



Regulatory Connection

Financial Regulator

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Welcome

As the summer draws to a close I would like to thank you for your responses to our consultations in the last quarter.

Our Annual Report was published in July and detailed the work of the first year and a half of our operation. During the period, the Financial Regulator carried out over 700 on-site inspections and reviews, authorised over 1,000 new firms, published 23 information publications and surveys of which 72,000 were downloaded from the website and handled almost 29,000 consumer contacts. We undertook 22 consultations with consumer and industry groups and 289 responses were received. In addition the Financial Regulator participated in 449 meetings at European and international level and the Registrar for Credit Unions met with 245 individual credit unions as part of his consultation on developing the credit union regulatory system.

We also reported that 259 charging issues were identified across 32 institutions resulting in over €69 million returned to consumers. (Copies of the Annual Report are available by emailing your details to michael.beagon@financialregulator.ie)

In this issue we bring details of our response to the Administrative Sanctions Consultation. We are now in a position to use the new powers. In this regard we see the sanctions as a supplement to our main model of regulation, rather than a whole new approach.



LIAM O'REILLY

The move to the usage of Financial Regulator has been swift to date and we would like to thank you for your co-operation. Since the last issue our website has changed to www.financialregulator.ie and all emails have changed to firstname.surname@financialregulator.ie, although the old address will redirect for the time being. Guidelines for the application of the Financial Regulator brand are contained in the industry publications area of the website.

LIAM O'REILLY
Chief Executive

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Pictured at the recent launch of the Financial Regulator's Annual Report are (left to right) Liam O'Reilly, Chief Executive, Brian Patterson, Chairman, Mary O'Dea, Consumer Director, Brendan Logue, Registrar of Credit Unions and Patrick Neary, Prudential Director.

Profile

Insurance Supervision Department

by Anne Troy,

Head of Insurance Supervision

The role of the Insurance Supervision department is to protect insurance policyholders through supervision of the financial position and management of Irish authorised insurance companies. We currently supervise over 180 insurers comprising 52 Life companies (15 of which write business on the domestic market and 37 of which write business in the European Union and internationally). In the non-life or general insurance area there are 130 insurance entities. Of this 130, 53 companies write business in the domestic market, 106 write business in the European Union and internationally. Included in this overall figure are 78 "captive" insurers who cover group risk exposures.



*ANNE TROY,
HEAD OF INSURANCE
SUPERVISION*

The supervision of insurance undertakings consists, in general, of the following activities:

- Examination of the annual statutory returns on the basis of compliance by the companies with Regulatory requirements.
- Examination of quarterly/six-monthly returns submitted by companies.
- Regular contact with companies to review business developments and progress and to deal with specific issues.
- Approval of new business plans; transfers of business between companies; applications for the establishment of branches; notifications for the transaction of business on a services basis within EU, etc.
- Undertaking on-site visits.

The Department works in close co-operation with the Consumer Directorate and is also responsible for the development of prudential policy at a national, European Union and international level. Staff in the department are involved in numerous working groups dealing with issues such as supervisory practice, group supervision, insurance guarantee schemes and, of course, Solvency II and Reinsurance.

Work is also currently underway to develop a regulatory regime for reinsurance across Europe. The primary role of the reinsurance section is the introduction of reinsurance regulation to the Irish market. There are currently 156 active reinsurance companies in the Irish market.

To date the regulatory oversight in Ireland for reinsurance essentially consisted of a fitness and probity and notification process. However, the EU Reinsurance Directive is imminent and proposes that the supervision system will build on essential coordination of Member States' legislation and mutual recognition of the supervision in the Member State where the reinsurance undertaking is licensed.

The Directive is expected to be adopted by the EU Parliament and Council by the end of November 2005 and accordingly Ireland is seeking to be one of the first EU countries to adopt this new Directive. Work has already commenced on the transposition of the draft Directive by the Attorney General's office under the direction of the Department of Finance.

As such, the work of the Reinsurance Section involves building the necessary infrastructure to support the effective regulation of the sector, this includes;

- Development of guidelines for the industry detailing corporate governance, transparency and disclosure requirements, solvency calculations and fitness and probity.
- Recruitment and integration of specialised staff.
- Hiring and management of consultants to work on identified key issues.
- Development of the IT system for both financial and non-financial data.
- Development of reporting requirements.
- Development of a funding basis for the charging of supervision fees.



Contact

Ph: 01-410 4099

Fax: 01-410 4999

Email: insurance@financialregulator.ie



Administrative Sanctions

By Martin Moloney, Secretary to the Authority (Financial Regulator).

