



**TECHNICAL  
RELEASE  
13/2016**

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**Guidance for Auditors of Insurance Undertakings in Ireland**

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# Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

## Contents

1.	Introduction.....	5
	Purpose of the Technical Release .....	5
	Legal and regulatory background .....	6
	EU Audit Directive and Audit Regulation – affecting auditors of insurance undertakings for periods commencing on or after 17 June 2016.....	12
2.	The auditor’s right and duty to report to the Central Bank .....	17
	The legal framework for reporting to the Central Bank by auditors of insurance undertakings	17
	Closely linked entities .....	22
	Entities in a control relationship .....	22
	Criteria for Reporting to the Central Bank.....	24
	Information received in a capacity other than as auditor .....	33
	Conduct of the audit.....	33
	Discussing matters of material significance with the directors.....	34
	Timing of a report.....	35
	Statutory protection of reports by auditors .....	35
	The auditor’s right to report to the Central Bank.....	36
3.	Reporting on the relevant elements of Solvency II Reports .....	37
	Applicable auditing standards .....	39
	Scope of the reasonable assurance engagement on the SFCR .....	41
	Accepting the Engagement.....	50

Planning and Performing the Engagement.....	53
Forming an opinion and reporting on the engagement.....	59
4. Meetings with the Central Bank – “Auditor Protocol” .....	62
Appendix 1 – Protection for disclosure under common law .....	65
Appendix 2 – Illustrative Auditor Reports on the SFCR .....	67
Illustration 1 – solo entity using the standard formula: An auditor’s report on relevant elements of the SFCR .....	67
Illustration 2 – solo entity using the partial or full internal model: An auditor’s report on relevant elements of the SFCR.....	71
Illustration 3 – group insurance undertaking using the standard formula: An auditor’s report on relevant elements of the SFCR.....	75
Appendix 3 – The auditor’s duty to report to the Central Bank - “Non-Directive Firms”.....	79
Statutory protection of reports by auditors .....	80
Appendix 4 – Glossary of abbreviations .....	83

# Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

## 1. Introduction

### Purpose of the Technical Release

- 1.1 The purpose of this Technical Release<sup>1</sup> is to provide guidance to auditors engaged by an insurance undertaking to carry out an audit of the undertaking's financial statements and, for undertakings within the scope of the European Union (Insurance and Reinsurance) Regulations 2015 (SI 485 of 2015) ("the 2015 Regulations"), to provide a reasonable assurance opinion in relation to the relevant elements of the Solvency and Financial Condition Report (SFCR) of that undertaking.
- 1.2 Previous guidance for the auditors of Irish insurance undertakings was contained in the Auditing Practices Board's<sup>2</sup> Practice Note (PN) 20 (I) *The audit of insurers in the Republic of Ireland* issued in 2002. That PN was withdrawn by the Financial Reporting Council ("FRC") in January 2016.
- 1.3 This Technical Release provides guidance on the following matters of relevance to the auditors of insurance undertakings in Ireland:
  - The duties and right of the statutory auditor to report to the Central Bank of Ireland ("the Central Bank") in certain circumstances (Section 2 of this Technical Release);
  - Reporting on elements of the SFCR of insurance undertakings subject to the 2015 Regulations (Section 3 of this Technical Release);
  - Meetings between the statutory auditor and the Central Bank under the Auditor Protocol framework for communication between auditors of regulated financial service providers and the Central Bank (Section 4 of this Technical Release).
- 1.4 This guidance has been prepared with advice and assistance from staff of the Central Bank. This document does not constitute general advice given by the Central Bank or industry guidance.

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<sup>1</sup> A Technical Release addresses technical issues of ongoing relevance and importance to members of CPA Ireland. A Technical Release is a source of good practice guidance on technical and practice issues relevant to the work of chartered accountants.

<sup>2</sup> The predecessor body to the Financial Reporting Council in the UK

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 1.5 This Technical Release is based on laws and regulations in existence at 30 September 2016. It is not an exhaustive summary of all the obligations that an insurance undertaking and its auditor may have under Irish and European laws and regulations or Central Bank rules.
- 1.6 An insurance undertaking for the purposes of this Technical Release includes:
- (a) Solvency II Undertakings authorised under the 2015 Regulations, to carry on life insurance, non-life insurance or reinsurance business;
  - (b) Non-Solvency II Undertakings authorised under the European Communities (Life Assurance) Framework Regulations, 1994, to carry on life insurance business;
  - (c) Non-Solvency II Undertakings authorised under the European Communities (Non- Life Assurance) Framework Regulations, 1994, to carry on non-life insurance business;
  - (d) Non-Solvency II Undertakings authorised under the European Communities (Reinsurance) Regulations, 2006, to carry on reinsurance business.

Insurance business may not be carried on in Ireland without authorisation to do so.

- 1.7 Solvency II Undertakings are subject to the 2015 Regulations and are referred to in this Technical Release as “Directive firms”. Non-Solvency II Undertakings are those which are not subject to the 2015 Regulations and are referred to in this Technical Release as “Non-Directive firms”.
- 1.8 Other guidance of relevance to the auditors of insurance undertakings in Ireland is available in:
- Technical Alert 01/2016 *Reporting on regulatory returns of insurers: Extract from PN 20(I)* : Technical Alert 01/2016 provides an extract from PN20(I), which was otherwise withdrawn in January 2016, in relation to guidance for auditors reporting on the regulatory returns of insurers prior to the coming into effect of the 2015 Regulations. Technical Alert 01/2016 remains relevant to the reporting on the regulatory returns of insurance undertakings not subject to the 2015 Regulations (“Non-Directive firms”).
  - Technical Release 01/2015 *27BA of the Central Bank Act 1997 – Guidance for Auditors* : Technical Release 01/2015 provides guidance to auditors who are engaged by an insurance undertaking, following a request from the Central Bank, to carry out an “auditor assurance” engagement pursuant to section 27BA of the Central Bank Act 1997.
  - Miscellaneous Technical Statement 46 *Reporting to the Financial Regulator under The Central Bank and Financial Services Authority of Ireland Act 2004* (M46).

### **Legal and regulatory background**

- 1.9 The auditor of an insurance undertaking needs to be familiar with relevant legal and regulatory requirements.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 1.10 The Central Bank Reform Act in 2010 established the Central Bank as the single unitary body responsible for both central banking and financial regulation in Ireland. The Central Bank is responsible for the authorisation, regulation and supervision of most financial services providers, including insurance and reinsurance undertakings, in the Republic of Ireland. The Central Bank's Insurance Supervision Directorate is responsible for the prudential supervision of insurance undertakings authorised in Ireland. In carrying out this role, the Insurance Supervision Directorate monitors the risks posed by insurance undertakings along with issuing standards, policies and guidance which those undertakings are expected to meet.
- 1.11 In recent years, there have been significant changes to the framework of regulation which applies to insurance undertakings, both in Ireland and at a European level. Significantly, the European Directive 2009/138/EC ("the Solvency II Directive") has introduced a new regulatory regime for most insurance undertakings across Europe. The Solvency II Directive's key objectives include ensuring a uniform and enhanced level of policyholder protection across the European Union ("EU"), as well as deeper integration of the insurance market through greater harmonisation of regulatory regimes. Under the Solvency II Directive insurance regulators have powers to establish specific requirements as well as to institute investigations into insurance undertakings and to suspend or remove authorisation to conduct insurance business where appropriate.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- 1.12 The Solvency II Directive was transposed into Irish law by the 2015 Regulations. The 2015 Regulations are a key element of the regulatory framework for Irish insurance undertakings referred to throughout this document as the Solvency II regulations. The Solvency II regulations consist of:
- The 2015 Regulations;
  - European Commission Delegated Regulation (EU) 2015/35; and
  - The European Commission Implementing Regulations which are designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the SFCR in accordance with Directive 2009/138/EC of the European Parliament and of the Council (“the SFCR Implementing Technical Standard”).
- 1.13 The 2015 regulations came into force from 1 January 2016. A number of criteria determine whether insurance undertakings are in or out of scope of the Solvency II regulations, relating primarily to the level of gross premium income and amount of gross technical provisions<sup>3</sup>. Non-Directive firms are subject to the rules in the Non- Solvency II Undertakings section of the Central Bank website and part 4 of the Finance (Miscellaneous Provisions) Act 2015.
- 1.14 The Solvency II regulations, and the related Central Bank rules, establish a comprehensive new prudential regime and require annual public solvency reporting by Directive firms in the form of an SFCR including linked quantitative reporting templates (“QRTs”), as well as periodic reporting to the Central Bank as competent supervisor. Regulation 37 of the 2015 Regulations requires elements of those returns to be subject to external audit, and Section 3 of this Technical Release sets out guidance for auditors in relation to such engagements. Non-Directive firms continue to be required to comply with solvency requirements set by the Central Bank, and with the related reporting regime. Auditors reporting on the regulatory returns of Non-Directive firms refer for guidance to Technical Alert 01/2016 issued by CPA Ireland.

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<sup>3</sup> Exclusion criteria are set out in part 1 of the European Union (Insurance and Reinsurance) Regulations 2015



## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 1.15 Insurance regulation in Ireland is undertaken through risk-based supervision by the Central Bank, with its main objective being the protection of consumers. Since 2012, the Central Bank has used a systematic risk-based framework for the supervision of all regulated financial services providers. This supervisory regime is known as PRISM<sup>4</sup> (Probability Risk and Impact System). Under PRISM, the most significant regulated firms – those with the ability to have the greatest impact on financial stability and the consumer – receive a high level of supervision under structured engagement plans, leading to early interventions to mitigate potential risks. Conversely, those firms which have the lowest potential adverse impact are generally supervised reactively or through thematic assessments. Auditors of insurance undertakings will find updates in relation to the supervision of the sector on the Central Bank's website.

### ***Other legislative requirements***

- 1.16 A comprehensive list of the legislation which affects insurance undertakings is available on the Central Bank's website. Some key legislation includes:
- The Central Bank Act, 1997, as amended by the Central Bank and Financial Services Authority of Ireland Act, 2004, sets out the functions of the Central Bank with respect to regulated financial service providers and includes, in section 27, the obligations on auditors to report certain matters to the Central Bank under prescribed enactments and to provide annual reports;
  - The Central Bank (Supervision and Enforcement) Act 2013 (refer below);
  - The Companies Act 2014 came into effect on 1 June 2015 and replaced, substantially reformed, and consolidated over 50 years of Irish company legislation into a single statute;
  - The 2015 Regulations transposed the new Solvency II prudential regulation regime into Irish law;
  - The European Union (Insurance Undertakings: Financial Statements) Regulations, 2015 (S.I. 262 of 2015);

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<sup>4</sup> Further information in relation to the operation of PRISM can be found in the Central Bank's publication "PRISM Explained" published in November 2011 and is available on the Central Bank's website.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- The Insurance Acts 1909 to 2009, regulations made under those Acts and regulations relating to insurance made under the European Communities Act 1972 (“the Insurance Acts”);
- The European Communities (Reinsurance) Regulations 2006 (for Non-Directive firms); and
- Regulation (EU) No 537/2014 (the Audit Regulation).

1.17 The Central Bank (Supervision and Enforcement) Act 2013 came into operation on 1 August 2013. This Act enhanced the capacity of the Central Bank to supervise regulated financial service providers and enforce financial services legislation, particularly by:

- increasing the Central Bank’s powers to investigate, seek information, give directions and make regulations;
- consolidating and augmenting the authorised officer role;
- providing protection for whistleblowers, including auditors in certain circumstances; and
- increasing the level of sanctions it may impose.

1.18 The Central Bank (Supervision and Enforcement) Act 2013 further amended the Central Bank Act, 1997, with the introduction of section 27BA on auditor assurance:

*“Where the Bank considers it necessary owing to the nature, scale or complexity of the activities of a regulated financial service provider, it may, by notice in writing to the auditor of the regulated financial service provider, require the auditor to conduct an examination for the purpose of providing to the Bank a statement as to the extent to which the regulated financial service provider has complied with obligations imposed by or under such provisions of financial services legislation as are specified in the notice.”*

Technical Release 01/15 – *Section 27BA of the Central Bank Act 1997 – Guidance for Auditors*, a Technical Release providing guidance on auditor assurance engagements, was issued by Chartered Accountants Ireland in May 2015.

### **Prudential requirements**

1.19 The Solvency II regulations, as described above, provide the framework for prudential regulation of Directive firms. That framework is built around three “pillars”:

1. Financial Requirements - including Solvency Capital Requirement (“SCR”) and Minimum Capital Requirement (“MCR”) thresholds; and detailed rules for the valuation of assets and liabilities;
2. Governance and Supervision – including the Own Risk and Solvency Assessment (“ORSA”); and

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

3. Reporting and Disclosure – including private reporting to the regulator and public SFCR.

- 1.20 The Solvency II Directive itself does not require external assurance of published Pillar 3 reporting. In line with guidelines issued by the European Insurance and Occupational Pensions Authority (“EIOPA”), regulation 37 of the 2015 Regulations establishes the requirement in Ireland for the audit of elements of the SFCR. The Central Bank requires that the auditor of a Directive firm’s financial statements also carries out the audit of the relevant elements of the SFCR in accordance with regulation 37 of the 2015 Regulations.
- 1.21 Non-Directive firms are subject to a separate prudential regime, which is set out in Central Bank rules and relevant legislation.

### ***Corporate governance requirements***

- 1.22 The Central Bank also sets out Corporate Governance Requirements<sup>5</sup> for insurance undertakings, imposed as a requirement with which insurance undertakings must comply from 1 January 2016. These requirements are set out in:
- Corporate Governance Requirements for Insurance Undertakings 2015; and
  - Corporate Governance Requirements for Captive Insurance and Captive Reinsurance Undertakings 2015.

(collectively “the Corporate Governance Requirements”).

The Corporate Governance Requirements impose minimum core standards on all insurance and reinsurance undertakings, with additional requirements upon undertakings designated as High Impact by the Central Bank. Undertakings are required to disclose in their annual reports that they are subject to the Corporate Governance Requirements and whether they are required to comply with the additional requirements for High Impact designated insurance undertakings.

### ***Financial statements***

- 1.23 The form and content of the financial statements of insurance undertakings prepared under Irish GAAP is governed by the Companies Act 2014 and accounting standards applicable in Ireland. The accounting standards applicable in Ireland comprise Financial Reporting Standards (FRS) issued by the FRC. The prescribed format for an Irish insurance undertaking’s financial statements that comply with Irish GAAP is set out in:
- Sections 290 and 291 of the Companies Act 2014; and
  - The European Union (Insurance Undertakings: Financial Statements) Regulations, 2015 (S.I. 262 of 2015).

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<sup>5</sup> Available on the Central Bank website: <http://www.centralbank.ie/regulation/Pages/Codes.aspx>

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

Listed Irish groups (including listed Irish insurance groups) must prepare consolidated financial statements in accordance with International Financial Reporting Standards as adopted by the European Union (EU-IFRS)<sup>6</sup> and those parts of the Companies Act 2014 applicable to companies reporting under EU-IFRS. Irish companies or non-listed groups, including Irish insurance undertakings and insurance groups, are permitted to voluntarily adopt EU-IFRS for their financial statements.

- 1.24 The primary objective of the statutory audit of the financial statements of an insurance undertaking by an external auditor is to enable the auditor to express an independent opinion on the annual financial statements to the members of the insurance undertaking in accordance with the requirements of the Companies Act 2014.
- 1.25 The scope of the statutory audit of an insurance undertaking's financial statements is no different from that of the generality of companies in the Republic of Ireland. However, the Oireachtas has, in addition, placed responsibility on auditors to provide reports to the Central Bank if they encounter circumstances that, in their opinion, meet certain criteria set out in statute. Section 2 of this Technical Release relating to ISA (UK and Ireland) 250: Section B provides guidance in relation to such reports to the Central Bank.

### ***Actuaries***

- 1.26 Actuaries working in Irish entities are generally part of recognised actuarial bodies and, therefore, subject to professional standards associated with those bodies in relation to the actuarial work performed. The main professional body in Ireland is the Society of Actuaries in Ireland ("SAI"). The SAI issues Actuarial Standards of Practice ("ASPs") on specific areas of practice, classified as either mandatory or recommended practice.

### **EU Audit Directive and Audit Regulation – affecting auditors of insurance undertakings for periods commencing on or after 17 June 2016**

- 1.27 Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006, as amended by Directive 2014/56/EU of the European Parliament and of the Council of

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<sup>6</sup> Article 4 of EC Regulation 1606/2002.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

16 April 2014 (“the Audit Directive”), inter-alia, sets out the provisions in respect of statutory audits of annual accounts and consolidated accounts. Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 (“the Audit Regulation”) establishes, amongst others, requirements in respect of the relationship between auditors and supervisors of public interest entities, which includes insurance undertakings.

