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RE: Central Bank (National Claims Information Database) Bill – Public Consultation

This submission is from the Self-Insured Taskforce whose Members are drawn from Semi-States, Local Authorities, State Agencies and several private companies.

Collectively we hold provisions against accident liabilities of almost €1bl and employ around 95,000 staff. The issue of trends in the cost components of personal injury claims is obviously of considerable interest to us and any improvement in transparency would be welcomed. In the tight timeframe of this call for submissions, we held a meeting of some Members and consulted with others electronically.

Our bottom line claims costs, which can result in the curtailment of services for those operating under fixed budgets, are not mediated through what is a volatile and dysfunctional insurance market as found by the recent Cost of Insurance Working Group (CIWG).*

Some Preliminary Observations on the content of the Consultation Document

While there are indications of mismanagement by a few insurance companies in the run-up to Solvency 11, there is no proof that premiums had been “priced at unsustainably low level” until 2014 as stated in this consultation document. Indeed, the data which is available would indicate to the contrary. There is no robust analysis in any of the reports from the CIWG which would support the 70% increase in the cost of motor insurance between 2013 and 2016. Despite that fact, there appears to be nothing in this Bill that would address competition law concerns which could arise when this proposed database reflects trends that are at variance with pricing patterns by insurers.

The objective of this Bill to reduce insurance costs is stated on page 1 to be qualified by “taking account of the requirement for the need to ensure a financially stable insurance sector”. The ability or inability of the insurance sector to professionally manage the Irish claims environment should not be assigned such paramount importance. The constitutional priority is to attain an appropriate balance between the legitimate rights of defendants and of injured parties. We have a number of concerns about the administration of justice in this context on which we have made detailed submissions to the review currently being undertaken by Mr Justice Peter Kelly, President of the High Court.

Page 2 of this consultation document states that “no organisation is currently responsible for the collection of data from insurers for this purpose” [reduce cyclical pricing]. We cannot agree with that statement. Prudential regulation of insurers is the responsibility of the Central Bank [CB] which has wide powers under its existing legislation to seek various returns from insurers. If, as asserted, trends in claims costs are the basis of hikes in pricing then it seems obvious that effective supervision needs to be informed by robust timely data on trends in those claims costs. In the pre-Solvency 11 regime, the CB received extensive data on claims frequency and financial provision differential analyses by class of business but these Form 8’s were not published, nor apparently has their content been made available to the CIWG. It needs to be a clear requirement in the proposed Bill that all data which is collected is published in a readily accessible format for public consumption rather than summary reports that could risk being skewed for an insurer perspective.

Also on page 2, and as reflected in the reports of the CIWG, it seems to be ignored that there is already in existence since 1991 a centralised claim-by-claim register. Many of our members avail of that Insurance Link system which is run independently by Verisk. It would be preferable that the existing system be enhanced, ensuring full compliance with GDPR, rather than establishing a new system that would take years to be of any functional value.

We cannot concur with the statement on page 2 that the CB are “the most appropriate State entity for the establishment and administration of a national claims information database”. Even the tone and content of this consultation document reflects an inappropriate priority of supporting the insurance industry rather than introducing protections for premium paying policyholders and self-insured parties who require transparent and timely robust data. It also notable on page 3 that the general scheme of the Bill was drafted after “consultations with industry” but it seems that was solely seeking the views of the insurance industry.

Consultation Questions

Information to be collected

Injury claims are dealt with through the same settlement or defence processes regardless of whether they arise from motor or other accidents. Accordingly, we call for the data collection to be extended to Employer Liability, Public Liability, Clinical Negligence and all other identifiable classes.

We do not agree that data can only be collected from insurers at aggregate level and such an approach could undermine robustness. It is perfectly feasible to use anonymised coding, with support from the Data Protection Commissioner, to ensure that every claim is captured.

