Insurance (Miscellaneous Provisions) Bill 2021 – Regulatory Impact Analysis

Section 1: Summary of RIA

Summary of Regulatory Impact Analysis (RIA)	
Department/ Office: Department of Finance	**Title of Legislation:** Insurance (Miscellaneous Provisions) Bill 2021
Stage: General Scheme of Bill	**Date: October 2021**
Related Publications: Insurance (Miscellaneous Provisions) Bill 2021	
Available to view or download at: https://www.finance.gov.ie	
Contact for enquiries: Michael Taggart **Telephone: +353 (1) 773 7690** The following policy options have been considered in relation to the Insurance (Miscellaneous Provisions) Bill 2021: 1. No intervention 2. Address insurance issues raised *via* primary legislation **Preferred option:** **Option 2** is being pursued by the Department of Finance through the Insurance (Miscellaneous Provisions) Bill 2021, following further analysis as evidenced below. **The costs, benefits, and impacts of each of the options are set out overleaf.**	

Section 2: Statement of policy problem and objective

Policy context and objective:

Insurance reform is a key priority for the Government and this is reflected in the Programme for Government and the *Action Plan for Insurance Reform*, published in December 2020. Work is ongoing to implement its commitments, using a whole-of-Government approach. The Department of Finance has developed a General Scheme for a proposed *Insurance (Miscellaneous Provisions) Bill* in order to address several insurance-related issues that have arisen since the publication of the *Action Plan for Insurance Reform*. The Department has considered these as they have arisen, including what appropriate interventions could be made to address them. It is proposed that the *Insurance (Miscellaneous Provisions) Bill* be advanced, so as to:

- enhance the data that can be collected by the National Claims Information Database to include any deductions relating to public moneys from insurance compensation payments, thus helping protect the interests of the taxpayer;
- require the Central Bank to submit a report to the Minister for Finance setting out the steps it has taken, if any, to regulate the practice of price walking and other related issues as outlined in its Final Report from its Review of Differential Pricing in the Private Car and Home Insurance Markets (published 14 July 2021);
- amend the *Consumer Insurance Contracts Act 2019* to enhance transparency around deductions of State supports from claims settlements and to provide for some technical changes in order to address legal queries that arose post-enactment; and
- make technical amendments to the *European Union (Insurance and Reinsurance) Regulations 2015* to provide for some technical changes to rectify issues in relation to the Temporary Run-off Regime (TRR) for UK- and Gibraltar-based insurers. The Regulations concerned were inserted by Part 10 of the *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020*. The amendments deal with two issues raised by the Central Bank, one on the provision of reinsurance and the other in relation to firms in liquidation.

Section 3: Identification and description of options

Options

There are two broad options available, which are set out below:

1. No intervention
2. Address insurance issues raised via a single piece of primary legislation

The potential costs, benefits and impacts associated with each of the options are set out in Section 4.

Option 1: No intervention

The ‘no intervention’ option is primarily being included for benchmarking purposes. Therefore, it will not be examined in great detail as part of this RIA because it is not envisaged that this option will be pursued in practice. To take no action would mean that key issues identified above would not be addressed.

Option 2: Legislate (Preferred option)

The Department considered a number of different legislative and regulatory approaches with regard to each of the issues raised, many of which could be addressed using existing legislation. The preferred option therefore is to introduce a single piece of legislation to the Oireachtas, so as to address each of the issues in miscellaneous provisions in a single piece of legislation.