- 1.28 The provisions of the Audit Directive were transposed into Irish legislation by Statutory Instrument (S.I.) 312 of 2016 and the Audit Regulation became effective in Ireland on the same date. The provisions of S.I. 312 of 2016 are effective for periods commencing on or after 17 June 2016 in so far as they relate to the conduct of statutory audits and the duties and powers of statutory auditors and audit firms in relation to the conduct of those audits. S.I. 312 of 2016 designates the Irish Auditing and Accounting Supervisory Authority (“IAASA”) as the competent authority for the oversight of statutory auditors and audit firms.
- 1.29 S.I. 312 of 2016 applies the Audit Directive definition of a Public Interest Entity in Ireland as:
- (a) An issuer whose transferable securities are admitted to trading on a regulated market;
  - (b) A credit institution within the meaning of article 4(1)(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, other than those listed in article 2 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and investment firms;
  - (c) An insurance undertaking within the meaning given by article 2(1) of Council Directive 1991/674/EEC of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertaking.
- 1.30 The Audit Regulation places responsibility for the effectiveness of the dialogue between auditors and supervisors on both parties:

*An effective dialogue shall be established between competent authorities supervising credit institutions and insurance undertakings, on the one hand, and the statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those institutions and undertakings on the other hand. The responsibility for compliance with this requirement shall rest with both parties to the dialogue.*<sup>7</sup>

This requirement is in line with the “Auditor Protocol”, the existing framework for dialogue between the Central Bank and auditors of regulated financial services providers in Ireland. Further details in relation to the operation of the “Auditor Protocol” are set out in Section 4 of this Technical Release.

- 1.31 Article 12 of the Audit Regulation sets out the statutory duty of the auditor or audit firm carrying out the statutory audit of a Public Interest Entity to report promptly to the competent supervisors<sup>8</sup> in certain circumstances.

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<sup>7</sup> Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC, article 12(2)

<sup>8</sup> Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

### **2. The auditor's right and duty to report to the Central Bank**

- 2.1 ISA (UK and Ireland) 250: Section B<sup>9</sup> deals with the responsibilities of the auditor, of a regulated financial institution, to report directly to a regulator where information comes to the auditor's attention in the course of work undertaken in the capacity as auditor of the regulated entity.
- 2.2 ISA (UK and Ireland) 250: Section B requires that the level of knowledge of the members of the audit engagement team of the provisions of the applicable legislation, regulator's rules and guidance and other specific requirements placed on the audited entity, be appropriate to the staff member's role in the audit and sufficient (in the context of that role) to enable them to identify situations which may give reasonable cause to believe that a matter should be reported to the regulator<sup>10</sup>.

#### **The legal framework for reporting to the Central Bank by auditors of insurance undertakings**

- 2.3 Irish insurance legislation imposes duties on auditors of authorised insurance undertakings to report in certain circumstances to the Central Bank. These statutory duties are included in the following:

##### For both Directive firms and Non-Directive firms:

- Section 35 of the Insurance Act 1989 as amended by regulation 5 of the European Communities (Non-Life Insurance and Life Assurance) Framework (Amendment) Regulations, 1997 and the Central Bank and Financial Services of Authority of Ireland Act, 2003 (all Directive firms (insurers and reinsurers) and Non-Directive insurers);
- Sections 27B, C & D of the Central Bank Act 1997 ("CBA 1997");

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<sup>9</sup> ISAs (UK and Ireland) are the applicable auditing standards for these engagements for financial periods commencing before 17 June 2016. The auditing standards applicable for these engagements for financial periods commencing on or after 17 June 2016 will be determined following the outcome of the consultation by IAASA on the future auditing framework for Ireland.

<sup>10</sup> ISA (UK and Ireland) 250: Section B para.11

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- Article 12 of Regulation (EU) No 537/2014 (the Audit Regulation)<sup>11</sup>.

For “Directive Firms” only:

- Regulation 78 of the 2015 Regulations; For

“Non-Directive Firms” only:

- Regulations 46 and 47 of the European Communities (Reinsurance) Regulations, 2006 (S.I. No. 380 of 2006) (“the 2006 Regulations”) (reinsurance undertakings only).

- 2.4 None of these reporting obligations require the auditor to perform any additional audit work as a result of the statutory duty, nor is the auditor required specifically to seek out breaches of the requirements applicable to a particular authorised person.
- 2.5 The duty to report opinions, as well as information, allows for circumstances where adequate information on a matter may not readily be forthcoming from the regulated entity, and where judgements need to be made.
- 2.6 This section of the Technical Release focuses on the statutory reporting obligations of auditors of Directive Firms. The statutory reporting obligations of the auditors of Non- Directive Firms are summarised in Appendix 3.

### ***Section 35 of the Insurance Act 1989***

- 2.7 Section 35 of the Insurance Act 1989 applies to the auditors of all Directive firms, regardless of whether those undertakings carry out insurance activities or reinsurance activities<sup>12</sup>. With regard to Non-Directive firms, section 35 of the Insurance Act 1989 applies only to auditors of undertakings which carry out insurance activities<sup>13</sup>.

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<sup>11</sup> Effective for periods commencing on or after 17 June 2016 in this regard

<sup>12</sup> Insurance Act 1989, section 2

<sup>13</sup> Auditors of Non-Directive firms which carry out reinsurance activities have reporting obligations under regulations 46 and 47 of the 2006 Regulations – refer to Appendix 3 of this Technical Release.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- 2.8 Section 35(1) of the Insurance Act 1989, as amended, places a duty on an auditor to report directly to the Central Bank in writing and without delay in circumstances where the auditor:
- (a) has reason to believe that there exist circumstances which are likely to affect materially the insurer's ability to fulfil its obligations to policyholders or meet any of its material financial requirements under the Insurance Acts; or
  - (b) has reason to believe that there are material defects in the financial systems and controls or accounting records of the insurer which are likely to have that effect; or
  - (c) proposes to qualify any certificate which he is to provide in relation to financial statements or returns of the insurer under the Companies Acts or Insurance Acts; or
  - (d) decides to resign or not seek re-election as auditor; or
  - (e) becomes aware of any facts or decisions which are likely to affect materially the insurer's ability to fulfil its obligations to policyholders or meet any of its material financial requirements under the Insurance Acts in the course of conducting an audit in an undertaking in a control relationship with the insurer.
- 2.9 Section 35(3) of the Insurance Act 1989 provides that the Central Bank may require an auditor *"to supply it with such information as it may specify in relation to the audit of the business of the insurer"*.

### **Regulation 78 of the 2015 Regulations**

- 2.10 Regulation 78 of the 2015 Regulations created reporting duties for auditors of Directive firms to report to the Central Bank any fact or decision concerning the undertaking of which they have become aware while carrying out an audit of the financial statements of that undertaking and which is liable to bring about any of the following:
- (a) a material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of insurance undertakings and reinsurance undertakings;
  - (b) the impairment of the continuous functioning of the insurance undertaking or reinsurance undertaking; or
  - (c) a refusal to certify the accounts or the expression of reservations; or
  - (d) non-compliance with the Solvency Capital Requirement; or
  - (e) non-compliance with the Minimum Capital Requirement.
- 2.11 Regulation 78(2) of the 2015 Regulations requires the auditor of a Directive firm to also report any facts or decisions itemised in regulation 78(1) of which the auditor has become aware in the course of carrying out an audit of an undertaking which has close links with that firm resulting from a control relationship.



**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

***Sections 27B, 27C and 27D of the CBA 1997***

2.12 Under sections 27B, 27C and 27D of the CBA 1997, the auditor of a regulated financial services provider, including an insurance undertaking, is required to provide to the Central Bank:

- An annual confirmation as to whether there are matters to report in addition to and including any reports already submitted under “prescribed enactments<sup>14</sup>” (section 27B);
- Copies of any reports provided to the regulated entity or those concerned with its management on matters that have come to the auditor’s notice while auditing the financial statements of the bank or carrying out any work for the regulated entity of any kind specified by the Central Bank (section 27C);
- Copies of any reports issued to the Office of the Director of Corporate Enforcement (section 27D).

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<sup>14</sup> Prescribed enactments relating to insurance undertakings for the purposes of section 27B of the CBA 1997 are:

- Section 35 of the Insurance Act 1989
- Regulation 46 of the European Communities (Reinsurance) Regulations, 2006 (for non- directive firms)
- Regulation 78 of the European Union (Insurance and Reinsurance) Regulations 2015

***Articles 12 and 7 of the Audit Regulation***

2.13 For audits of financial statements in respect of periods commencing on or after 17 June 2016, auditors have regard to the statutory duty to report in accordance with article 12 of the Audit Regulation<sup>15</sup>. This article sets out the statutory duty of the auditors of public interest entities, which includes insurance undertakings, to report promptly to the competent supervisors any information of which the auditor may have become aware “*while carrying out that statutory audit*” and which may bring about any of the following:

- *A material breach of the laws, regulations or administrative provisions which lay down, where appropriate, the conditions governing authorisation or which specifically govern pursuit of the activities of such public interest entity;*
- *A material threat or doubt concerning the continuous functioning of the public- interest entity;*
- *A refusal to issue an audit opinion on the financial statements or the issuing of an adverse or qualified opinion.*

2.14 Article 12 of the Audit Regulation also extends to relevant information of which the auditor of an insurance undertaking becomes aware in the course of carrying out the statutory audit of an undertaking which has close links with the insurance undertaking.

2.15 Article 12 of the Audit Regulation requires the auditor to report to “the competent authorities supervising that public-interest entity” (in respect of insurance undertakings in Ireland, this means the Central Bank) or, “where so determined by the Member State concerned, to the competent authority responsible for the oversight of the statutory auditor or audit firm” (which in Ireland is IAASA). IAASA carries out its functions as the Supervisory Authority under the provisions of the Companies Act 2014.

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<sup>15</sup> Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- 2.16 Regulation 81 of S.I. 312 of 2016<sup>16</sup> states that reports by statutory auditors or audit firms referred to in article 12 of the Audit Regulation shall be submitted to IAASA unless they are already required to be submitted to the Central Bank under regulation 78 of the 2015 Regulations.
- 2.17 Article 7 of the Audit Regulation states that *“without prejudice to article 12 of this Regulation and Directive 2005/60/EC, when a statutory auditor or an audit firm carrying out the statutory audit of a public-interest entity suspects or has reasonable grounds to suspect that irregularities, including fraud with regard to the financial statements of the audited entity, may occur or have occurred, he, she or it shall inform the audited entity and invite it to investigate the matter and take appropriate measures to deal with such irregularities and to prevent any recurrence of such irregularities in the future. Where the audited entity does not investigate the matter, the statutory auditor or the audit firm shall inform the authorities as designated by the Member States responsible for investigating such irregularities.”*

### Closely linked entities

- 2.18 As noted above, the duties of auditors of insurance undertakings to report to the Central Bank or IAASA in certain circumstances extend to relevant information of which auditors become aware in the context of their work as auditors of a closely linked entity. The definition of a closely linked entity in the context of each reporting obligation is set out in the relevant statutory instrument<sup>17</sup>. The reference to “closely linked entity” in this Technical Release refers to the appropriate legal definition which relates to the statutory reporting obligation under consideration by the auditor. In the case of regulation 78 of the 2015 Regulations, the reporting obligation with respect to closely linked entities is limited to those closely linked entities which are in a control relationship with the insurance undertaking.

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<sup>16</sup> European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016.

<sup>17</sup> A closely linked entity for the purposes of regulation 78 of the 2015 Regulations is defined in regulation 3 of the 2015 Regulations. An undertaking having close links with an insurance undertaking for the purposes of article 12 of the Audit Regulation is defined in point 38 of article 4(1) of Regulation (EU) No.575/2013.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 2.19 Auditors establish during audit planning whether the insurance undertaking has one or more closely linked entities of which the audit firm is also the auditor, and if appropriate, whether those entities are in a control relationship with the insurance undertaking. If there are such entities, the auditors consider the significance of the relevant closely linked entities and the nature of the issues that might arise which may give rise to a duty on the auditors to report in accordance with regulation 78 of the 2015 Regulations or article 12 of the Audit Regulation. Such circumstances may involve:
- activities or uncertainties within the closely linked entity which might significantly impair the financial position of the regulated entity;
  - suspicion of money laundering; and
  - if the closely linked entity is itself regulated, matters that the auditor of the closely linked entity is intending to report to its regulator.
- 2.20 Following the risk assessment referred to in the preceding paragraph, the auditor of the insurance undertaking identifies the entities for which the procedures in this paragraph are necessary. The audit engagement team of the insurance undertaking communicates to the audit engagement team of the relevant closely linked entities the audit firm's responsibilities to report to the Central Bank and/or IAASA and notifies the engagement team of the circumstances that have been identified which, if they exist, might be of material significance to the Central Bank. Prior to completion, the auditor of the insurance undertaking obtains details from the auditor of the relevant closely linked entities of such circumstances or confirmation, usually in writing, that such circumstances do not exist. Where the relevant closely linked entities are part of the inter-auditor group reporting process, these steps can be built into that process.
- 2.21 No duty to report is imposed on auditors of a relevant closely linked entity who are not also auditors of the insurance undertaking.

### **Entities in a control relationship**

- 2.22 Section 35(1)(e) of the Insurance Act 1989 applies to the auditor of an insurance undertaking who is also performing the audit of an entity in a control relationship<sup>18</sup> with the insurance undertaking. The guidance above in relation to auditors of closely

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<sup>18</sup> Control relationship for the purposes of section 35 of the Insurance Act 1989 is defined by reference to article 1 of Directive 83/349/EC.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

linked entities is also appropriate for auditors of entities in a control relationship with an insurance undertaking for the purposes of section 35(1)(e) of the Insurance Act 1989.

### Criteria for Reporting to the Central Bank

- 2.23 The inclusion in this section of guidance on matters which the Central Bank might consider to be material is not intended to imply that these matters will necessarily be identified in the normal audit. However, the auditor ensures that audit staff undertaking work on an engagement as auditor of an insurance undertaking is able to recognise situations that may indicate actual or possible breaches of the relevant law and regulation when performing their work and that such matters are reported to the audit engagement partner without delay.

### *Material significance*

- 2.24 The statutory reporting obligations above do not require the auditor to perform any additional audit work as a result of the statutory duty, nor is the auditor required specifically to seek out breaches of the requirements applicable to a particular regulated entity. However, in circumstances where the auditor identifies that a reportable matter may exist, the auditor carries out such additional work considered necessary, to determine whether the facts and circumstances cause the auditor “reasonably to believe” that the matter does in fact exist. It should be noted that the auditor’s work does not need to prove that the reportable matter exists.
- 2.25 ISA (UK and Ireland) 250: Section B requires that, where an apparent breach of statutory or regulatory requirements comes to the auditor’s attention, the auditor obtains such evidence as is available to assess its implications for the auditor’s reporting responsibilities and determines whether, in the auditor’s opinion, there is reasonable cause to believe that the breach is of material significance to the regulator. ISA (UK and Ireland) 250: Section B goes on to state that:

*“The term “material significance” requires interpretation in the context of the specific legislation applicable to the regulated entity. A matter or group of matters is normally of material significance to a regulator’s functions when, due either to its nature or its potential financial impact, it is likely of itself to require investigation by the regulator”*

- 2.26 “Material significance” does not have the same meaning as materiality in the context of the audit of financial statements. Whilst a particular event may be trivial in terms of its possible effect on the financial statements of an entity, it may be of a nature or type that is likely to change the perception of the Central Bank. The determination of whether a matter is, or is likely to be, of material significance to the Central Bank inevitably requires the auditor to exercise judgement. In forming such judgements, the auditor considers not simply the facts of the matter but also their implications. In addition, it is possible that a matter, which is not materially significant in isolation, may become so when other possible breaches are considered.
- 2.27 The auditor of a regulated entity bases the judgement of what is of “material significance” to the Central Bank solely on the auditor’s understanding of the facts of which the auditor is aware without making any assumptions about the information available to the Central Bank

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

in connection with any particular regulated entity.

- 2.28 Minor breaches of laws or regulations that, for example, are unlikely to jeopardise the regulated entity's assets or amount to misconduct or mismanagement would not normally be of "material significance". ISA (UK and Ireland) 250: Section B, however, requires the auditor of regulated entities, when reporting on their financial statements, to review information obtained in the course of the audit and to assess whether the cumulative effect is of "material significance", such as to give rise to a duty to report to the regulator. In circumstances where the auditor is uncertain whether or not there is a requirement to make a report, the auditor may wish to consider taking legal advice.
- 2.29 On completion of the investigations, the auditor ensures that the facts and circumstances, and the basis for the conclusion as to whether these are, or are likely to be, of "material significance" to the Central Bank are adequately documented, such that the reasons for the auditor's decision to report or not may be clearly demonstrated.