The proposed gathering of “the various income and expenditures associated with motor insurance”, which should be extended to other classes of business, should also encompass insurers’ expenditure on management expenses and brokers’ commissions as well as other sources of income such as investment returns. Until its abandonment in 2016 the Blue Book published those items on a company by company basis for each class of business. There is no reference in the proposed Bill to these data sets being captured.

The wording of the proposed Bill is too imprecise for us to comment further but a clear detailed specification of the returns from insurers will be required. Even in the guidelines for completion of Forms for the Blue Book it is apparent that insurers were not always applying the mandated consistent approach which had been designed to undertake comparable comparisons for trend analyses.

Funding Arrangements

Since all injury claims must be registered with PIAB, it is our proposal that that State agency should undertake this data collection responsibly for all elements of claims costs by various settlement channels. That would be a robust ‘closing of the loop’ from initial notification to finalisation.

An additional attraction of our proposal is that PIAB already have data sharing arrangements with the Courts Service which would facilitate correct monitoring of trends in Court awards. PIAB should

Also be assigned a responsibility to monitor lobbying by the insurance industry for price increases if that is based on misleading data which they can correct.

Our proposal would also obviate the necessity to address the question of funding by the Exchequer or imposing further levies on policyholders. PIAB has substantial financial reserves, which the Exchequer plans to garner to central funds under Head 14 of PIAB (Amendment) Bill 2017. PIAB has a long track record of being fully self-funding as well as having repaid its original set up costs to the Exchequer.

Data Sharing Issues

We see no reason why the company-by-company information should be confidential. This is totally at variance with the principles of transparency. It also represents a backwards step on transparency. The Blue Book published aggregate income and expenditure analysis on a company by company basis for each class of business. Under Solvency 11 each company must publish granular data on its financial situation including triangulations of claims data. These lengthy documents are available on the CB website in the link below:

<https://www.centralbank.ie/regulation/industry-market-sectors/insurance-reinsurance/solvency-ii/solvency-and-financial-condition-report-repository>

Part of the stated goals of Solvency 11 was to improve transparency for the public and for investors. The confidentiality proposals in this Bill run directly contrary to that transparency objective.

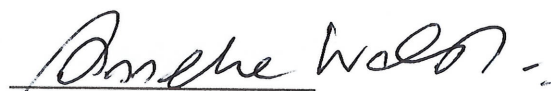
To address the lacuna which has been created by abandonment of the Blue Book, the Central Bank should be required to publish income and expenditure tables by company for each class of business based on the 2016 individual Solvency 11 reports by companies. Any outlier items that skew the market result, such as occurred with RSAI accounting in 2013 and with AVIVA management expenses in 2012, should be highlighted so that the underlying result for the remainder of the market is readily identifiable. There is a lot CB could currently do on transparency which is not being done despite its existing wide statutory powers.

In Summary

The proposals from the Self-Insured Taskforce are:

1. Data collection on all elements of claims outlay should be undertaken by PIAB which is accountable to the Department of Business, Enterprise & Innovation. This can be commenced immediately within existing legislation at section 55 of PIAB Act 2003 on its functions.
2. Funding is already possible through PIAB financial reserves and they also have existing sophisticated IT systems which operate on an efficiently paperless basis.
3. Existing data sharing arrangements with the Courts Service would facilitate PIAB monitoring the trend in Court awards and in litigation volumes as well as their outcomes.
4. Data collection should apply to all types of injury claims not solely motor.
5. Data publication should be on a quarterly rather than an annual basis.
6. The existing central claimant data run by Verisk should be extended and strengthened.
7. The Central Bank should not have control of this project and there should be no question of confidentiality being extended to insurance company returns.
8. The Central Bank should immediately publish summary analyses of income and expenditure on a per company basis by class of business based on the content of 2016 Solvency 11 reports by insurers.

* The general views of the Self-Insured in this context are recorded on page 69 of the report of January 2018 report on Employers' and Public Liability insurance. <http://www.finance.gov.ie/wp-content/uploads/2018/01/180125-Report-on-the-Cost-of-Employer-and-Public-Liability-Insurance.pdf>



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