The Financial Regulator has just published its response to the consultation process on administrative sanctions on its website www.financialregulator.ie

We received 23 submissions on the consultation paper and, in addition, discussions have been held with the Consultative Panels and industry representative bodies. The consultation proved an important part of the development of our thinking on the use of the new powers.

Notable elements of our response have been the renewal of our commitment to continue our openness to talking directly to regulated entities about compliance issues and our statement that we want to pursue the option of getting any changes necessary in the law so that external persons can be brought on to an inquiry team.

Administrative sanctions assist the Financial Regulator to achieve compliance by all firms. Examples of these sanctions include formal cautions, fines and disqualifications. These sanctions are designed to allow us to deal with serious matters concerning firms and individuals in an appropriate and efficient way.

We recognise that it could seem that the new powers mean that we are moving to a rules and sanctions-based approach to regulation. This is not the case. We continue to adopt a principles-based approach to regulation. We look for voluntary compliance and we aim to work with regulated entities to resolve issues. Administrative sanctions are an adjunct to our main approach to regulation for the small minority of cases where our preferred approach is not proving effective.

Other areas of concern in the submissions focused on the need for procedural fairness in any administrative sanctions procedure. We agree with this and we have designed the process so that any regulated entity that is involved in an administrative sanctions inquiry will have a full opportunity to vindicate its rights.

In September, we will publish on the website an information pamphlet 'An Outline of the Administrative Sanctions Procedure' for regulated entities describing the process. This will be a 'live' document, updated as the procedure develops over time and as we get feedback from regulated entities on what additional information would be useful.



*MARTIN MOLONEY
SECRETARY TO THE
AUTHORITY*

Further information is available from 01-4104820



What is?

CEIOPS



Here we look at the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS)

On 5 November 2003, the European Commission adopted the Decision establishing the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS). In Spring 2004 CEIOPS started to work with a permanent structure.

CEIOPS is composed of high level representatives of the insurance and occupational pensions supervisory authorities of EU Member States and includes also the authorities of the Member States of the European Economic Area (Norway, Iceland and Liechtenstein), which participate as observers. The practical creation of CEIOPS has been achieved through the transformation of the former Conference of the Insurance Supervisory Authorities of the EU Member States, which had acted for a long time as a forum for cooperation and exchange of information between authorities.

The creation of CEIOPS is part of the Lamfalussy approach to the regulatory framework of insurance and pension sectors. This approach, originally applied only to the regulation of the securities markets, has been extended also to the rule making, implementation and enforcement process of the European insurance and pension sectors as well as of the banking sector. CEIOPS as a Level 3 Committee for the insurance and pension sectors has two main roles; the formation of rules (Level 2) and their implementation (Level 3).

In the rules area, CEIOPS advises the Commission, either at the Commission's request or on its own initiative, on the preparation of implementing measures. In the second area, it issues standards on best practice aimed at promoting the consistent implementation of EU legislation, regulating aspects not covered by EU Directives and improving effective and convergent day to day supervision. In this context, CEIOPS may also review and compare supervisory practices within the European Single Market, even though CEIOPS Members are expected to adopt the standards on a voluntary basis. In addition, as was the case of the former Conference, CEIOPS promotes practical cooperation and exchange of information between authorities, both on questions of general interest and on specific undertakings or group of undertakings.

In the light of these tasks, the key role of CEIOPS and of the other Level 3 committees, within the new regulatory framework is the achievement of the EU policy goals in the field of financial services, for the benefit and protection of the policyholders or members and beneficiaries of pension funds.

CEIOPS also cooperates with the other Level 3 committees in securities (CESR) and banking (CEBS) in order to adopt convergent approaches on aspects of common interest. Effective cooperation between financial services supervisors, both in terms of policy and day to day practice, has become a key element. With this in mind, the Level 3 committees have established a framework for cooperation.

The Irish member of CEIOPS is Patrick Neary, Prudential Director supported by Anne Troy, Head of the Insurance Supervision Department.

CEIOPS consults interested parties in preparing advice to the EU Commission, but also in drafting its own recommendations, guidelines and standards.

The main body of CEIOPS is the Members' Meeting. It takes the main resolutions of the Committee, regarding both its organisational aspects, such as the approval of the budget, and its institutional tasks, such as the resolutions on the advice to the Commission. The Members' Meeting includes all CEIOPS members and observers. Besides the relevant Supervisory Authorities of the non-EU EEA Member States, representatives of the EU Commission participate as observers. They are involved in all the works of the Committee, except for confidential supervisory discussions concerning individuals or companies. The Members' Meeting takes its resolutions by unanimous vote of all the members, unless a resolution pertains to providing advice to the European Commission, which is a task that requires the respect of rigid time limits. In this case resolutions are adopted by qualified majority.