### ***Circumstances which are likely to affect materially the entity's ability to fulfil its obligations to policyholders or meet any of its material financial requirements under the relevant legislation (section 35(1)(a) and (e) of the Insurance Act 1989)***

- 2.30 The auditor of an insurance undertaking is required to report to the Central Bank where the auditor has reason to believe that circumstances exist which are likely to affect the entity's ability to fulfil its obligations to policyholders or to meet any of its financial obligations under the Insurance Acts. The auditor of an entity in a control relationship<sup>19</sup> with the insurance undertaking reports to the Central Bank where the auditor has become aware, in the course of conducting an audit of the entity in a control relationship, of facts or decisions which are likely to materially affect the insurance undertaking's ability to fulfil its obligations to policyholders or meet any of its material financial requirements under the Insurance Acts. The procedures to be followed by the auditor in determining concerns (if any) about an entity's ability to continue as a going concern are set out in ISA (UK and Ireland) 570.

### ***Material defects in the financial systems and controls or accounting records of the entity (section 35(1)(b) of the Insurance Act 1989)***

- 2.31 In accordance with legislation, insurance undertakings in Ireland are required to maintain administrative and accounting procedures and internal control mechanisms which are sound and adequate. In addition, the directors of insurance undertakings are required to certify that an appropriate system of control has been established and maintained by the insurance undertaking over its transactions and records as part of its annual regulatory returns.
- 2.32 Responsibility for ensuring that appropriate financial systems and controls are put in place and that proper accounting records are maintained, therefore, rests with the directors and management of the insurance undertaking.
- 2.33 Weaknesses in systems, controls and accounting records may be identified by management themselves, internal audit or the external auditor during the course of the audit work. The auditor is not required to change the scope of the work, nor the frequency and timing of the audit visits and does not have an obligation to seek out systems, controls and accounting weaknesses that may give rise to a duty to report to the Central Bank.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

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<sup>19</sup> Control relationship for the purposes of section 35 of the Insurance Act 1989 is defined by reference to article 1 of Directive 83/349/EC.

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 2.34 Where the auditor identifies such weaknesses, the auditor considers:
- (a) whether there has been a failure in the entity's procedures for ensuring the effective operation of the systems and controls - this of itself may trigger a duty to report to the regulator; and
  - (b) whether the weakness is likely to affect the entity's ability to meet its material policyholder obligations and/or financial requirements under the Insurance Acts - and hence give rise to a duty to report.
- 2.35 The determination of those weaknesses in systems, controls and/or accounting records which may give rise to a duty to report to the Central Bank is a matter of judgement for the auditor of each insurance undertaking. There may be some weaknesses which are reportable in the context of one insurance undertaking but not for others. The decision to report a matter may take into account, for example:
- (a) the effect on the insurance undertaking's ability to meet its material policyholder obligations and/or financial requirements under the Insurance Acts;
  - (b) the nature and volume of transactions occurring in the area where the weakness has arisen;
  - (c) the seriousness of the risks to which the insurance undertaking is exposed as a result of the weakness identified;
  - (d) whether there are compensating systems and controls;
  - (e) whether the weakness occurred for only a short period of time and has been rectified (although rectification does not of itself mean that the matter should not be reported);
  - (f) whether a weakness which has been identified, though not significant in itself, becomes so when considered in conjunction with other weaknesses; and
  - (g) whether the weakness could have led to a material misstatement in the financial statements.
- 2.36 If corrective action cannot be taken promptly, the weakness is more likely to be reportable because of its continuing nature. If the resulting exposure cannot be quantified and controlled in a relatively short time frame, the risk to the entity is increased.
- 2.37 If the insurance undertaking has taken steps to rectify the situation in a relatively short time frame and the auditor determines on those grounds that a report is not required at that time, the auditor monitors the situation and confirms with the insurance undertaking that appropriate action has been taken. If this proves not to be the case, then the auditor may need to re-consider the decision not to report.



**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

***Qualified audit report (section 35(1)(c) of the Insurance Act 1989, article 12 of the Audit Regulation)***

- 2.38 The auditor of an insurance undertaking is required to make a report to the Central Bank if the auditor proposes to qualify any report which the auditor is required to make in relation to the financial statements or returns of the insurance undertaking.
- 2.39 Where the auditor intends to include an emphasis of matter paragraph in an unqualified report, such as referring to a going concern issue, this would not of itself necessitate a report to the Central Bank, as inclusion of that paragraph is not a qualification of the audit opinion. However, in those circumstances, the auditor considers whether the matter giving rise to the explanatory paragraph requires a report to the Central Bank under the duty set out in section 35(1)(a) of the Insurance Act 1989.
- 2.40 Refer also to paragraph 2.53 of this Technical Release with regard to a similar reporting obligation under regulation 78 of the 2015 Regulations.
- 2.41 For audits in respect of financial statements for periods commencing on or after 17 June 2016, the auditor has regard to the obligation under article 12 of the Audit Regulation to report to competent supervisors where there is a *“refusal to issue an audit opinion on the financial statements or the issuing of an adverse or qualified opinion.”*

***Decision to resign as auditor or not seek re-election (section 35(1)(d) of the Insurance Act 1989)***

- 2.42 The auditor of an insurance undertaking is obliged to inform the Central Bank when a decision is taken to resign or not seek re-election as auditor. The auditor may provide a copy of the resignation letter provided to the insurance undertaking in accordance with the Companies Act 2014.

***Requests from the Central Bank to supply it with information in relation to the audit of the business of the insurer (section 35(3) of the Insurance Act 1989)***

- 2.43 The Central Bank can request that an auditor provides it with information, specified by the Central Bank, in relation to the audit of the business of an insurance undertaking. Where the auditor is reporting under section 35(3) of the Insurance Act 1989 as a consequence of such a request, the auditor specifically states that the information is provided for the purposes of section 35(3) of the Insurance Act 1989 and that the information is commercially sensitive. Where the auditor is reporting under these provisions in respect of any incomplete audit, the auditor emphasises that the report has been prepared on audit work to date and that the audit has not yet concluded.
- 2.44 When the auditor receives a request from the Central Bank for information, consequent to section 35(3) of the Insurance Act 1989, the auditor seeks to ensure that he/she is in a position to inform the insurance undertaking of the request. A meeting between the auditor and the Central Bank will normally be necessary to clarify the specific information requested. The auditor considers whether the insurance undertaking is invited to the meeting, unless the Central Bank specifically requires otherwise. If deemed appropriate, the auditor may furnish the insurance undertaking with a copy of all or part of the written response to the Central Bank,

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

unless the Central Bank requires that in supplying such information the auditor shall act independently of the insurance undertaking.

- 2.45 Where the Central Bank requests information about detailed audit procedures in specific areas, any written reply will emphasise that the auditor forms the audit opinion on the basis of all the work carried out and all the information received during the audit, and not just on the basis of one or more tests in a specific area. The auditor's written response also states that the requested information is supplied on a confidential basis and on the understanding that it is not divulged to parties other than the Central Bank.
- 2.46 The auditor may not disclose information communicated by the Central Bank except with the Central Bank's express permission and, in some cases, that of other parties to which the information relates, other than to partners and staff who need to be aware of the information in connection with the audit engagement.

***Material breach of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of insurance and reinsurance undertakings (regulation 78(1)(a) of the 2015 Regulations, article 12 of the Audit Regulation)***

- 2.47 Where the auditor becomes aware, as a consequence of performing normal audit procedures, of a situation in relation to an insurance undertaking's compliance with the Central Bank's authorisation criteria relevant to the undertaking, the auditor considers whether that matter may be of material significance to the Central Bank. It is possible that a matter which is not materially significant to one of the Central Bank's authorisation criteria for insurance undertakings in isolation may become so when other criteria are considered. Therefore the auditor, who becomes aware of a matter relating to one of the authorisation criteria, considers its relevance to other authorisation criteria before determining whether it is of material significance and, therefore, reportable.
- 2.48 The auditor refers to ISA (UK and Ireland ) 250: Section A in relation to the level of work the auditor is expected to carry out in the normal of course of the audit work with regard to the insurance undertaking's compliance with applicable laws and regulations, including those pertaining to authorisation.
- 2.49 A number of the Central Bank's initial authorisation requirements are unlikely to be considered or revisited by an auditor as part of the auditor's normal audit work. Therefore, the duty to report is only likely to arise if a change of circumstances comes to the auditor's attention which, if in existence at the date of the initial application, would have caused the Central Bank to refuse that application.
- 2.50 For audits in respect of financial statements for periods commencing on or after 17 June 2016, article 12 of the Audit Regulation requires a report to the Central Bank or IAASA where the auditor has become aware of information which may bring about a "*material breach of the laws, regulations or administrative provisions which lay down, where appropriate, the conditions governing authorisation or which specifically govern pursuit of the activities of the public interest entity*". Regulation 81 of S.I. 312 of 2016 requires a report to IAASA only where a report in relation to the matter is not already

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

required to be submitted to the Central Bank under regulation 78 of the 2015 Regulations.

### ***The impairment of the continuous functioning of the insurance or reinsurance undertaking (regulation 78(1)(b) of the 2015 Regulations, article 12 of the Audit Regulation)***

- 251 The auditor of a Directive firm is required by regulation 78 of the 2015 Regulations to report to the Central Bank where the auditor has reasonable cause to believe that the continuous functioning of the insurance undertaking may be affected. This duty specifically includes circumstances that are likely to affect the insurance undertaking's ability to fulfil its obligations to policyholders or to meet any of its financial obligations. The auditor applies ISA (UK and Ireland) 570: *Going Concern* in relation to audit procedures to be followed by the auditor in determining the auditor's concern (if any) about the insurance undertaking's ability to continue as a going concern.
- 252 For audits in respect of financial statements for periods commencing on or after 17 June 2016, article 12 of the Audit Regulation requires a report to the Central Bank or IAASA where the auditor has determined that a "*material threat or doubt concerning the continuous functioning of the public-interest entity*" exists. Regulation 81 of S.I. 312 of 2016 requires a report to IAASA only where a report in relation to the matter is not already required to be submitted to the Central Bank under regulation 78 of the 2015 Regulations.

### ***A refusal to certify the accounts or the expression of reservations (regulation 78(1)(c) of the 2015 Regulations)***

- 253 Regulation 78(1)(c) of the 2015 Regulations requires a report to the Central Bank by the auditor when there is a "refusal to certify the accounts or the expression of reservations". It is not clear what is meant by this requirement. However, the auditor uses professional judgement to assess on a case by case basis whether the findings of the audit might constitute an "expression of reservations". The auditor may consider seeking legal advice in relation to the application of regulation 78(1)(c) to the specific circumstances of an audit where it is unclear whether a report to the Central Bank is required.
- 254 Refer also to paragraphs 2.38 and 2.39 of this Technical Release which describe a similar reporting obligation in accordance with section 35 of the Insurance Act 1989.
- 255 The auditor has regard to the similar obligation under article 12 of the Audit Regulation to report to competent supervisors where there is a "*refusal to issue an audit opinion on the financial statements or the issuing of an adverse or qualified opinion.*"

### ***Non-compliance with the SCR/ Non-compliance with the MCR (regulation 78(1)(d)(e) of the 2015 Regulations)***

- 256 The auditor refers to ISA (UK and Ireland ) 250: Section A in relation to the level of work the auditor is expected to carry out in the normal of course of the audit work with regard to the insurance undertaking's compliance with applicable laws and regulations.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 257 Where the auditor has identified non-compliance with the SCR or the MCR the auditor also considers the implications on the entity's ability to continue as a going concern and applies ISA (UK and Ireland) 570 *Going Concern* in relation to audit procedures to be followed by the auditor in determining the auditor's concern (if any) in this regard.
- 258 Regulation 147 of the 2015 Regulations provides a derogation for insurance undertakings for the period of two years from 1 January 2016 from the requirement to comply with the SCR in circumstances where the insurance undertaking would have been in compliance with the Required Solvency Margin immediately before 1 January 2016 under the old Solvency I regulatory regime. Where an auditor makes a report to the Central Bank in relation to non-compliance with the SCR in circumstances where the derogation under regulation 147 applies, the auditor refers in that report to the fact that the insurance undertaking is availing of the derogation.
- 259 Regulation 149 of the 2015 Regulations allows transitional arrangements from the requirement to comply with the MCR for insurance undertakings for the period of one year from 1 January 2016 in circumstances where the insurance undertaking would have been in compliance with the Required Solvency Margin immediately before 1 January 2016 under the old Solvency I regulatory regime. Where an auditor makes a report to the Central Bank in relation to non-compliance with the MCR in circumstances where the transitional arrangements under regulation 149 apply, the auditor refers in that report to the fact that the insurance undertaking is availing of the derogation.

### ***The annual statutory duty confirmation to the Central Bank (section 27B of the CBA 1997)***

- 260 Under section 27B of the CBA 1997, the auditor of an insurance undertaking is required to make a report to the Central Bank within one month of the date of the audit report, or such extended period as the Central Bank permits. This report, known as the "statutory duty confirmation", must state whether or not a reportable instance has arisen in the context of specific prescribed enactments. Prescribed enactments relating to insurance undertakings for the purposes of section 27B of the CBA 1997 are:
- Regulation 78 of the 2015 Regulations;
  - Section 35 of the Insurance Act 1989;
  - Regulation 46 of the 2006 Regulations (for Non-Directive firms).
- 261 The statutory duty confirmation is sent directly to the Central Bank and is a statement to the Central Bank that there is no matter, not already reported in writing to the Central Bank by the auditor, that has come to the attention of the auditor during the ordinary course of the audit that gives rise to a duty to report to the Central Bank. Where matters have already been reported to the Central Bank, these are referred to in the statutory duty confirmation. The statutory duty confirmation does not in any way replace the auditor's obligations to report under other legislation as and when circumstances giving rise to the duty are identified in the course of audit.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 2.62 Although the statutory duty confirmation is sent directly to the Central Bank, the auditor may send a copy of it to the entity also. There may, however, be cases (for example where a direct report has been made to the Central Bank without the entity's knowledge) where this is inappropriate.
- 2.63 The period covered by the statutory duty confirmation commences from the date of issue of the previous statutory duty confirmation. It covers all matters that require the auditor to report to the Central Bank in respect of that period.

### ***Other reports to management (section 27C of the CBA 1997)***

- 2.64 Section 27C of the CBA 1997 requires that if the auditor of an insurance undertaking makes a report to that entity, or those concerned with its management, on any matter that has come to the auditor's notice during the course of the financial statement audit (or while carrying out any work of a kind specified by the Central Bank, such as the provision of reasonable assurance in relation to the SFCR or the provision of assurance as required under section 27BA of the CBA 1997), the auditor must provide the Central Bank with a copy of that report.
- 2.65 The copy must be provided at the same time as, or as soon as practicable after, the original is provided to the entity or those concerned in its management. Where no such report is to be sent to the entity, section 27C (3) of the CBA 1997 requires the auditor to inform the Central Bank that such is the case, i.e. a 'nil return'.
- 2.66 There is no definition contained in the legislation as to what constitutes 'a report' for the purpose of section 27C of the CBA 1997 or the meaning of the term 'those concerned in its management'. However the Central Bank has indicated that it would expect to receive under this section, copies of post audit reports prepared in accordance with ISA (UK and Ireland) 260 *Communication with Those Charged with Governance*.
- 2.67 In many cases, the report required by ISA (UK and Ireland) 260 may constitute the only report made on matters arising from the audit. However, the auditor considers the nature of other communications and correspondence with the entity concerned and considers if they contain matters of a substantive nature, arising from the audit, such that they may be regarded as a report for the purposes of section 27C of the CBA 1997. In cases of uncertainty as to whether a particular communication to an insurance undertaking constitutes a 'report' for the purposes of this section, the auditor may wish to take legal advice.
- 2.68 The auditor may consider it prudent to include in any report to directors or management, as a matter of course, a statement that:
- the report has been prepared for the sole use of the insurance or reinsurance undertaking;
  - it must not be disclosed to another third party, other than the Central Bank;

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- no responsibility is assumed by the auditor to any other person; and
- it does not purport to be a comprehensive record of all matters arising, all risks or all internal control weaknesses in the entity.