Section 4: Analysis of costs, benefits and other impacts for each option in relation to each Part of the Bill

4a. Enhancements to the National Claims Information Database (NCID) to allow it to collect data on the deduction of public moneys/State supports from compensation payments

Option 1 **No Intervention**	**Option 2** **Address insurance issues raised via primary legislation**
Costs	
No direct financial costs.	The data could be collected *via* the regular annual returns provided by insurers to the Central Bank as part of their reporting requirements under the existing NCID legislation. There may be some cost involved in terms of collecting the data, but these would reasonably be expected to be marginal.
Benefits	
For insurers, there would no additional reporting requirement.	There is a public interest in ascertaining the value of State supports being deducted by insurers in claims payments on an annual basis. The pandemic demonstrated that certain State supports were deducted in relation to business interruption claims made by certain enterprises. Being able to determine the extent of such deductions will allow policymakers to better design legislation for future State supports to ensure that the taxpayer does not cover losses already covered by insurance, and/or can recover any such moneys.
Impacts	
Total deductions of current or future State supports from insurance compensation payments will not be known.	The collection and publication of this data will enhance transparency in the insurance sector. This will benefit policymakers and consumers. It would allow for more targeted measures from the Government in terms of the insurance reform agenda. It would provide data helping to safeguard the use of taxpayers' money and allow for future-proofing of new legislation in relation to how public moneys/State supports interact with insurance compensation amounts.

4b. Requiring the Central Bank to submit a report to the Minister for Finance setting out the steps it has taken, if any, to regulate the practice of price walking and other related issues

Option 1 No Intervention	Option 2 Address insurance issues raised via primary legislation
Costs	
No direct financial costs.	There may be financial costs for the Central Bank in preparing this report, however it is noted that it was the intention of the Bank to undertake a review of the implementation of its Report on Differential Pricing in any case, so any such cost would likely have been anticipated.
Benefits	
For the Central Bank, it may allow it to focus resources in areas of other need.	There would be a public interest / policy benefit in ascertaining the view of the Central Bank in relation to the measures, if any, it introduces, and whether further intervention – including *via* legislation – is required.
Impacts	
No impacts.	The Government has committed to addressing dual pricing in its Action Plan for Insurance Reform. The Central Bank's preparation of its Report is an important element in meeting this commitment. As such, there is a positive impact in having the Central Bank make a report to the Minister for Finance in the timeframe envisaged for transparency and accountability reasons. The laying of this report before the Oireachtas augments this.

4c. Amendments to the Consumer Insurance Contracts Act 2019

Option 1 No Intervention	Option 2 Address insurance issues raised via primary legislation
Costs	
No direct financial costs.	It is not expected that the technical amendments will have any cost implications for industry. Indeed, the legal certainty provided by the new provisions may decrease potential future legal costs which could arise. In relation to the provision of information to consumers regarding deductions of public moneys/State supports, there may be costs for insurers in adapting internal systems to ensure this information is provided.

Benefits	
If the new requirement in relation to notification of deductions of public moneys/State supports is not in place, insurers would likely benefit from not having to adapt their internal systems.	The technical amendments to the Act would provide greater legal certainty and allow for the outstanding part of the Act to be enacted in full. The new requirement on insurers in relation to notification of deductions of public moneys/State supports will benefit consumers and provide them with enhanced transparency as to the claims process, as well as strengthen the information available should they wish to take a case e.g. to the Financial Services and Pensions Ombudsman. It should also assist consumers/small businesses to make more informed decisions on renewal, etc.
Impacts	
Without legislative amendments, it is possible that legal issues could arise, which could impact negatively on elements of the *Consumer Insurance Contracts Act 2019.* Levels of transparency for policyholders in relation to the issue of deduction of public moneys/State supports would remain low.	The amendments would address a number of legal issues to ensure the Act works as intended. There would be increased transparency for policyholders in relation to the issue of deduction of public moneys/State supports.

4d. Amendments to the European Union (Insurance and Reinsurance) Regulations 2015

Option 1 **No Intervention**	**Option 2** **Address insurance issues raised via primary legislation**
Costs	
Potential negative impacts for Irish policyholders of policies from certain UK and Gibraltar firms in the Temporary Run-off Regime, including financial costs associated with new policies and/or claims.	No direct financial costs.
Benefits	
No benefits.	It would allow for the Temporary Run-off Regime for UK/Gibraltar insurers to continue as intended and ensure that consumers in Ireland are protected, including in cases of liquidation of a Temporary Run-off Regime firm.