The permanent structure of the Committee is represented by its Secretariat, which assists the Managing Board and the overall organisation of the Committee in carrying out its tasks. The Secretariat acts also as coordinator in the dialogue with market participants and maintains relations with the EU Commission and third parties. The CEIOPS Secretariat started to work with a permanent structure on 1 July 2004 in Frankfurt am Main.



As a Level 2 task, CEIOPS is deeply engaged in the development of the Solvency II project, a wide project aimed at radically changing the solvency regime applicable to insurance undertakings. CEIOPS has to provide the EU Commission with a series of advices covering all the aspects of prudential supervision: financial requirements (Pillar I), aspects pertaining to firms' management and to the supervisory process (Pillar II) and disclosure requirements for enhancing market discipline (Pillar III). CEIOPS has established five groups for dealing with these aspects under a precise mandate and in the frame of a coordination arrangement. In addition, the group dealing with disclosure also follows accounting issues affecting insurance, analysing, in particular, the developments of International Financial Reporting Standards and their implications on supervision.

Prudential aspects, together with the creation of a satisfactory accounting framework for insurance are priorities of the Committee at the moment. Another priority is the work to be carried out following the adoption of the directive on supervision of reinsurance, which currently is under EU Council negotiation.

A number of other tasks are also currently carried out by CEIOPS, generally referred to as Level 3 works.

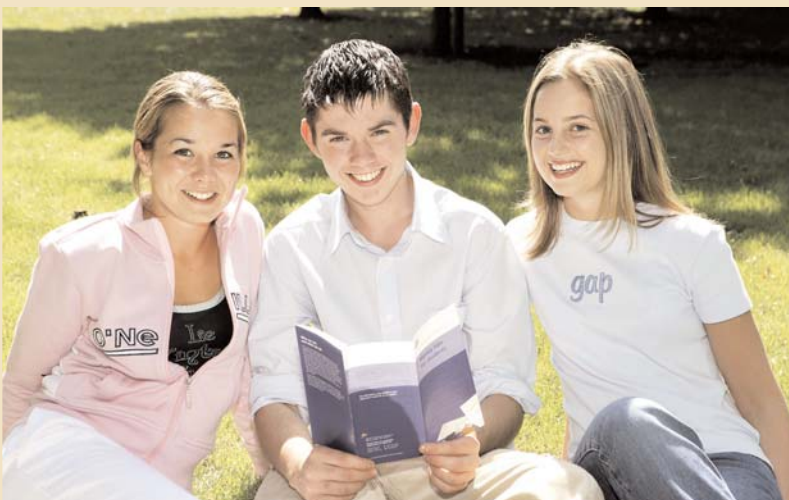
In the field of pension funds, a group is working on facilitating consistent implementation of the recent directive on the supervision of institutions for occupational retirement provision and on creating the cooperation framework needed for its effective enforcement. Occupational pension supervision is a relatively new area which, also in the light of pension funds' potential influence on financial stability, will require increased attention by supervisors and will likely call for further developments of applicable solvency regimes and supervisory practices.

Continuing the activity already in place within the former Conference of EU Supervisors, another CEIOPS group deals with the issues raised by the implementation of the supplementary supervision of insurance groups. In particular, it works on applying the coordination arrangements defined by the protocol concluded for the supervision of cross-border groups. Also this strand of work could be subject to further important developments considering the need to apply similar supervisory arrangements in the field of conglomerates.

CEIOPS is also engaged in reviewing the macroeconomic situation of the insurance and pension funds markets. A group has been charged with establishing a macro-prudential surveillance programme for monitoring the interplay between the insurance and pension markets and financial stability. The group also deals with regular reporting of market quantitative information and carries out analysis on particular market developments, keeping close contacts with the working groups of the other financial sectors dealing with financial stability.

Focusing on the creation and implementation of prudential rules does not mean that market conduct aspects are out of the scope of CEIOPS. A group has been established for analysing implementation issues arising from the recent directive on insurance mediation. Insofar as the existing work plan allows, measures for improving fair conduct of the operators and transparency of market information should cover a significant part of the activity of the Committee.

Further information on CEIOPS is available via its website – www.ceiops.org



Pictured are students from the Business Charm School, Dublin, at the launch of the Money Tips for Students Campaign.