### ***Reports to the Office of the Director of Corporate Enforcement (ODCE) (section 27D of the CBA 1997)***

- 2.69 Section 27D of the CBA 1997 requires that auditors of regulated entities submit to the Central Bank copies of any reports sent to ODCE. Copies must be submitted at the same time or as soon as practicable after the report is made to ODCE.

### **Information received in a capacity other than as auditor**

- 2.70 The reporting obligations on auditors described in this Section of the Technical Release relate to matters which have come to the attention of the auditor of the insurance undertaking in the capacity described in the relevant legislative provision. For example, regulation 78 of the 2015 Regulations requires the auditor to make a report where the auditor has become aware of relevant information while carrying out an audit of the Directive firm or a closely linked entity in a control relationship with the Directive firm. The auditor considers the wording of the applicable legislative provision in determining whether the capacity in which the information was received gives rise to an obligation to make a report.
- 2.71 There may be circumstances where it is not clear whether information about a regulated entity coming to the attention of the auditor is received in the capacity of auditor or in some other capacity, for example as a general adviser to the entity. Appendix 2 to ISA (UK and Ireland) 250: Section B provides guidance as to how information obtained in non-audit work may be relevant to the auditor in the planning and conduct of the audit and the steps that need to be taken to ensure the communication of information that is relevant to the audit. The auditor considers each specific provision of legislation creating a reporting obligation for auditors of insurance undertakings as well as the guidance in Appendix 2 to ISA (UK and Ireland) 250: Section B in the course of deciding whether it is appropriate to report to the Central Bank or IAASA in specific circumstances.
- 2.72 Section 27C of the CBA 1997 specifically requires the auditor to submit to the Central Bank copies of any reports, provided to the insurance undertaking or those concerned with its management, on matters that have come to the auditor's notice while auditing the financial statements of the insurance undertaking or carrying out any work for the insurance undertaking of any kind specified by the Central Bank. Examples of such non-audit work could include the auditor's engagement to provide reasonable assurance in relation to elements of the SFCR under regulation 37 of the 2015 Regulations or to report to the Central Bank in accordance with section 27BA of the CBA 1997 (auditor assurance engagements).

### **Conduct of the audit**

- 2.73 The auditor shall ensure that all staff involved in the audit of a regulated entity have an understanding of:

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- the provisions of applicable legislation;
- the regulator's rules and any guidance issued by the regulator; and
- any specific requirements which apply to the particular regulated entity, appropriate to their role in the audit and sufficient (in the context of that role) to enable them to identify situations they encounter in the course of the audit which may give reasonable cause to believe that a matter should be reported to the regulator (paragraph 11, ISA (UK and Ireland) 250: Section B).

2.74 Understanding, commensurate with the individual's role and responsibilities in the audit process, is required of:

- (a) regulation 78 of the 2015 Regulations, section 35 of the Insurance Act 1989, articles 12 and 7 of the Audit Regulation and sections 27B, C and D of the CBA 1997 concerning the auditor's duty to report to the regulator;
- (b) the standards and guidance in ISA (UK and Ireland) 250: Section B.

2.75 The auditor includes procedures within its planning process to ensure that members of the audit engagement team have such understanding (in the context of their role) as to enable them to recognise potentially reportable matters, and that such matters are reported to the audit engagement partner without delay so that a decision may be made as to whether a duty to report arises.

2.76 An audit firm appointed as auditor of a regulated entity needs to have in place appropriate procedures to ensure that the audit engagement partner is made aware of any other relationship which exists between any department of the firm and the regulated entity when that relationship could affect the firm's work as auditor (this matter is covered in more detail in Appendix 2 of ISA (UK and Ireland) 250: Section B). The auditor also requests the regulated entity to advise it when the entity appoints a third party (including another department or office of the same firm) to review, investigate or report on any aspects of its business activities that may be relevant to the audit of the financial statements and to provide the auditor with copies of reports by such a third party promptly after their receipt. This matter may usefully be referred to in the engagement letter.

### **Discussing matters of material significance with the directors**

2.77 The directors are the persons principally responsible for the management of the regulated entity. The auditor will, therefore, normally bring a matter of material significance to the attention of the directors, subject to compliance with legislation relating to "prejudicing an investigation", and seek agreement on the facts and circumstances. However, ISA (UK and Ireland) 250: Section B emphasises that where the auditor concludes that a duty to report arises, it should bring the matter to the attention of the regulator without undue delay. The directors may wish to report the matters identified to the Central Bank themselves and detail the actions taken or to be taken. Whilst such a report from the directors may provide valuable information, it does not relieve the auditor of the statutory duty to report directly to the Central Bank.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

### Timing of a report

- 2.78 The duty to report arises once the auditor has concluded that it reasonably believes that the matter is or is likely to be of material significance to the Central Bank's regulatory function. In reaching the appropriate conclusion, the auditor may wish to take appropriate legal or other advice and consult with colleagues.
- 2.79 The report should be made without undue delay once a conclusion has been reached. Unless the matter casts doubt on the integrity of the directors, this should not preclude discussion of the matter with the directors and seeking such further advice as is necessary, so that a decision can be made on whether or not a duty to report exists. Such consultations and discussions are, however, undertaken on a timely basis to enable the auditor to conclude on the matter without undue delay.

### Statutory protection of reports by auditors

- 2.80 Whilst confidentiality is an implied term of the auditor's contract with a regulated entity, there are provisions in the relevant legislation that state that an auditor does not contravene any duty by his/her compliance with the related statutory obligations to report to the Central Bank.
- 2.81 Section 35(5) of the Insurance Act, 1989 provides protection in certain circumstances in relation to disclosures made in accordance with section 35(1) and (3) of that Act.

*"No duty to which an auditor of an insurer may be subject shall be regarded as contravened, and no liability to the insurer, or to its shareholders, creditors or other interested parties, shall attach to the auditor, by reason of his compliance with any obligation imposed on him by or under this section."*

There may be no legal protection where the auditor is reporting on matters of which the auditor became aware in the context of the work as auditors of an unregulated entity which is in a control relationship with an insurance undertaking.

- 2.82 Regulation 78(3) of the 2015 Regulations provides that any communication made under regulation 78(1) or 78(2) regarding the Directive firm or closely linked entities in a control relationship with the Directive firm respectively, where made in good faith, *"shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any law or administrative provision and shall not involve the auditor in liability of any kind."*
- 2.83 Section 27H of the CBA 1997 also provides for the immunity of the auditor from liability arising out of compliance with the requirements of Part IV of the CBA 1997, including section 27 of that Act.
- 2.84 Article 12(3) of the Audit Regulation provides protection from liability to auditors who make a disclosure in good faith to the appropriate authorities under that article. Auditors reporting to the appropriate authorities under article 7 of the Audit Regulation are given protection by article 7.



## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 2.85 The auditor recognises that there are circumstances in which section 35(5) of the Insurance Act 1989, regulation 78(3) of the 2015 Regulations, section 27H of the CBA 1997 or article 12(3) or article 7 of the Audit Regulation will not provide protection, for example where the auditor could be held to have acted in bad faith or maliciously in reporting under the relevant statutory reporting provisions, or where the auditor has supplied information which is outside the scope of the statutory reporting obligations. Regulation 78(3) of the 2015 Regulations, section 27H of the CBA 1997, and article 12(3) and article 7 of the Audit Regulation, do not, therefore, provide the auditor with complete immunity from legal action by any parties affected, or subsequently affected, by the auditor's action in reporting to the Central Bank.
- 2.86 Section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013 additionally provides protection from legal action for breach of confidentiality for an auditor of an insurance undertaking who makes a report, in good faith, to the Central Bank in particular circumstances even though the report may go beyond the auditor's statutory duties to report to the Central Bank. Section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013 is discussed in further detail below under the heading "The auditor's right to report to the Central Bank".
- 2.87 The auditor prepares adequate documentation in relation to the facts and circumstances considered, and the basis for the auditor's conclusion as to whether these are likely to be "material" to the Central Bank, and adequately documents the decision as to whether or not to report and (if reporting) the nature of the report. The auditor considers whether those matters documented would stand up to examination at a future date on the basis of the following considerations:
- what the auditor knew at the time;
  - what the auditor could reasonably have been expected to know in the course of the audit;
  - what the auditor could reasonably have been expected to conclude; and
  - what action the auditor should have taken in light of the above.

### **The auditor's right to report to the Central Bank**

- 2.88 As set out above, where there is a statutory duty to make a report under section 35 of the Insurance Act 1989, regulation 78 of the 2015 Regulations or section 27B, C or D of the CBA 1997, protection is afforded to the auditor by section 35(5) of the Insurance Act 1989, regulation 78(3) of the 2015 Regulations or section 27H of the CBA 1997, respectively.
- 2.89 There may be circumstances where the auditor concludes that a matter does not give rise to a statutory duty to report but nevertheless feels that the matter is relevant to the functions of the Central Bank and so should be reported to the Central Bank. Since 2013, the auditor of a regulated financial service provider has a right to report information that is relevant to the functions of the Central Bank. Section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013 provides that no duty of confidentiality to which an auditor of a regulated financial service provider is subject shall be contravened by communicating in good faith to the Central Bank information on a matter, or his/her opinion on a matter, of which the auditor has become aware in his/her capacity as auditor of that regulated entity,

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

and that the auditor reasonably believes is relevant to any functions of the Central Bank.

- 2.90 In circumstances where the auditor concludes that a matter does not give rise to a statutory duty to report but nevertheless should be brought to the attention of the Central Bank, in the first instance the auditor advises the directors of the regulated entity of the auditor's opinion. Where the auditor is unable to obtain, within a reasonable period, adequate evidence that the directors have properly informed the Central Bank of the matter, then the auditor makes a report to the Central Bank as soon as practicable as required by ISA (UK and Ireland) 250: Section B (paragraph 15).
- 2.91 The auditor may wish to take legal advice before deciding whether, and in what form, to exercise the right to make a report directly to the Central Bank in order to ensure, for example, that only relevant information is disclosed and that the form and content of the report is such as to secure the protection of section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013.
- 2.92 Appendix 1 of this Technical Release provides additional guidance on disclosure in the public interest. This is relevant to both the auditor's consideration of the right to report and also where neither the right nor the duty to report exists. In the very rare circumstances where the auditor may be considering making a report to the Central Bank in the public interest, the auditor considers taking legal advice.

### **3. Reporting on the relevant elements of Solvency II Reports**

- 3.1 As outlined in Section 1 of this Technical Release, the Solvency II prudential regulation regime became effective for authorised insurance undertakings in Ireland from 1 January 2016. This regime established different prudential reporting and assurance requirements for Directive and Non-Directive firms. The 2015 Regulations set out the full criteria which define which firms are Directive firms. Directive firms are required to publish an annual SFCR, as well as submitting additional prudential reports to the Central Bank as regulator. Non-Directive insurers continue to submit audited regulatory returns to the Central Bank with no public reporting requirement.
- 3.2 Regulation 37 of the 2015 Regulations require Directive firms to ensure that specified elements of the SFCR are subject to audit and that a private reasonable assurance opinion is provided to the Central Bank in that regard. This section of the Technical Release provides guidance for auditors reporting on published SFCRs under Solvency II. Auditors reporting on the prudential returns of Non-Directive firms continue to refer to Technical Alert 01/2016 *"Reporting on regulatory returns of insurers: Extract from PN 20(1)"* for guidance in relation to those opinions.
- 3.3 The Central Bank published its requirements in relation to the auditor's reports on the SFCR in its *"Feedback Statement to Consultation Paper CP 104 – External Audit of Solvency II Regulatory Returns / Public Disclosures"* ("the Central Bank requirements") in September 2016. The Central Bank requirements set out the elements of the SFCR which fall within scope of the reasonable assurance engagement. These relevant elements of the SFCR consist of specified quantitative reporting templates ("QRTs") set out in Appendices 2 and 3 of the Central Bank requirements. The auditor provides a reasonable assurance opinion on whether the specified elements of the SFCR have been properly prepared, in all material respects, in accordance with the Solvency II regulations. The Solvency II regulations consist of

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) (“the 2015 Regulations”);
- European Commission Delegated Regulation (EU) 2015/35; and
- The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the SFCR in accordance with Directive 2009/138/EC of the European Parliament and of the Council (“the SFCR Implementing Technical Standard”).

- 3.4 The Central Bank requirements state that the reasonable assurance opinion should be provided in accordance with applicable auditing standards. Applicable auditing standards for the purposes of these engagements are discussed below. The Central Bank requirements also refer auditors to “the Technical Guidance for auditors providing reasonable assurance opinions in accordance with regulation 37”. Auditors may refer to this Technical Release 13/2016 “*Guidance for auditors of insurance undertakings in Ireland*”, in that regard.
- 3.5 All references to the auditor’s report in this section of the Technical Release are to the auditor’s reasonable assurance opinion provided pursuant to Regulation 37 of the 2015 Regulations.
- 3.6 The auditor’s report in accordance with regulation 37 and the Central Bank requirements is a private report addressed solely to the Central Bank. The Central Bank requirements state that “*where an auditor qualifies their audit opinion, the insurance undertaking should notify the Central Bank prior to publication of the SFCR to determine the most appropriate course of action in light of the public disclosure requirements arising under Solvency II*”. The auditor is aware of the statutory obligation under section 35(1)(c) of the Insurance Act 1989 for an auditor of an insurance undertaking to which that Act applies, to make a report to the Central Bank when the auditor “*proposes to qualify any certificate which he is to provide in relation to financial statements or returns of the insurer under the Companies Acts or the Insurance Acts*”. The Central Bank agrees with the insurance undertaking on the appropriate action to be taken when the auditor proposes to qualify the audit report.

### Timing

- 3.7 The requirement for an auditor’s report on the relevant elements of the SFCR takes effect for financial years ending on or after 31 December 2016. The auditor’s report must be submitted to the Central Bank in accordance with deadlines which align with those for the insurance undertakings publishing the SFCR. These deadlines are set out in the 2015 Regulations and can be summarised as follows:

Reference year end	Deadline (weeks)	Deadline
31/12/2016	20	20/5/2017
31/12/2017	18	06/05/2018

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

31/12/2018	16	22/04/2019
31/12/2019 (and years thereafter)	14	08/04/2020 (and annually thereafter)

**Applicable auditing standards**

- 3.8 The applicable auditing standards for engagements to provide a reasonable assurance opinion pursuant to regulation 37 of the 2015 Regulations are ISAs (UK and Ireland) issued by the FRC<sup>20</sup>. Given the nature of these engagements, as described below, auditors also have due regard to the International Auditing and Assurance Standards Board's ("IAASB") ISA 800 (Revised) *Special Considerations – Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks* ("ISA 800 (Revised)") and ISA 805 (Revised) *Special Considerations – Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement* ("ISA 805 (Revised)").
- 3.9 Whereas the ISAs (UK and Ireland) are generally concerned with the audit of financial statements prepared under general purpose financial reporting frameworks (such as IFRS or UK GAAP), ISA 800 (Revised) deals with the auditor's considerations when applying ISAs in the series 100-700 to the audit of financial statements prepared in accordance with a special purpose financial reporting framework, including the implications for the auditor's report. A special purpose financial reporting framework is defined by ISA 800 (Revised):

*"For purposes of the ISAs, the following terms have the meanings attributed below:*

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<sup>20</sup> ISAs (UK and Ireland) are the applicable auditing standards for these engagements for financial periods commencing before 17 June 2016. The auditing standards applicable for these engagements for financial periods commencing on or after 17 June 2016 will be determined following the outcome of the consultation by IAASA on the future auditing framework for Ireland.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

(a) *Special purpose financial statements – Financial statements prepared in accordance with a special purpose framework. (Ref: Para. A4)*

(b) *Special purpose framework – A financial reporting framework designed to meet the financial information needs of specific users. The financial reporting framework may be a fair presentation framework or a compliance framework. (Ref: Para. A1–A4)<sup>21</sup>*

SFCRs are prepared in accordance with a special purpose financial reporting framework as set out in the Solvency II regulations.

