legislation and applicable guidelines.

Directors' compliance certificate

On an annual basis the board of the insurance company must certify compliance with regulations. All directors must sign the compliance certificate, which should cover issues such as general compliance with the regulatory regime, internal controls and use of derivatives.

Asset management

Each company must have an asset management policy to ensure that it adequately manages the investment-related risks to its solvency. This should include consideration of regulatory restraints, investment-related risks, technical provisions and solvency which insurers need to monitor, measure, report and control. The board of directors should continually review the adequacy of its overall investment policy.

Authorisation process

There is a detailed process for seeking an insurance authorisation in Ireland that involves submission to the Financial Regulator of a scheme of operations and a significant amount of supporting documents that, inter alia, outline:

- The nature of the business.
- Broad projections.
- Staffing.
- Outsourcing.
- Target markets.

As a general guide, one should expect the authorisation process to take six months, with good/early communication with the Financial Regulator as to initial plans and, thereafter, during the authorisation process being a major driver of the authorisation timetable.

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