News

Securities Markets Regulation

The Prospectus (Directive 2003/71/EC) Regulations, 2005 ("Prospectus Regulations") and the Market Abuse (Directive 2003/6/EC) Regulations, 2005 ("Market Abuse Regulations") came into force by Statutory Instrument issued by the Department of Enterprise Trade and Employment on 1 July and 6 July 2005 respectively. The Financial Regulator has been appointed the Competent Authority for the purpose of both Regulations and within the Financial Regulator, the Markets Unit of Securities and Exchanges Supervision Department is dealing with these Regulations. The Irish Stock Exchange carries out certain functions, in respect of these Regulations, on behalf of the Financial Regulator.

Prospectus Regulations

The Prospectus Regulations implement the European Union Directive 2003/71/EC and the associated implementing regulation. Subject to certain exemptions, persons who make an offer of securities to the public or seek admission of securities to trading on a European Economic Area ('EEA') regulated market are required to publish a prospectus which is subject to prior approval by their Home Member State competent authority. On the basis of such an approved prospectus issuers may, subject to notification procedures, offer securities to the public or seek admission of securities to trading on a regulated market in the EEA. Ireland is, subject to certain exemptions, the Home Member State for Irish registered companies or persons from non-EEA jurisdictions who opt for Ireland as their Home Member State. The Prospectus Regulations also impose annual reporting obligations on issuers and provide for a system of investigation and administrative sanctions.

The Financial Regulator has issued Interim Prospectus Rules, available on our website, which set out the administrative arrangements for seeking approval of prospectuses. Currently valid prospectuses approved by the Financial Regulator are published on the Financial Regulator's website. The Regulations are available on the website of the Department of Enterprise, Trade and Employment or can be accessed via a link on the Financial Regulator's website.



MARY BURKE, HEAD OF SECURITIES AND EXCHANGES SUPERVISION, APPROVING A PROSPECTUS.

Market Abuse Directive

The Market Abuse Regulations implement the European Union Directive 2003/6/EC and the associated implementing directives and regulation.

The Regulations in addition to a prohibition on insider dealing also introduce a prohibition on market manipulation. Market abuse consists of insider dealing and market manipulation in respect of financial instruments admitted to trading on an EEA regulated market or for which a request for admission to such a market has been sought, irrespective of whether or not an "abusive" transaction actually takes place on that regulated market. The Regulations also apply to financial instruments not admitted to trading on a regulated market but whose value depends on a financial instrument admitted to trading on a regulated market or for which such an admission to trading has been sought. The Regulations, inter alia, provide for a system for the investigation of possible market abuse and for enforcement action, including administrative sanctions.

The Financial Regulator has issued Interim Market Abuse Rules which set out the administrative arrangements to address obligations imposed by the Regulations.

Obligations imposed by the Regulations include:

- the notification of suspicious transactions to the Financial Regulator by persons professionally arranging transactions. A standard format for such reports is available on the Financial Regulator's website;
- the disclosure, by issuers, of insider information;
- with effect from 1 October 2005, the maintenance of lists of persons with access to insider information;
- with effect from 1 October 2005, the notification by those involved in the management of issuers of manager's transactions. A standard format for such notifications will be available on the Financial Regulator's website in due course;
- with effect from 1 October 2005, standards for fair presentation of research/recommendations and disclosure of conflicts of interest.

The Interim Market Abuse Rules, together with a link to the Market Abuse Regulations on the website of the Department of Enterprise, Trade and Employment are available on the Financial Regulator's website.

Documentation referred to above, relating to both the Prospectus and Market Abuse Regulations, is available under Securities Markets Regulation in the Industry Section of the Financial Regulator's website at www.financialregulator.ie

Contact

Ph: Market Abuse 01 410 4766
 Prospectus 01 410 4262
Fax : 01 6790362
E-mail: sesmarkets@financialregulator.ie

The Financial Regulator aims to finalise its Interim Prospectus and Market Abuse Rules by end-2005. Comments from authorised firms, representative bodies or other interested parties would be welcomed in this context. Any submissions should be made in writing either by post to Markets Unit, Securities and Exchanges Supervision, Financial Regulator, PO Box 9138, College Green, Dublin 2 or by e-mail to sesmarkets@financialregulator.ie.



Credit Institutions

A policy paper on Impairment Provisions for Credit Institutions will be circulated to the industry shortly. This paper sets out policies in relation to the qualitative and quantitative regulatory requirements that should be adopted by credit institutions for credit loss provisioning.

Financial Derivative Instruments

The Financial Regulator will be issuing updated draft guidance on Financial Derivative Instruments in UCITS in late August. Industry participants will then be invited to enter into a consultation period prior to such guidance being finalised. This guidance will eventually replace existing Guidance Note 3/03.