- 3.10 ISA 805 (Revised) deals with the application of the ISAs 100-700 series in the context of the audit of single financial statements, and specific elements, amounts or items of a financial statement. This is relevant to the audit of SFCRs because the Central Bank audit requirement does not include the complete SFCR and all accompanying quantitative templates as set out in the Central Bank requirements. There are additional exclusions from scope for specific disclosure; these exclusions are described in more detail below.
- 3.11 As set out above, ISA 800 (Revised) and ISA 805 (Revised) both deal with the application of the IAASB's ISAs 100-700 series in the specific context applicable to SFCR reasonable assurance engagements. It is also appropriate to read the requirements of ISA 800 (Revised) and ISA 805 (Revised) with regard to the application of the ISAs (UK and Ireland) 100-700 series. The FRC's *"Scope and Authority of Audit and Assurance Pronouncements"* describes how the ISAs (UK and Ireland) are based on corresponding ISAs issued by the IAASB: *"where necessary, the international standards have been augmented with additional requirements to address specific UK and Irish legal and regulatory requirements; and additional guidance that is appropriate in the UK and Irish national legislative, cultural and business context"*.<sup>22</sup>
- 3.12 The auditor performing a reasonable assurance engagement in relation to elements of the SFCR considers the requirements and guidance contained within ISAs 800 (Revised) and 805 (Revised), including their interactions with ISAs (UK and Ireland),

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<sup>21</sup> ISA 800 (Revised), paragraph 6

<sup>22</sup> Scope and Authority of Audit and Assurance Pronouncements, paragraph 7

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

when accepting, planning, performing and reporting on engagements of this kind.

- 3.13 ISA 800 (Revised) and ISA 805 (Revised) are designed to help auditors apply the requirements of the ISAs (UK and Ireland) in the specific context of engagements such as the audit of elements of the SFCR which is prepared in accordance with the Solvency II regulations, a special purpose financial reporting framework. They do not override the requirements of the ISAs (UK and Ireland), nor do they deal with all special considerations of the engagement<sup>23</sup>. The material in this Technical Release is not intended to represent a complete guide to the application of the ISA 800 (Revised) and ISA 805 (Revised) for engagements of this kind, but focusses on areas where there may be specific relevant considerations.
- 3.14 In accordance with the Central Bank requirements, the auditor provides a reasonable assurance opinion on whether the relevant elements of the SFCR have been properly prepared, in all material respects, in accordance with the Solvency II regulations. The auditor's opinion is, therefore, a compliance opinion as described in ISA 800 (Revised).
- 3.15 Audits of SFCRs are separate engagements from the audit of financial statements. A close correlation between the information presented in the SFCR and that presented in the statutory financial statements cannot be assumed.

### Scope of the reasonable assurance engagement on the SFCR

- 3.16 Regulation 37 of the 2015 Regulations sets out that:

*“(1) Such elements of the quantitative information to be submitted by insurance undertakings and reinsurance undertakings under financial services legislation and other laws applicable in the State adopted pursuant to the Directive as may from time to time be specified by notice in writing by the Bank shall be audited.”*

*“(2) The report referred to in paragraph (1) shall include a reasonable assurance opinion on the elements of the report on the solvency and financial condition of the undertaking as referred to in regulation 52 relevant to the balance sheet, own funds and capital requirements.”*

All Directive firms are required to engage their auditor to perform a reasonable

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<sup>23</sup> ISA 800 (Revised), paragraph 3; ISA 805 (Revised), paragraph 3

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

assurance engagement on the SFCR. The scope of the 'reasonable assurance' engagement is determined by the Central Bank pursuant to regulation 37 and regulation 52 of the 2015 Regulations. The Central Bank requirements set out the elements of the SFCR which are 'relevant' for the purposes of the audit and which must be included within the scope of reasonable assurance engagement and the circumstances in which some items are excluded.

- 3.17 The structure and content of the SFCRs are prescribed by the Solvency II regulations. SFCRs have the following prescribed basic structure, which includes both financial and narrative content and information:

- A Business and Performance
- B System of Governance
- C Risk Profile
- D Valuation for Solvency Purposes
- E Capital Management

SFCRs include a series of QRTs which are also prescribed in the Solvency II regulations. The reasonable assurance engagement is restricted to the QRTs specified in the Central Bank requirements as follows:

*"As set out in regulation 37, a reasonable assurance opinion is required on the relevant elements of the SFCR. The QRTs relating to the balance sheet, technical provisions and claims, own funds, the SCR and MCR, with the exception of those elements calculated using an approved internal model, as set out in Appendices 2 and 3, shall be included in scope".<sup>24</sup>*

- 3.18 The Central Bank requirements also identify relevant qualitative elements of the SFCR which are required to be read by the auditor of the SFCR to identify material inconsistencies, if any, with information made available to the auditor in the course of the reasonable assurance engagement on the SFCR or in the course of the audit of the financial statements of the insurance undertaking. This qualitative information is not part of the scope of the auditor's reasonable assurance opinion audit, but the auditor applies the requirements and guidance contained within ISA (UK and Ireland) 720 *The Auditor's Responsibilities Relating to Other Information in Documents Containing Audited Financial Statements*. The relevant qualitative elements of the SFCR are specified in the appendices of the Central Bank requirements.

### **Scope exclusions in the case of insurance undertakings using internal models**

- 3.19 A small number of insurance undertakings use an internal model (either a full internal model or a partial internal model), rather than the Solvency II standard formula, to calculate their SCR and MCR. These full and partial internal models are individually approved by the Central Bank. The Central Bank requirements<sup>25</sup> specifically exclude from the scope of the reasonable assurance engagement those elements of the relevant QRTs which are calculated using an approved internal model. Therefore the following items are excluded from the engagement scope for insurance undertakings using approved full and partial internal models:

- The SCR – template S.25.01.21;
- The MCR – template S.28.01.01;

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- The SCR and MCR on the Own Funds template for full/partial internal models. These are R0580, R0600, R0620, R0640 of template S23.01.01;
- Risk Margin –
  - Risk margin cells in R0550, R0590, R0640, R0680, R0720 on the balance sheet template S.02.01.02;
  - Risk margin cells in R0100, R0130 on the life insurance technical provisions template S.12.01.02; and
  - Risk margin cells in R0280, R0310 on the non-life insurance template S.17.01.02
- Restricted Own-funds in ring-fenced funds and matching adjustment portfolios cells in R0740; and Deductions reflecting the non-availability of own-funds items at a group level.

### ***Group SFCRs within scope of the reasonable assurance engagement***

- 3.20 Where the Central Bank is the Group Supervisor of a Solvency II group, the SCR and Own Funds QRTs of that group are within the scope of the reasonable assurance engagement. Where the group is using an internal model to calculate the group SCR and MCR, similar exclusions as those noted above for individual firms using internal models apply to the scope of the audit.

### **Accepting the Engagement**

- 3.21 Before accepting any audit engagement, the auditor determines whether the preconditions for an audit are present. The basic preconditions for an audit are set out in ISA (UK and Ireland) 210 *Agreeing the terms of Audit Engagements* and these include (but are not limited to):
- Whether the financial reporting framework is acceptable; and
  - Obtaining the agreement of management that it acknowledges and understands its responsibility for the preparation of the financial statements (being the SFCR in this case) in accordance with the financial reporting framework<sup>26</sup>.

### ***The Solvency II financial reporting framework***

- 3.22 In order to comply with the ISAs (UK and Ireland) the auditor must determine the acceptability of the financial reporting framework applied in the preparation of the SFCR and must obtain an understanding of the purpose for which the SFCR is prepared; the intended users; and steps taken by management to determine that the applicable financial reporting framework is acceptable in the circumstances<sup>27</sup>. Paragraph 3.36 below, which covers the application of materiality to these engagements, goes into more detail about the auditor's considerations of the intended users of these documents.
- 3.23 In determining whether the Solvency II financial reporting framework is acceptable, the



## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

<sup>26</sup> ISA (UK and Ireland) 210, paragraph 6

<sup>27</sup> ISA 800 (Revised), paragraph 8; ISA (UK and Ireland) 210, paragraph 6(a).

auditor considers the guidance in ISA 800 (Revised) which discusses financial reporting requirements established by the regulator, and which indicates that they may be presumed to be acceptable:

*“In some jurisdictions, law or regulation may prescribe the financial reporting framework to be used by management in the preparation of special purpose financial statements for a certain type of entity. For example, a regulator may establish financial reporting provisions to meet the requirements of that regulator. In the absence of indications to the contrary, such a financial reporting framework is presumed acceptable for special purpose financial statements prepared by such entity”<sup>28</sup>.*

3.24 The Solvency II reporting framework establishes financial reporting provisions to meet the needs of the Central Bank as the regulator of insurance undertakings and includes:

- The Solvency II regulations (consisting of the 2015 Regulations which transposed the Solvency II Directive<sup>29</sup>, the Commission Delegated Regulation (EU) 2015/35 supplementing the Solvency II, Commission Implementing Technical Regulation (EU) 2015/2452<sup>30</sup>)
- The Central Bank requirements; and
- Any approvals, waivers or supervisory determinations issued to an insurance undertaking by the Central Bank relating to the SFCR.

3.25 The 2015 Regulations require that the principles which are to be followed in presenting the information in the SFCR are that:

*“(i) it reflects the nature, scale and complexity of the undertaking concerned, and in particular the risks inherent in the business;*

*(ii) it is accessible, complete in all material respects, comparable and consistent over time;*

*(iii) it is relevant, reliable and comprehensible.”<sup>31</sup>*

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<sup>28</sup> [ISA 800 \(Revised\), paragraph A6](#)

<sup>29</sup> Directive 2009/138/EC

<sup>30</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2452&from=EN>

<sup>31</sup> Regulation 34(4)(b) of the 2015 Regulations

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- 3.26 The Solvency II regulations set out those areas where the national supervisor has the right to grant approvals, waivers and other supervisory determinations in respect of the application of Solvency II. The Central Bank requirements state that:

*“The auditor is not expected to express an opinion on the validity of an approval, waiver or other supervisory determination. Instead, evidence that an approval, waiver or supervisory determination is in place should be obtained by the auditor (for example obtaining a copy of correspondence from the Central Bank) and, once obtained, approvals, waivers and supervisory determinations provided by the Central Bank should be considered as part of the framework against which the audit opinion is being given.”*

Whilst accepting that these are part of the established framework against which the opinion is given, the auditor may nevertheless need to understand, through discussion and ongoing dialogue with the Central Bank, the extent to which any relevant approvals, waivers or supervisory determinations are consistent with the Solvency II regulations.

- 3.27 An example of a supervisory determination which the Central Bank might make is the application of a “capital add-on”<sup>32</sup>. Under the Solvency II regulations, the Central Bank can apply a “capital add-on” in circumstances where there has been a significant risk profile deviation within a firm related to the standard formula, internal model, system of governance, matching adjustment, volatility adjustment or transitional measures. Other examples of possible approvals, waivers or supervisory determinations that may be made, subject to approval by the Central Bank, include, but are not limited to:

- authority to take an amount of ancillary own funds into account when determining its own funds, in accordance with Regulation 105 of the 2015 Regulations;
- authority to apply a matching adjustment to the risk-free interest rate term structure in accordance with Regulation 86 of the 2015 Regulations;
- authority to apply a transitional deduction to its technical provisions in accordance with Regulation 100 of the 2015 Regulations;

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<sup>32</sup> In accordance with regulation 39 of the 2015 Regulations

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- authority to replace a subset of the standard formula parameters for the solvency capital requirement calculation with a subset of parameters specific to the Company in accordance with Regulation 124 of the 2015;
- authority to apply a volatility adjustment to the relevant risk-free interest rate term structure in accordance with Regulation 88 of the 2015 Regulations;
- authority to apply a transitional adjustment to the relevant risk-free interest rate term structure (in accordance with Regulation 99 of the 2015 Regulations).

The auditor enquires as to whether these or any other approvals, waivers or supervisory determinations in relation to the Solvency II regulations have been provided by the Central Bank to the insurance undertaking.

- 3.28 Further guidance on the auditor's procedures in respect of approvals, waivers and supervisory determinations is set out below.

### ***Management responsibilities***

- 3.29 The written acknowledgement by management of their responsibilities, including for the preparation of the financial statements in accordance with the financial reporting framework, is a fundamental precondition for an audit.
- 3.30 Regulation 57 of the 2015 Regulations requires an insurance undertaking to have appropriate systems and structures in place to meet its public disclosure requirements in relation to the SFCR and requires that the SFCR is subject to approval by the board of directors.
- 3.31 There is no formal requirement for the directors of an insurance undertaking to publish or provide a written acknowledgement of its responsibility to ensure that the SFCR has been properly prepared in all material respects in accordance with the Solvency II regulations. Nevertheless, some insurance undertakings may include a directors' responsibility statement in the SFCR.
- 3.32 When considering whether the preconditions for acceptance of an audit exist, therefore, auditors ensure that the directors of the insurance undertaking acknowledge responsibility for the preparation of the SFCR through written acceptance of the terms of the engagement, which clearly set out the respective responsibilities of the directors and of the auditor and in written representations to the auditor. In addition, the auditor's report also sets out the responsibilities of the directors of the insurance undertaking with regard to the preparation of the SFCR. An illustrative auditors' report is set out in Appendix 2.
- 3.33 The auditors may wish to convey to the directors of the insurance undertaking the relevant requirements of the ISAs (UK and Ireland). If directors will not provide the appropriate written representations, then the auditor considers whether the preconditions for accepting the audit have been met.

### **Planning and Performing the Engagement**

- 3.34 ISA 800 (Revised) provides guidance on the auditor's consideration of whether the application of the ISAs (UK and Ireland) requires special consideration in the circumstances of the Solvency II engagement<sup>33</sup>. This includes:

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- a. Consideration of whether, in the circumstances of the audit, an entire ISA (UK and Ireland), or requirement of an ISA (UK and Ireland) is not relevant because it is conditional, and the condition does not exist<sup>34</sup>.
- b. In the audit of a special purpose financial statement such as the SFCR, the auditor considers judgements about materiality based on the needs of the intended users of those financial statements, rather than on a consideration of the common financial information needs of users as a group<sup>35</sup>.
- c. Determining the appropriate person(s) within the entity's governance structure with whom to communicate<sup>36</sup>.

### ***Relationship to the audit of statutory financial statements***

- 3.35 As noted earlier, the Central Bank requirements require the same auditor, or audit firm, to conduct the audits of both the statutory financial statements and of the SFCR. The audit of the SFCR is a separate engagement to the audit of the statutory financial

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<sup>33</sup> ISA 800 (Revised), paragraph 9

<sup>34</sup> ISA 800 (Revised), paragraph A9

<sup>35</sup> ISA 800 (Revised), paragraph A10

<sup>36</sup> ISA 800 (Revised), paragraph A12

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

statements. However, the auditor considers how the procedures performed in accordance with ISAs (UK and Ireland) 300-330 relating to risk assessment and planning for each engagement could inform the other. There are other areas where there may be scope for the efficient utilisation of audit evidence and insight in support of each separate engagement, for example:

- Going Concern – where the auditor’s information gained by the auditor in the consideration of going concern with regard to the audit of the statutory financial statements, for example, may provide evidence to support the review of the relevant elements of the SFCR. For example, the auditor may review the Own Risk and Solvency Assessment as part of the consideration of going concern with regard to both the financial statements and the relevant elements of the SFCR;
- Information systems, data quality and general IT controls;
- Assumptions and methods underpinning the valuation of assets and liabilities;
- Compliance with laws and regulations;
- Work of the actuarial function within the entity;
- Work of internal audit.

### **Materiality**

3.36 Pillar 3 of the Solvency II Directive introduced mandatory public reporting – in the form of the SFCR – as well as private reporting to supervisory authorities. In determining materiality for the audit of the relevant elements of the SFCR, the auditor needs to understand who the intended users of the SFCR are, and the resulting implications for judgements on materiality. The auditor needs to understand the factors which might influence the decision-making or judgement of the intended users.

3.37 The auditor considers how to apply ISA (UK and Ireland) 320 *Materiality in Planning and Performing an Audit* in the light of the application guidance in ISA 800 (Revised). This describes the different judgements about the users of special purpose financial statements, as opposed to those of general purpose financial statements:

*“....in ISA 320, judgments about matters that are material to users of the financial statements are based on a consideration of the common financial information needs of users as a group. In the case of an audit of special purpose financial statements, however, those judgments are based on a consideration of the financial information needs of the intended users<sup>37</sup>.”*

3.38 The auditor considers materiality for the purposes of the audit of the relevant elements of the SFCR separately from the consideration of materiality applied in the audit of the financial statements. The auditor considers whether the materiality judgements made in respect of an audit of the statutory financial statements of an entity, based on the common financial information needs of users as a group, are appropriate to the needs of the intended users of published SFCRs. Many auditors of listed insurance undertakings currently use profit or income measures as the benchmark for their materiality calculations for the audit of the financial statements of the undertaking. Others, including some auditors of life insurance

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

entities, use an equity or asset based measure. The auditor considers whether the benchmark used for the audit of the statutory financial statements - whether profit and income, or asset and equity based - are appropriate for the audit of the published SFCR. In doing so, the auditor considers the needs of the users of these reports, in accordance with ISAs (UK and Ireland) and ISA 800 (Revised).