Impacts	
UK and Gibraltar firms in the Temporary Run-off Regime could not lawfully carry out third-country reinsurance activity in the State, which would otherwise be permitted by Regulation 10(3) of the 2015 Regulations. This could have negative impacts for Irish policyholders of these firms. A UK or Gibraltar insurance firm in liquidation, which is seeking to run-off its Irish insurance portfolio in order to terminate its activity in the State, where that firm's authorisation was withdrawn under the law of the United Kingdom or Gibraltar prior to "immediately before the relevant date", would not be able to do so by entering the Temporary Run-off Regime. This could have negative impacts for Irish policyholders of these firms.	The changes would provide certainty and have been recommended by the Central Bank. The changes would allow UK and Gibraltar firms to carry out third-party reinsurance activity in the State for the purposes of the Temporary Run-off Regime. The changes would allow UK and Gibraltar insurance firms in liquidation to continue in the Temporary Run-off Regime. The Central Bank has informed the Department of Finance that: • The issue of reinsurance may affect up to 13 potential Temporary Run-off Regime firms, with total technical reinsurance liabilities of circa €2.6 billion due to Irish (re)insurance undertakings at 31 December 2020. • The Bank has received a notification from one firm in liquidation, which may not be able to service its remaining 42 open Irish claims totalling €3.4 million at 31 December 2020, under the Temporary Run-Off Regime.

Other Impacts

The options considered above do not have negative impacts on the following: national competitiveness, socially excluded and vulnerable groups, poverty proofing, rural communities, the environment, the rights of citizens, or employment, foreseen as a result of the implementation of these recommendations.

Section 5: Consultation

The Department has engaged with the Attorney General's Office and the Central Bank to ensure that the legislation is both effective and constitutionally robust. The Department has also engaged with relevant stakeholders to date providing a broad understanding of the aims of the legislation. It will continue to do so following Government approval of the draft General Scheme. Publication of the draft General Scheme allows time for further consultation with potentially impacted parties.

The European Central Bank will be consulted at an appropriate stage in the legislative process. This will likely be following the publication of the Bill.

Section 6: Enforcement and Compliance

The proposal involves the use of existing primary legislation. Incorporated in this is a requirement for Oireachtas approval for both the Bill and any future amendments to the Act thereafter.

The Bill does not need to provide the Central Bank with powers to enforce compliance with the legislation, as these powers will already exist in the legislation that the Bill is amending.

Section 7: Review

Consultation

An integral part of the RIA process is to identify ways of periodically reviewing legislation to evaluate the extent to which it is achieving its objectives. This can be achieved in a number of ways such as:

(i) Consulting with stakeholders

(ii) Establishing review groups

As regards performance indicators, the more obvious and effective way of ascertaining how well the legislation is performing will be through establishing levels of satisfaction amongst stakeholders.

The ECB will be consulted at an appropriate stage in the legislative process. This will likely be following the publication of the Bill. The Department will also continue to engage with relevant stakeholders following Government approval of the draft General Scheme.

Publication of the draft General Scheme allows time for further consultation with potentially impacted parties.

Evolution

The purpose of the legislation is, *inter alia*, to help increase consumer transparency. In this regard, the legislation amends a number of existing pieces of legislation, in order to ensure that they continue to function in the interests of Irish consumers. Further engagement with relevant stakeholders, including consumer and business groups, will take place to ensure that the legislation is achieving these aims.

Public accountability

From a public accountability perspective, the Minister is answerable to the Oireachtas on the legislation, and the Governor and/or other senior officials of the Bank shall report to a Committee of the Oireachtas as required under the existing Central Bank legislative framework, with regard to individual elements of the legislation where the Central Bank has an existing role.

Section 8 Publication

This Regulatory Impact Analysis (RIA) statement and any future versions of the document shall be published in accordance with the RIA Guidelines for publication relating to primary legislation. It shall be published on the Department of Finance's website and accompanied by a link to the Bill once one becomes available.