Application Forms for Authorisation of Collective Investment Schemes – non-UCITS

The application form for authorisation of non-UCITS has recently been updated and issued to the Industry. The updated forms are available on the website www.financialregulator.ie

Funds

Investment Funds, Companies and Miscellaneous Provisions Act, 2005

The Investment Funds, Companies and Miscellaneous Provisions Act, 2005 ("the Act") was signed into law on 29 June 2005. The main provisions of the Act are as follows;

- The introduction of a new type of investment fund vehicle - the non-UCITS Common Contractual Fund (CCF);
- The introduction of cross investment and segregated liability for investment companies which are organised as umbrella funds. Cross investment facilitates investment by sub-funds within an umbrella investment company into other sub-funds of the umbrella. Where segregated liability applies, any liabilities of a sub-fund will be discharged solely from the assets of that sub-fund.
- The enactment of provisions in primary law to ensure the smooth and effective transposition of the EU Market Abuse Directive which covers insider dealing and market manipulation.
- Amendments to the Companies Acts relating to offers of securities to the public and prospectuses for listed securities. This is in anticipation of the transposition of the EU Directive dealing with Prospectuses.

Draft amendments to the UCITS Notices and NU Series of Notices were issued on 20 July 2005 to reflect the provisions of the Act which relate to collective investment schemes. These amendments make provision for Non-UCITS common contractual funds, cross investment and segregated liability between sub-funds of UCITS and non-UCITS investment companies. It is intended to finalise these amendments by end August 2005.

Money Transmitters

Requirement for Money Transmitters to be authorised

The Central Bank and Financial Services Authority of Ireland Act, 2004 has widened the scope of Part V of the Central Bank Act, 1997 to include the authorisation of money transmission businesses. These provisions give effect to the recommendation of the Financial Action Task Force on Money Laundering – an independent international body whose Secretariat is housed at the OECD - that this type of business should be appropriately regulated to ensure compliance with national requirements to combat money laundering and terrorist financing.

A money transmission service means a service that involves transmitting money by any means from one member of the public to another. In recent times there has been a growth in the number of money transmitters operating in Ireland due to the increase in the number of foreign workers in Ireland.

The Financial Institutions and Funds Authorisation Department has developed guidance notes, an application form and an individual questionnaire for completion by applicants - these can be found on the Financial Regulator's website www.financialregulator.ie. In particular, the Financial Regulator seeks to ensure that the shareholders, directors and senior management are fit and proper persons and that the internal controls and procedures which the firm has in place satisfy the provisions of the Criminal Justice Act, 1994 (as amended) and the provisions of the Money Laundering Guidance Note and Guidance on the Offence of Financing Terrorism and the Financial Sanctions Regime of Terrorism.

The Financial Regulator has received a number of applications from money transmitters which it is currently processing. From the 30 June 2005, it is an offence to operate a money transmission business without authorisation from the Financial Regulator.

If you have any queries, please contact:

Conor Ryder

Financial Institutions and Funds Authorisation (FIFA)

Tel: 410 4557

Email: conor.ryder@financialregulator.ie



International News

The following were recently published on www.cesr-eu.org

- Press release on transparency mandate of storage of information;
- Press release on mediation mechanisms;
- CESR's draft technical advice to the European Commission on a possible amendment to Regulation (EC) 809/2004 regarding the historical financial information which must be included in a prospectus (Ref. CESR/05-428);
- Implementation of the European Commission's Recommendations on UCITS – Report of the Review conducted by CESR (Ref. CESR/05-302b);
- Press release - CESR reviews the extent of supervisory convergence in the implementation of the European Commission's two 2004 UCITS Recommendations (Ref. CESR/05-435).

The following were recently published on www.c-eps.org

- Consultation paper on the role and tasks of CEBS;
- Calls for advice on deposit guarantee schemes and own funds;
- Consultation on the validation and assessment of credit and operational risk approaches;
- Guidelines for cross border supervision consultation.



FINANCIAL REGULATOR
Rialtóir Airgeadais

Recent Publications

The following publications were recently published and are available on www.financialregulator.ie

Industry & General Publications

- Annual Report
(1 May 2003 to 31 December 2004)
- Guidelines on Branding
- Response to Administrative Sanctions Consultation

Consumer Publications (also available on www.itsyourmoney.ie)

Cost Surveys

Current Account Survey 4

Life Insurance Survey 2

Home Insurance Cost Survey 3

Student Current Account Survey 1

Student Credit Card Survey 1

Fact Sheets

Money Abroad Fact Sheets