- 3.39 Since the reasonable assurance opinion on the relevant elements of the SFCR is addressed solely to the Central Bank, it is clear that the Central Bank is the only intended user of the auditor's report. However, the Central Bank is not the only user of the published SFCR. Other intended users of the SFCR may include policyholders, the investor community and other insurance undertakings who may read SFCRs to help them assess their counterparty credit risk.
- 3.40 It is likely that in many respects the needs of other users of the SFCR are somewhat aligned with those of the Central Bank. All intended users of the SFCR are likely to be concerned primarily with the solvency of the reporting insurance undertaking. While not directly comparable, available capital is akin to total equity/net asset value. Consequently in considering materiality, capital is a consideration for the auditor.
- 3.41 A further consideration for the auditor when determining materiality for the audit of the

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<sup>37</sup> ISA 800 (Revised), paragraph A10.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

SFCR is the scope of the engagement. For example, when the reasonable assurance opinion does not include the SCR because of the use of a full or partial internal model, this may need to be reflected in the setting of materiality. The auditor considers the requirements of ISA 805 (Revised), and in particular the application guidance:

*“...the materiality determined for a single financial statement or for a specified element of a financial statement may be lower than the materiality determined for the entity’s complete set of financial statements; this will affect the nature, timing and extent of the audit procedures and the evaluation of uncorrected misstatements<sup>38</sup>.”*

### **Approvals, waivers and supervisory determinations**

- 3.42 As already noted, in accordance with Central Bank requirements, the auditor is not expected to express an opinion on the validity of an approval, waiver or other supervisory determination. Instead, they should be considered as being part of the framework against which the audit opinion is being given. The auditor ensures that this framework, including the nature of approvals, waivers and supervisory determinations, is adequately described in the auditor’s report.
- 3.43 Subject to considerations of materiality, where approval is given for a specific number or adjustment included within the regulatory report, or used in the calculation of a number included within the report, then the auditor confirms that the number is accurately disclosed in accordance with the supervisory approval.
- 3.44 Where approval is given for the use of a specific methodology (other than those areas where there is a specific limitation on the scope of the audit - SCRs for partial or full internal model firms, for example), the auditor confirms that the methodology used is consistent with the approval, and has been applied correctly.

### **The transitional measures on technical provisions**

- 3.45 Insurance undertakings may apply for approval from the Central Bank to avail of transitional measures on technical provisions in accordance with regulation 100 of the 2015 Regulations. The effect of this transitional measure is to spread increases in

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<sup>38</sup> ISA 805 (Revised), paragraph A15

technical provisions under the Solvency II regime over a period of up to sixteen years. The QRT which reports on the transitional measures, S.22.01.21, does not fall within the scope of the reasonable assurance engagement as set out in the Central Bank Requirements. However, some cells which are contained within QRTs which are within the scope of the reasonable assurance engagement include details of the transitional measures on technical provisions. The calculation of the transitional measures on technical provisions, when applied, may be materially dependent on inputs calculated in accordance with the previous Solvency I regime which were not subject to audit at the time. Therefore, where transitional measures on technical provisions have been applied by the insurance undertaking, the auditor considers the implications for the audit procedures and for the auditor's report. The specific cells falling within the relevant elements of the SFCR which may include transitional measures on technical provisions are:

- Cells in R0110 to R0130 on template S.12.01.02; and
- Cells in R0290 to R0310 on template S.17.01.02.

#### ***Use of actuaries***

- 3.46 Regulation 50 of the 2015 Regulations requires insurance undertakings to establish and maintain an effective actuarial function as part of the overall system of governance and also sets out the main tasks of the actuarial function. The Central Bank has also issued requirements in relation to the actuarial function under Solvency II, which set out governance-related requirements and require undertakings to ensure that a Head of Actuarial Function (the "HoAF") is appointed to be responsible for the actuarial function and for the tasks carried out by that function. The HoAF is a pre-approved controlled function role. Guidance for insurance undertakings on the HoAF role has been provided by the Central Bank in its *"Feedback Statement on Consultation Paper 103 on Guidance for (Re)Insurance Undertakings on the Head of Actuarial Function"* published in October 2016.
- 3.47 Where management has used the work of an expert, such as an actuary, in the preparation of the SFCR, the auditor refers to requirements of the ISAs (UK and Ireland) and in particular in this regard to ISA (UK and Ireland) 500 *Audit Evidence*, in respect of considering the relevance and reliability of the information to be used as audit evidence<sup>39</sup>.
- 3.48 The auditor refers to requirements of ISA (UK and Ireland) 620 *Using the Work of an Auditor's Expert*, in respect of assessing the need for an auditor's expert, internal or external, to be engaged for the purposes of the audit.

#### **Auditor's internal and external experts**

- 3.49 ISA (UK and Ireland) 620 sets out the auditor's objectives and requirements in respect of using the work of an auditor's expert. An auditor's expert is defined as:

*"An individual or organisation possessing expertise in a field other than accounting or auditing.*  
40."



## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- 3.50 It is a matter of professional judgement whether the actuarial expertise being employed in support of the audit is in a 'field other than accounting or auditing', and therefore whether the requirements of ISA (UK and Ireland) 620 apply. 'Expertise in another field' other than accounting or auditing 'may' include expertise in relation to actuarial calculations. The extent to which an individual with actuarial knowledge conducts audit work on the SFCR disclosures, as distinct from providing advice on actuarial methods and assumptions, is important in assessing whether they are an 'expert' or a 'specialist'.
- 3.51 Where the auditor decides to use an actuary as an auditor's expert in relation to the audit of technical provisions, the auditor assesses the following:
- (a) The professional competence and capabilities of the actuary, taking into consideration his/her professional qualifications, experience and reputation in the market in which the insurance undertaking operates;
  - (b) The objectivity of the actuary, including whether the actuary is connected in some way to the insurance undertaking, e.g. being financially dependent on the insurance undertaking or having a financial interest in the insurance undertaking; and

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<sup>39</sup> ISA (UK and Ireland) 599, paragraph A34-A48.

<sup>40</sup> ISA (UK and Ireland) 620, paragraph 6.

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- (c) The scope of the work to be undertaken and degree of reliance that the auditor can place thereon.
- 3.52 The auditor seeks to ensure that an actuary engaged as an auditor's expert, although guided by its own profession's standards and guidance, designs and performs its work to provide the auditor with work that fully meets the objectives agreed between the auditor and the actuary.
- 3.53 Where the actuary is an expert employed by the audit firm (i.e. a partner or staff, including temporary staff, of the auditor's firm or a network firm), the auditor will be able to rely on the audit firm's quality control systems, recruitment and training to determine the actuary's capabilities and competence, rather than having to evaluate them for each audit engagement (unless information provided to the auditor suggests otherwise)<sup>41</sup>.
- 3.54 Regardless of whether the actuary is an expert employed by the audit firm or an external expert, the auditor agrees with the actuary the nature, scope and objectives of the actuary's work and the respective responsibilities of the auditor and the actuary. Where appropriate, such agreement is in writing. An agreement between the auditor and an auditor's external actuarial expert will often be in the form of an engagement letter.
- 3.55 In addition, the auditor may wish to arrange to have access to the working papers produced by any actuary who is an auditor's external expert. If the auditor uses internal actuarial specialists or experts within the engagement team to assist in the audit process, their working papers form part of the audit working papers. The auditor evaluates the actuary's working papers to determine whether:
- (a) The actuary's findings are relevant and reasonable, based on the auditor's knowledge of the business and the results of other audit procedures;
  - (b) The methods and assumptions used by the actuary are relevant and reasonable in the circumstances; and
  - (c) The source data used by the actuary is relevant, reasonable, complete and accurate.
- 3.56 Although the auditor does not have the same expertise as the actuary, this does not preclude the auditor from challenging the actuary's findings.

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<sup>41</sup> ISA (UK and Ireland) 620, paragraph A13

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

- 3.57 If the actuary's findings are not consistent with other audit evidence, the auditor attempts to resolve the differences by either agreeing with the actuary on the nature and extent of further work to be performed by the actuary or by applying additional audit procedures. If the auditor is not satisfied that there is sufficient appropriate audit evidence to support the audit opinion and there is no satisfactory alternative source of audit evidence, the auditor considers the implications for the auditor's report.
- 3.58 Where the auditor uses an auditor's expert, such as an actuary, as part of the audit, the auditor remains solely responsible for the audit of the insurance undertaking's financial statements.

### **Group SFCR**

- 3.59 The Group SFCR for an insurance undertaking may include solo components from third countries where the Solvency II regime does not apply. The Solvency II regulations set out the supervisory and reporting arrangements in these circumstances, including the consideration of the equivalence of a third country supervision regime with Solvency II. When conducting an audit of a group SFCR, the auditor considers the requirements and guidance in ISA (UK and Ireland) 600 *Special Considerations – Audits of Group Financial Statements (including the work of component auditors)*. Circumstances specific to the audit of group SFCRs might include:
- the inclusion of information about a material component on a local rules basis, rather than on a Solvency II basis;
  - the inclusion of information about a component where that component has not been subject to audit under the rules which apply in the third country;
  - differences in filing deadlines for the submission of regulatory reports in different jurisdictions; and
  - other inconsistencies in reporting requirements.

### **Forming an opinion and reporting on the engagement**

- 3.60 In accordance with the Central Bank requirements, the auditor produces a report that includes an opinion addressed to the Central Bank that the relevant elements of the SFCR are prepared in all material respects in accordance with the Solvency II regulations. These reports are consistent with those prepared in respect of compliance with financial reporting frameworks under the ISAs (UK and Ireland) and ISA 800 (Revised). Illustrative auditor reports are included at Appendix 2.

### **Basis of Preparation**

- 3.61 ISA (UK and Ireland) 200 *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing (UK and Ireland)*, states that, “....an audit in accordance with ISAs (UK and Ireland) is conducted on the premise that management and, where appropriate, those charged with governance” have acknowledged their responsibility for the preparation of the financial statements in accordance with the applicable financial reporting framework, and for such internal control they determine to be necessary to enable the preparation of financial statements that are free from material

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

misstatement<sup>42</sup>. The preparation of financial statements requires, *“the inclusion of an adequate description of [the]*

*framework in the financial statements.”*<sup>43</sup> ISA (UK and Ireland) 700 requires that, in forming an opinion on the financial statements, the auditor evaluates whether the *“financial statements adequately disclose the significant accounting policies selected and applied”*, and whether the *“financial statements adequately refer to or describe the relevant financial reporting framework.”*<sup>44</sup>

- 3.62 ISA 800 (Revised) requires that *“the auditor’s report on special purpose financial statements shall include an Emphasis of Matter paragraph alerting users of the auditor’s report that the financial statements are prepared in accordance with a special purpose framework and that, as a result, the financial statements may not be suitable for another purpose.”*<sup>45</sup>

### **Key Audit Matters, Other Planning and Scoping Matters**

- 3.63 The Central Bank requirements do not require the auditor to communicate key audit matters, or other planning and scoping matters such as materiality in its report. ISA 800 (Revised) clarifies that for audits of special purpose financial statements, the

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<sup>42</sup> ISA (UK and Ireland) 200, paragraph A2

<sup>43</sup> ISA (UK and Ireland) 200, paragraph A3

<sup>44</sup> ISA (UK and Ireland) 700 (Revised September 2014), paragraph 9

<sup>45</sup> ISA 800 (Revised), paragraph 14

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

requirements of ISA 701<sup>46</sup> “*Communicating key audit matters in the independent auditor’s report*” only apply when such matters are required to be communicated by law or regulation, or when the auditor otherwise decides to do so. When these matters are communicated in the auditor’s report on special purpose financial statements, ISA 701 applies in its entirety.<sup>47</sup>

### **Other Information**

- 3.64 For the purposes of the audit of the SFCR and the application of ISA (UK and Ireland) 720: Section A *The Auditor’s Responsibilities Relating to Other Information in Documents Containing Audited Financial Statements*, the auditor considers the qualitative elements of the SFCR which are specified in Appendices 2 and 3 of the Central Bank requirements to be ‘other information’.

- 3.65 ISA (UK and Ireland) 720: Section A describes ‘other information’ as:

*“Financial and non-financial information (other than the financial statements and the auditor’s report thereon) which is included, either by law, regulation or custom, in a document containing audited financial statements and the auditor’s report thereon.”*

Since the other information considered by the auditor is limited only to the qualitative elements of the SFCR which are specified in Appendices 2 and 3 of the Central Bank requirements, it is important that the auditor’s report is only accompanied by the audited relevant elements of the SFCR and those specified qualitative elements when the report is submitted to the Central Bank. The auditor ensures that no other elements of the SFCR are submitted to the Central Bank with the auditor’s report.

- 3.66 Under the Central Bank requirements, the auditor of the relevant elements of the SFCR is also the auditor of the statutory financial statements and, in addition to the requirements of ISA (UK and Ireland) 720, the auditor must consider information and knowledge gained in the course of the statutory audit of the financial statements of the insurance undertaking when considering any material inconsistencies with the other information in the SFCR.

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<sup>46</sup> There is no ISA (UK and Ireland) equivalent of ISA 701 “*Communicating key audit matters in the independent auditor’s report*”

<sup>47</sup> ISA 800 (Revised), paragraph A16

**4. Meetings with the Central Bank – “Auditor Protocol”**

- 4.1 The legal and regulatory framework relating to insurance undertakings and their auditors provides for information sharing, in certain circumstances, between the Central Bank and the auditor of an insurance undertaking. Information sharing between the Central Bank and the auditor of an insurance undertaking is sometimes facilitated through face to face meetings. The “Protocol between the Central Bank of Ireland and the Auditors of Regulated Financial Service Providers” (“the Auditor Protocol”), issued by the Central Bank in 2011 and revised in 2013, provides clear parameters for such meetings.
- 4.2 The scope of the Auditor Protocol extends to all meetings between the Central Bank and an auditor and covers bilateral and trilateral meetings.

**Trilateral meetings** – Trilateral meetings can take place between the Central Bank, the auditor and those charged with governance of the insurance undertaking. The Auditor Protocol strongly suggests that the regulated entity is represented in trilateral meetings by the chairperson of the audit committee. The Central Bank usually requests a trilateral meeting at the planning stage of the audit and the meeting should cover all issues that the parties consider may be of interest to the other parties in carrying out their statutory or fiduciary functions.

**Bilateral meetings** – Bilateral meetings may take place between the Central Bank and the auditor of the insurance undertaking. The frequency of bilateral meetings will be determined by the impact category of the insurance undertaking under the PRISM engagement model.

- 4.3 In discussing issues in the course of a bilateral meeting, the auditor considers carefully the nature and extent of information to be provided to the Central Bank, taking into account:
- the auditor’s duty of confidentiality to the insurance undertaking concerned and the fact that the insurance undertaking itself has primary responsibility for the provision of information required by the Central Bank; and
  - whether the matters concerned fall within the protection available to them in responding to questions from the Central Bank.
- 4.4 Meetings between the Central Bank and auditor are covered by a provision in section 58 of the Central Bank (Supervision and Enforcement) Act, 2013 relating to the limitation of liability in the reporting of certain matters. If uncertainty exists as to whether particular information may be disclosed to the Central Bank, the auditor may defer discussion of the relevant matter raised in order to consider whether the protection afforded by section 58 of the Central Bank (Supervision and Enforcement) Act, 2013 applies and may, if considered appropriate, take legal advice. In general terms, however, where the auditor provides information to the Central Bank in response to questions from the Central Bank, the auditor has effective protection from breach of confidentiality provided that:
- the information relates to a matter of which the auditor became aware in his or her capacity as auditor of the insurance undertaking or is the auditor’s opinion of such a matter; and

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

- the auditor is acting in good faith; and
- the auditor has reasonable grounds for believing that the information or opinion is relevant to the functions of the Central Bank.

4.5 It is expected that bilateral and trilateral meetings under the Auditor Protocol will be attended by the audit engagement partner. Matters communicated by the Central Bank during these meetings may be conveyed by the audit engagement partner and representatives of the audit firm who attended the meeting to other partners and staff who need to know the information in connection with the firm's performance of its duties as auditor without the Central Bank's permission. Confidential information which the auditor receives from the Central Bank in a bilateral meeting remains confidential in the hands of the auditor<sup>48</sup>.

4.6 The Audit Regulation establishes a requirement for effective dialogue between auditors and supervisors:

*An effective dialogue shall be established between competent authorities supervising credit institutions and insurance undertakings, on the one hand, and the statutory*

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<sup>48</sup> ISA (UK and Ireland) 250: Section B, paragraph A44.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

*auditor(s) and the audit firm(s) carrying out the statutory audit of those institutions and undertakings on the other hand. The responsibility for compliance with this requirement shall rest with both parties to the dialogue.*<sup>49</sup>

This requirement is consistent with the “Auditor Protocol” framework for dialogue between the Central Bank and auditors of regulated financial services providers in Ireland.

- 4.7 Article 12(3) of the Audit Regulation provides that the disclosure in good faith of any information emerging during the dialogue provided for in article 2(2) shall not constitute a breach of any contractual or legal restriction on disclosure of information.

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<sup>49</sup> Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC, article 12(2)



## Appendix 1 – Protection for disclosure under common law

1. In cases of doubt, common law provides protection for disclosing certain matters to a proper authority in the public interest.
2. Common law precedent in the UK<sup>50</sup> indicates that a degree of protection exists for disclosures of certain matters to an appropriate authority in the public interest. This UK case law, which may be of persuasive authority in the Republic of Ireland, indicates that accounting firms are protected from the risk of liability from breach of confidence or defamation under general law even when carrying out work which is not clearly undertaken in the capacity of auditor provided that:
  - in the case of breach of confidence:
    - a) disclosure is made in the public interest; and
    - b) such disclosure is made to an appropriate body or person; and
    - c) there is no malice motivating the disclosure; and
  - in the case of defamation:
    - a) the information disclosed was obtained in a proper capacity; and
    - b) there is no malice motivating the disclosure.

This principle of common law has received limited consideration in the courts in the Republic of Ireland<sup>51</sup>.

3. The same protection is given even if there is only a reasonable suspicion that non-compliance with law or regulations has occurred. Provided that it can be demonstrated that an accounting firm, in disclosing a matter in the public interest, has acted reasonably and in good faith, it would not be held by the court to be in breach of duty to the

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<sup>50</sup> Initial Services and Putterill [1967] 3 All ER 145, Garthside –v- Outram [1856] 26 LJ Ch 113, British Steel Corp –v- Granada Television Ltd [1981] 1 All ER 417, Lion Laboratories Limited –v- Evans [1985] QB 526, AG –v- Guardian Newspapers Limited (No 2) [1988] 3 All ER 545, PriceWaterhouse (a firm) –v- BCCI Holdings (Luxembourg) S.A & Others [1992] BCLC 579.

<sup>51</sup> *National Irish Bank v RTE* [1998] 2 IR 465. See also *Glackin – v- TSB and McInerney* [1993] 3 IR 55 where consideration was given to the position of a statutory obligation to provide information where there was no explicit statutory protection against breach of duty.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

institution even if, an investigation or prosecution having occurred, it were found that there had been no breach of law or regulation.

4. When reporting to proper authorities in the public interest, it is important that, in order to retain the protection of qualified privilege, auditors report only to one who has a proper interest to receive the information. The Central Bank is the proper authority in the case of an insurance or reinsurance undertaking.
5. "Public interest" is a concept which is not capable of general definition. Each situation must be considered individually. In general circumstances, matters to be taken into account when considering whether disclosure is justified in the public interest may include:
  - the extent to which the suspected non-compliance with law or regulations is likely to affect members of the public;
  - whether the directors (or equivalent) have rectified the matter or are taking, or are likely to take, effective corrective action;
  - the extent to which non-disclosure is likely to enable the suspected non-compliance with laws or regulations to recur with impunity;
  - the gravity of the matter;
  - whether there is a general management ethos within the entity of disregarding laws or regulations;
  - the weight of evidence and the degree of the auditor's suspicion that there has been an instance of non-compliance with laws or regulations.
6. Determination of where the balance of public interest lies requires careful consideration. Auditors and reporting accountants need to weigh the public interest in maintaining confidential client relationships against the public interest in disclosure to a proper authority and to use their professional judgement to determine whether their misgivings justify them in carrying the matter further or are too insubstantial to deserve report.

## **Appendix 2 – Illustrative Auditor Reports on the SFCR**

### **Illustration 1 – solo entity using the standard formula: An auditor’s report on relevant elements of the SFCR**

For the purpose of this illustrative report the following circumstances are assumed:

- The insurance entity is a solo insurance undertaking.
- The auditor is responsible for the audit of the entity’s statutory financial statements as well as of the relevant elements of the Solvency and Financial Condition Report.
- The audited entity has calculated the Solvency Capital Requirement using the Standard Formula.
- The auditor’s report is submitted to the Central Bank together with the relevant elements of the SFCR and other accompanying information which consists only of
  - D.1 Assets
  - D.2 Technical provisions
  - D.3 Other liabilities
  - D.4 Alternative methods for valuation
  - D.5 Any other information
  - E.1 Own funds
  - E.2 Solvency Capital Requirement and Minimum Capital Requirement
  - E.3 Use of the duration-based equity risk sub-module in the calculation of the Solvency Capital Requirement
  - E.6 Any other information
- The financial information has been prepared by the management of the entity in accordance with the financial reporting provisions established by a regulator to meet the requirements of that regulator. Management does not have a choice of financial reporting frameworks.
- The applicable financial reporting framework is a compliance framework designed to meet the financial information needs of specific users.
- The terms of the audit engagement reflect the description of directors’ responsibility for the Solvency and Financial Condition Report.
- The auditor has concluded an unmodified (i.e. “clean”) opinion is appropriate based on the audit evidence obtained.
- The auditor’s report is not published with the Solvency and Financial Condition Report.
- Only those elements of the SFCR which the Central Bank has identified in Appendix 2 to its Feedback Statement to Consultation Paper CP 104 are treated as ‘other information’ in accordance with the requirements of ISA (UK and Ireland) 720. The auditor has nothing to report in respect of ‘other information’.
- Those responsible for oversight of the Solvency and Financial Condition Report differ from those responsible for the preparation of the Solvency and Financial Condition Report.

N.B. There may be circumstances where the audit opinion covers the QRTs of a solo insurance undertaking which form part of a *Group* Solvency and Financial Condition Report. Where this is the case, this should be defined upfront.

**Report of the independent auditor of [Company Name] ('the Company') to the Central Bank of Ireland pursuant to Regulation 37 of the European Union (Insurance and Reinsurance) Regulations 2015: Report on the Audit of the relevant elements of the Solvency and Financial Condition Report**

We have audited the following quantitative reporting templates prepared by the Company:

- [S.02.01.02, S.12.01.02, S.17.01.02, S.23.01.01, S.25.01.21, S.28.01.01, S.28.02.01] as at 31 December xx; and
- [S.19.01.21] for the year ended 31 December xx

(the 'relevant elements of the Solvency and Financial Condition Report').

The relevant elements of the Solvency and Financial Condition Report have been prepared by the Company in accordance with Solvency II Regulations, which consist of:

- European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015);
- European Commission Delegated Regulation (EU) 2015/35; and
- The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the SFCR in accordance with Directive 2009/138/EC of the European Parliament and of the Council.

[and waivers, approvals and other supervisory determinations issued by the Central Bank of Ireland – insert description as appropriate].

**Respective Responsibilities of Directors and Auditors**

The Directors are responsible for the preparation of the Solvency and Financial Condition Report in accordance with the financial reporting provisions of the Solvency II Regulations.

In accordance with Regulation 57 of the European Union (Insurance and Reinsurance) Regulations 2015, the Directors are responsible for having in place appropriate systems and structures to meet the Company's public disclosure requirements in relation to the Solvency and Financial Condition Report and for the approval of the Solvency and Financial Condition Report.

The Directors are also responsible for such internal control as management determines is necessary to enable the preparation of a Solvency and Financial Condition Report that is free from material misstatement, whether due to fraud or error. The Directors are responsible for overseeing the Company's financial reporting process.

The Directors should be satisfied that, throughout the financial year in question, the Company has complied in all material respects with the requirements of the Solvency II Regulations as applicable to the Company. All Directors are required to sign a Compliance Statement, as required under Section 25 of the Central Bank Act 1997, for submission with the annual quantitative reporting templates.

Our responsibility is to audit and express an opinion on the relevant elements of the Solvency and Financial Condition Report in accordance with European Union (Insurance and Reinsurance) Regulations 2015 and International Standards on Auditing (UK and Ireland)<sup>52</sup>. Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

**Scope of the Audit of the Relevant Elements of the Solvency and Financial Condition Report**

An audit involves obtaining evidence about the amounts and disclosures in the relevant elements of the Solvency and Financial Condition Report sufficient to give reasonable assurance that the relevant elements of the Solvency and Financial Condition Report are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the relevant elements of the Solvency and Financial Condition Report. In addition, we read all the

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<sup>52</sup> ISAs (UK and Ireland) are the applicable auditing standards for financial periods commencing before 17 June 2016.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

financial and non-financial information in the information accompanying the relevant elements of the Solvency and Financial Condition Report, to identify material inconsistencies with the relevant elements of the Solvency and Financial Condition Report and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of the audit of the relevant elements of the Solvency and Financial Condition Report and also in the course of the audit of the statutory financial statements of the Company. The information accompanying the relevant elements of the Solvency and Financial Condition Report consists of:

- D.1 Assets;
- D.2 Technical provisions;
- D.3 Other liabilities;
- D.4 Alternative methods for valuation;
- D.5 Any other information;
- E.1 Own funds;
- E.2 Solvency Capital Requirement and Minimum Capital Requirement;
- E.3 Use of the duration-based equity risk sub-module in the calculation of the Solvency Capital Requirement; and
- E.6 Any other information.

If we become aware of any apparent material misstatements or inconsistencies in the accompanying information we consider the implications for our report.

### **Opinion**

In our opinion, the information in the relevant elements of the Solvency and Financial Condition Report of the Company for the year ended 31 December 20XX is properly prepared, in all material respects, in accordance with the Solvency II Regulations.

### **Emphasis of Matter - Basis of Accounting and Restriction on Distribution and Use**

We draw attention to the ['Valuation for solvency purposes' and 'Capital Management'] sections of the Solvency and Financial Condition Report, which describe the basis of accounting. The Solvency and Financial Condition Report is prepared to assist the Company in complying with the financial reporting provisions of the Solvency II Regulations. As a result, the Solvency and Financial Condition Report may not be suitable for another purpose. Our report is intended solely for the Central Bank of Ireland and the Company in accordance with the terms of our engagement and should not be distributed to or used by parties other than the Central Bank of Ireland and the Company. Our opinion is not modified in respect of this matter.

*Signature in the name of the audit firm*

[Auditor Address]

[Date]

**Illustration 2 – solo entity using the partial or full internal model: An auditor’s report on relevant elements of the SFCR**

For the purpose of this illustrative report the following circumstances are assumed:

- The insurance entity is a solo insurance undertaking.
- The auditor is responsible for the audit of the entity’s statutory financial statements as well as of the relevant elements of the Solvency and Financial Condition Report.
- The audited entity has calculated the Solvency Capital Requirement using the Partial or Full Internal Model method.
- The auditor’s report is submitted to the Central Bank together with the relevant elements of the SFCR and other accompanying information which consists only of
  - D.1 Assets
  - D.2 Technical provisions
  - D.3 Other liabilities
  - D.4 Alternative methods for valuation
  - D.5 Any other information
  - E.1 Own funds
  - E.6 Any other information
- The risk margin and any other quantitative elements of the SFCR that relate to or are dependent upon the SCR are all out of scope of the audit.
- The financial information has been prepared by the management of the entity in accordance with the financial reporting provisions established by a regulator to meet the requirements of that regulator. Management does not have a choice of financial reporting frameworks.
- The applicable financial reporting framework is a compliance framework designed to meet the financial information needs of specific users.
- The terms of the audit engagement reflect the description of directors’ responsibility for the Solvency and Financial Condition Report.
- The auditor has concluded an unmodified (i.e. “clean”) opinion is appropriate based on the audit evidence obtained.
- The auditor’s report is not published with the Solvency and Financial Condition Report.
- Only those elements of the SFCR which the Central Bank has identified in Appendix 2 to its Feedback Statement to Consultation Paper CP 104 are treated as ‘other information’ in accordance with the requirements of ISA (UK and Ireland) 720. The auditor has nothing to report in respect of ‘other information’.
- Those responsible for oversight of the Solvency and Financial Condition Report differ from those responsible for the preparation of the Solvency and Financial Condition Report.

N.B. There may be circumstances where the audit opinion covers the QRTs of a solo insurance undertaking which form part of a *Group* Solvency and Financial Condition Report. Where this is the case, this should be defined upfront.

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

**Report of the independent auditor of [Company Name] ('the Company') to the Central Bank of Ireland pursuant to Regulation 37 of the European Union (Insurance and Reinsurance) Regulations 2015: Report on the Audit of the relevant elements of the Solvency and Financial Condition Report**

We have audited the following quantitative reporting templates prepared by the Company:

- [S.02.01.02, S.12.01.02, S.17.01.02, S.19.01.21, S.23.01.01] as at 31 December xx; and
- [S.19.01.21] for the year ended 31 December xx.

(the 'forms subject to audit').

We are not required to audit, nor have we audited and as a consequence do not express an opinion on, any information contained within the forms subject to audit set out above which are calculated using an approved internal or partial internal model.

Therefore, the following items as contained in the forms subject to audit are excluded from the scope of our opinion:

- [S.02.01.02: cells R0550, R0590, R0640, R0680, R0720]
- [S.12.01.02: cells R0100, R0130]
- [S.17.01.02: cells R0280, R0310]
- [S.23.01.01: cells R0580, R0600, R0620, R0640, R0740]

The forms subject to audit, excluding those items identified above as outside the scope of our opinion, are hereafter defined as the 'relevant elements of the Solvency and Financial Condition Report'.

The relevant elements of the Solvency and Financial Condition Report have been prepared by the Company in accordance with Solvency II Regulations, which consist of:

- European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015);
- European Commission Delegated Regulation (EU) 2015/35; and
- The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the SFCR in accordance with Directive 2009/138/EC of the European Parliament and of the Council.

[and waivers, approvals and other supervisory determinations issued by the Central Bank of Ireland – insert description as appropriate].



### **Respective Responsibilities of Directors and Auditors**

The Directors are responsible for the preparation of the Solvency and Financial Condition Report in accordance with the financial reporting provisions of the Solvency II Regulations.

In accordance with Regulation 57 of the European Union (Insurance and Reinsurance) Regulations 2015 the Directors are responsible for having in place appropriate systems and structures to meet the Company's public disclosure requirements in relation to the Solvency and Financial Condition Report and for the approval of the Solvency and Financial Condition Report.

The Directors are also responsible for such internal control as management determines is necessary to enable the preparation of a Solvency and Financial Condition Report that is free from material misstatement, whether due to fraud or error. The Directors are responsible for overseeing the Company's financial reporting process.

The Directors should be satisfied that, throughout the financial year in question, the Company has complied in all material respects with the requirements of the Solvency II Regulations as applicable to the Company. All Directors are required to sign a Compliance Statement, as required under Section 25 of the Central Bank Act 1997, for submission with the annual quantitative reporting templates.

Our responsibility is to audit and express an opinion on the relevant elements of the Solvency and Financial Condition Report in accordance with European Union (Insurance and Reinsurance) Regulations 2015 and International Standards on Auditing (UK and Ireland)<sup>53</sup>.

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<sup>53</sup> ISAs (UK and Ireland) are the applicable auditing standards for financial periods commencing before 17 June 2016.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the Audit of the Relevant Elements of the Solvency and Financial Condition Report**

An audit involves obtaining evidence about the amounts and disclosures in the relevant elements of the Solvency and Financial Condition Report sufficient to give reasonable assurance that the relevant elements of the Solvency and Financial Condition Report are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the relevant elements of the Solvency and Financial Condition Report. In addition, we read all the financial and non-financial information in the information accompanying the relevant elements of the Solvency and Financial Condition Report, to identify material inconsistencies with the relevant elements of the Solvency and Financial Condition Report and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of the audit of the relevant elements of the Solvency and Financial Condition Report and also in the course of the audit of the statutory financial statements of the Company. The information accompanying the relevant elements of the Solvency and Financial Condition Report consists of:

- D.1 Assets
- D.2 Technical provisions
- D.3 Other liabilities
- D.4 Alternative methods for valuation
- D.5 Any other information
- E.1 Own funds
- E.6 Any other information

If we become aware of any apparent material misstatements or inconsistencies in the accompanying information we consider the implications for our report.

### **Opinion**

In our opinion, the information in the relevant elements of the Solvency and Financial Condition Report of the Company for the year ended 31 December 20XX is properly prepared, in all material respects, in accordance with the Solvency II Regulations.

### **Emphasis of Matter - Basis of Accounting and Restriction on Distribution and Use**

We draw attention to the ['Valuation for solvency purposes' and 'Capital Management'] sections of the Solvency and Financial Condition Report, which describe the basis of accounting. The Solvency and Financial Condition Report is prepared to assist the Company in complying with the financial reporting provisions of the Solvency II Regulations. As a result, the Solvency and Financial Condition Report may not be suitable for another purpose. Our report is intended solely for the Central Bank of Ireland and the Company in accordance with the terms of our engagement and should not be distributed to or used by parties other than the Central Bank of Ireland and the Company. Our opinion is not modified in respect of this matter.

## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

*Signature in the name of the audit firm*

[Auditor Address]

[Date]

### **Illustration 3 – group insurance undertaking using the standard formula: An auditor's report on relevant elements of the SFCR**

For the purpose of this illustrative report the following circumstances are assumed:

- The insurance entity is a group insurance undertaking.
- The auditor is responsible for the audit of the entity's statutory financial statements as well as of the relevant elements of the Group Solvency and Financial Condition Report.
- The audited entity has calculated the Solvency Capital Requirement using the Standard Formula.
- The auditor's report is submitted to the Central Bank together with the relevant elements of the SFCR and other accompanying information which consists only of
  - E.1 Own funds
  - E.2 Solvency Capital Requirement and Minimum Capital Requirement
  - E.3 Use of the duration-based equity risk sub-module in the calculation of the Solvency Capital Requirement
  - E.6 Any other information
- The financial information has been prepared by the management of the entity in accordance with the financial reporting provisions established by a regulator to meet the requirements of that regulator. Management does not have a choice of financial reporting frameworks.
- The applicable financial reporting framework is a compliance framework designed to meet the financial information needs of specific users.
- The terms of the audit engagement reflect the description of directors' responsibility for the Group Solvency and Financial Condition Report.
- The auditor has concluded an unmodified (i.e. "clean") opinion is appropriate based on the audit evidence obtained.
- The auditor's report is not published with the Group Solvency and Financial Condition Report.
- Only those elements of the SFCR which the Central Bank has identified in Appendix 3 to its Feedback Statement to Consultation Paper CP 104 are treated as 'other information' in accordance with the requirements of ISA (UK and Ireland) 720. The auditor has nothing to report in respect of 'other information'.
- Those responsible for oversight of the Group Solvency and Financial Condition Report differ from those responsible for the preparation of the Group Solvency and Financial Condition Report.

**Report of the independent auditor of [Company Name] ('the Company') to the Central Bank of Ireland pursuant to Regulation 37 of the European Union (Insurance and Reinsurance) Regulations 2015: Report on the Audit of the relevant elements of the Group Solvency and Financial Condition Report**

We have audited the following group quantitative reporting templates prepared by the Company as at 31 December xx:

- [S.23.01.22, S.25.01.22] (the 'relevant elements of the Group Solvency and Financial Condition Report').

The relevant elements of the Group Solvency and Financial Condition Report have been prepared by the Company in accordance with Solvency II Regulations, which consist of:

- European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015);
- European Commission Delegated Regulation (EU) 2015/35; and
- The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the SFCR in accordance with Directive 2009/138/EC of the European Parliament and of the Council.

[and waivers, approvals and other supervisory determinations issued by the Central Bank of Ireland – insert description as appropriate].

**Respective Responsibilities of Directors and Auditors**

The Directors are responsible for the preparation of the Group Solvency and Financial Condition Report in accordance with the financial reporting provisions of the Solvency II Regulations.

In accordance with Regulation 57 of the European Union (Insurance and Reinsurance) Regulations 2015, the Directors are responsible for having in place appropriate systems and structures to meet the Company's public disclosure requirements in relation to the Group Solvency and Financial Condition Report and for the approval of the Group Solvency and Financial Condition Report.

The Directors are also responsible for such internal control as management determines is necessary to enable the preparation of a Group Solvency and Financial Condition Report that is free from material misstatement, whether due to fraud or error. The Directors are responsible for overseeing the Company's financial reporting process.

The Directors should be satisfied that, throughout the financial year in question, the Company has complied in all material respects with the requirements of the Solvency II Regulations as applicable to the Company. All Directors are required to sign a Compliance Statement, as required under Section 25 of the Central Bank Act 1997, for submission with the annual quantitative reporting templates.

Our responsibility is to audit and express an opinion on the relevant elements of the Group Solvency and Financial Condition Report in accordance with European Union (Insurance and Reinsurance) Regulations 2015 and International Standards on Auditing (UK and Ireland)<sup>54</sup>. Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

**Scope of the Audit of the Relevant Elements of the Group Solvency and Financial Condition Report**

An audit involves obtaining evidence about the amounts and disclosures in the relevant elements of the Group Solvency and Financial Condition Report sufficient to give reasonable assurance that the relevant elements of the Group Solvency and Financial Condition Report are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Group's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the relevant elements of the Group Solvency and Financial Condition Report. In addition, we read all the financial and non-financial information in the information accompanying the relevant elements of the Group Solvency and Financial Condition Report, to identify material inconsistencies with the relevant elements of the Group Solvency and Financial Condition Report and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of the audit of the relevant elements of the Group Solvency and Financial Condition Report and also in the course of the audit of the statutory financial statements of the Company. The information

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<sup>54</sup> ISAs (UK and Ireland) are the applicable auditing standards for financial periods commencing before 17 June 2016.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

accompanying the relevant elements of the Group Solvency and Financial Condition Report consists of:

- E.1 Own funds
- E.2 Solvency Capital Requirement and Minimum Capital Requirement
- E.3 Use of the duration-based equity risk sub-module in the calculation of the Solvency Capital Requirement
- E.6 Any other information

If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion**

In our opinion, the information in the relevant elements of the Group Solvency and Financial Condition Report of the Company as at 31 December 20XX is properly prepared, in all material respects, in accordance with the Solvency II Regulations.

### **Emphasis of Matter - Basis of Accounting and Restriction on Distribution and Use**

We draw attention to the ['Valuation for solvency purposes' and 'Capital Management'] sections of the Group Solvency and Financial Condition Report, which describe the basis of accounting. The Group Solvency and Financial Condition Report is prepared to assist the Company in complying with the financial reporting provisions of the Solvency II Regulations. As a result, the Group Solvency and Financial Condition Report may not be suitable for another purpose. Our report is intended solely for the Central Bank of Ireland and the Company in accordance with the terms of our engagement and should not be distributed to or used by parties other than the Central Bank of Ireland and the Company. Our opinion is not modified in respect of this matter.

*Signature in the name of the audit firm*

[Auditor Address]

[Date]

**Appendix 3 – The auditor’s duty to report to the Central Bank - “Non-Directive Firms”**

1. This Appendix should be read in conjunction with the guidance in Section 2 of this Technical Release and with ISA (UK and Ireland) 250: Section B.
2. Irish insurance legislation imposes a duty on auditors of authorised insurance undertakings to report in certain circumstances to the Central Bank. These statutory duties for “Non-Directive Firms” are included in the following:
  - Section 35 of the Insurance Act 1989 as amended by regulation 5 of the European Communities (Non-Life Insurance and Life Assurance) Framework (Amendment) Regulations, 1997 and the Central Bank and Financial Services of Authority of Ireland Act, 2003;
  - Regulations 46 and 47 of the European Communities (Reinsurance) Regulations, 2006 (S.I. No. 380 of 2006);
  - Sections 27B, C & D of the Central Bank Act 1997 (“CBA 1997”);
  - Articles 12 and 7 of the Audit Regulation<sup>55</sup>.

***Section 35 of the Insurance Act 1989***

3. With regard to Non-Directive Firms, section 35 of the Insurance Act 1989 applies only to the auditors of undertakings which carry out insurance activities and does not apply to undertakings which carry out reinsurance activities. For guidance in relation to the auditor’s duty to report to the Central Bank under section 35 of the Insurance Act 1989, refer to Section 2 of this Technical Release.

***Regulations 46 and 47 of the European Communities (Reinsurance) Regulations, 2006***

4. Regulation 46 of the European Communities (Reinsurance) Regulations, 2006 (“the 2006 Regulations”) includes reporting obligations for auditors of reinsurance undertakings and special purpose reinsurance vehicles (“SPRVs”), which are very similar to those for auditors of insurance undertakings under section 35(1) of the Insurance Act 1989 (for

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<sup>55</sup> Effective for periods commencing on or after 17 June 2016.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

further guidance in relation to these reporting requirements, refer to Section 2 of this Technical Release). Regulation 46 requires an auditor to report to the Central Bank, as soon as practicable after the auditor:

- (a) forms the belief on reasonable grounds that circumstances exist that are likely to affect materially the ability of the reinsurance undertaking or SPRV to fulfil its obligations to third parties, or to meet any of its material financial requirements, under the European Communities (Reinsurance) Regulations, 2006; or
  - (b) forms the belief on reasonable grounds that there are material defects in the financial systems and controls or accounting records or the reinsurance undertaking or SPRV that are likely to have that effect; or
  - (c) decides to qualify any certificate that the auditor is required to provide in relation to financial statements or returns of the reinsurance undertaking or SPRV under the Companies Acts; or
  - (d) decides to resign or not seek re-election as auditor; or
  - (e) while conducting an audit of the affairs of another person that is in a control relationship with the reinsurance undertaking or SPRV, the auditor becomes aware of any facts or decisions that are likely to materially affect the ability of the reinsurance undertaking or SPRV to comply with financial requirements imposed by or under the European Communities (Reinsurance) Regulations, 2006.
5. Regulation 47 of the 2006 regulations provides that the Central Bank may require an auditor of a reinsurance undertaking or an SPRV to provide the Central Bank with such information as the Central Bank may specify in relation to the audit of the business of that entity.

### ***Sections 27B, C & D of the CBA 1997***

6. For guidance in relation to the auditor's duty to report to the Central Bank under Section 27B, C and D of the CBA 1997, refer to section 2 of this Technical Release.

### ***Articles 12 and 7 of the Audit Regulation – for periods commencing on or after 17 June 2016***

7. For the audits of financial statements in respect of periods commencing on or after 17 June 2016, auditors have regard to the statutory obligation to report in certain circumstances in accordance with articles 12 and 7 of the Audit Regulation<sup>56</sup>. For further guidance in that regard, refer to Section 2 of this Technical Release.

### **Statutory protection of reports by auditors**

8. Whilst confidentiality is an implied term of the auditor's contract with a regulated entity, there are provisions in the relevant legislation that state that an auditor does not contravene any duty by his/her compliance with the related statutory obligations to report to the Central Bank.
9. Section 35(5) of the Insurance Act, 1989 provides protection in certain circumstances.



## Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

*“No duty to which an auditor of an insurer may be subject shall be regarded as contravened, and no liability to the insurer, or to its shareholders, creditors or other interested parties, shall attach to the auditor, by reason of his compliance with any obligation imposed on him by or under this section.”*

There may be no legal protection where auditors are reporting on matters of which they became aware in the context of their work as auditors of an unregulated entity which is in a control relationship with an insurance company.

10. Regulation 48 of the 2006 Regulations provides protection to an auditor complying with regulation 46 or 47 of those Regulations. It states that:

*“An auditor’s duty to an authorised reinsurance undertaking or SPRV, to the shareholders or creditors of the undertaking or SPRV, or to any other interested person is not contravened only because the auditor has complied with a requirement imposed by or under this Part.”*

11. Section 27H of the CBA 1997 also provides for the immunity of the auditor from liability arising out of compliance with the requirements of Part IV of the CBA 1997, including section 27 of that Act.

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<sup>56</sup> Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.

## **Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

12. Article 12(3) of the Audit Regulation provides protection from liability to auditors who make a disclosure in good faith to the appropriate authorities under that article. Auditors reporting to the appropriate authorities under article 7 of the Audit Regulation are given protection by article 7.
13. The auditor recognises that there are circumstances in which section 35(5) of the Insurance Act 1989, regulation 48 of the 2006 Regulations, article 12(3) and article 7 of the Audit Regulation and section 27H of the CBA 1997 will not provide protection, for example where the auditor could be held to have acted in bad faith or maliciously in reporting under the relevant statutory reporting provisions, or where the auditor has supplied information which is outside the scope of the statutory reporting obligations. Section 35(5) of the Insurance Act 1989, regulation 48 of the 2006 Regulations, article 12(3) and article 7 of the Audit Regulation and section 27H of the CBA 1997 do not, therefore, provide the auditor with complete immunity from legal action by any parties affected, or subsequently affected, by the auditor's action in reporting to the Central Bank.
14. Section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013 additionally provides protection from legal action for breach of confidentiality for an auditor of a regulated financial service provider who makes a report, in good faith, to the Central Bank in particular circumstances even though the report may go beyond the auditor's statutory duty to report under section 35 of the Insurance Act 1989, regulation 46 of the 2006 Regulations, article 12 or 7 of the Audit Regulation or section 27H of the CBA 1997. Section 58(2) of the Central Bank (Supervision and Enforcement) Act, 2013 is discussed in further detail in section 2 of this Technical Release under the heading "The auditor's right to report to the Central Bank".

# Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland

## Appendix 4 – Glossary of abbreviations

The following abbreviations have been used in this Technical Release:

Abbreviation	
2015 Regulations	European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015)
2006 Regulations	European Communities (Reinsurance) Regulations, 2006 (S.I. 380 of 2006)
Audit Directive	Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006, as amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014
Audit Regulation	Regulation (EU) No 537/2014 of the European Parliament and of Council of 16 April 2014
CBA 1997	Central Bank Act 1997
Central Bank	The Central Bank of Ireland
Central Bank requirements	Feedback Statement to Consultation Paper CP 104 – External Audit of Solvency II Regulatory Returns / Public Disclosures, September 2016
Directive firm	An insurance undertaking subject to the 2015 Regulations. Also referred to as a Solvency II undertaking.
EIOPA	European Insurance and Occupational Pensions Authority
EU-IFRS	International Financial Reporting Standards as adopted by the European Union
FRC	Financial Reporting Council
FRS	Financial Reporting Standards
IAASA	Irish Auditing and Accounting Supervisory Authority
IAASB	International Auditing and Assurance Standards Board
Insurance Acts	The Insurance Acts 1909 to 2009, regulations made under those Acts and regulations relating to insurance made under the European Communities Act 1972
Insurance undertaking	<p>An insurance undertaking for the purposes of this Technical Release includes:</p> <ul style="list-style-type: none"> <li>• Solvency II Undertakings authorised under the 2015 Regulations, to carry on life insurance, non-life insurance or reinsurance business.</li> <li>• Non-Solvency II Undertakings authorised under the European Communities (Life Assurance) Framework Regulations, 1994, to carry on life insurance business.</li> <li>• Non-Solvency II Undertakings authorised under the European Communities (Non-Life Assurance) Framework Regulations, 1994, to carry on non-life insurance business.</li> <li>• Non-Solvency II Undertakings authorised under the European Communities (Reinsurance) Regulations, 2006, to carry on reinsurance business.</li> </ul>

**Technical Release 13/2016 - Guidance for auditors of insurance undertakings in Ireland**

ISAs (UK and Ireland)	International Standards on Auditing (UK and Ireland) issued by the Financial Reporting Council
MCR	Minimum Capital Requirement
Non-Directive firm	An insurance undertaking not subject to the 2015 Regulations. Also referred to as a Non- Solvency II undertaking.
ORSA	Own Risk and Solvency Assessment
PRISM	Probability Risk and Impact System – supervisory system used by the Central Bank of Ireland
SCR	Solvency Capital Requirement
SFCR	Solvency and Financial Condition Report
SFCR Implementing Technical Standard	The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the Solvency and Financial Condition Report in accordance with Directive 2009/138/EC of the European Parliament and of the Council
Solvency II Directive	European Directive 2009/138/EC
Solvency II regulations	<p>The Solvency II regulations for the purposes of this Technical Release are composed of:</p> <ul style="list-style-type: none"> <li>• European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) (“the 2015 Regulations”);</li> <li>• European Commission Delegated Regulation (EU) 2015/35; and</li> <li>• The European Commission Implementing Regulations designated as designated enactments in section 2(2A) of the Central Bank Act 1942, in particular Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the Solvency and Financial Condition Report in accordance with Directive 2009/138/EC of the European Parliament and of the Council.</li> </ul>
Special purpose financial statements	Financial statements prepared in accordance with a special purpose framework. A Special purpose framework is a financial reporting framework designed to meet the financial information needs of specific users.
The reasonable assurance opinion	The reasonable assurance opinion on the relevant elements of an insurance undertaking’s SFCR as required by Regulation 37 of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015)
QRTs	Quantitative reporting templates