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Westhafenplatz 1
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15 January 2020

Re: Consultation Paper on the Opinion on the 2020 review of Solvency II (EIOPA-BoS-19/465)

Dear Gabriel,

I refer to EIOPA's Consultation Paper on the Opinion on the 2020 Review of Solvency II (EIOPA-BoS-19/465). I wish to thank EIOPA for all of their work on this highly detailed Opinion. The Irish authorities look forward to working with the European Commission, EIOPA and other Member States during the course of this important review. Solvency II has shown itself to be very important to the stability of the European insurance market and an important piece of legislation in strengthening the Single Market and augmenting the European Union's Four Freedoms. From Ireland's perspective, it is vitally important that that this position is maintained. This is particularly the case in view of the departure of the United Kingdom from the European Union.

I wish to highlight Ireland's position on two key issues, included in the Opinion, which are of particular importance for Ireland. These are the initial views of the Irish authorities and are subject to development as the Review continues. These issues are:

- (i) The freedom to provide services/freedom of establishment issues set out in Chapter 10; and,
- (ii) Insurance Guarantee Schemes issues set out in Chapter 13.

While I am highlighting these two issues at this stage of the Review, it is our full intention that Irish officials will participate constructively on all of the key elements being reviewed, at the appropriate time. As requested by EIOPA, the issues addressed in this letter will also be included in the template as prescribed in the Opinion document itself.

Freedom to provide Services / Freedom of Establishment (FoS/FoE)

Ireland is a strong supporter of the EU's Four Freedoms, in particular FoS/FoE. These freedoms have benefitted businesses and consumers across the Union, providing greater choice, more competition and lower prices.

However, we recognise that it is not a perfect model, and consumers in several Member States – including Ireland – have been impacted negatively by a small number of cross-border insurance collapses of non-life insurers in recent years. While it has been a small number, these collapses tend to have a high profile and attract public and Parliamentary attention and criticism of the regulation of these firms, particularly when it involves other supervisors that consumers may not be as familiar with. Notwithstanding this, we think it is important that the vision around a single EU insurance market remains intact and that the model that exists in the present Directive is broadly speaking maintained subject to a number of improvements, which we believe EIOPA have correctly identified. In particular, we believe that there should be clarity in the Directive to the extent possible to allow a more consistent approach to be taken in the regulation and supervision of such firms. That could mean less discretion for Member States in how they apply the Directive, as well as better communication and cooperation between home and host supervisors. However, it should not mean that the balance of powers between supervisors is impacted to such a degree that the fundamental principles of the Single Market are damaged. In addition, we believe that sharing information works in two ways. It is important that a host supervisor has all of the relevant information it needs. However, it is equally important that a home supervisor can have access to relevant information it may need to be able to supervise a firm passporting into another Member State, such as market data, etc.

In summary, our view therefore would be that any developments in this context should:

- ensure consistent regulation and supervision of insurers operating on a cross-border basis by reviewing discretions for Member States in the Directive;
- ensure a balanced approach that respects the balance of powers and responsibilities of home and host supervisors; and,
- not undermine the progress that has been made to date under the Solvency II Directive in working towards a single European insurance market.

In this regard, the proposals by EIOPA, around a more efficient system of sharing information between the National Supervisory Authorities, in its consultation appear to be a good starting point for further examination of this sensitive topic as part of the Solvency II review.

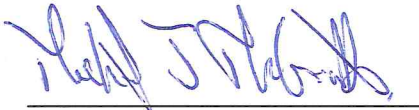
Insurance Guarantee Schemes (IGSs)

We are pleased that EIOPA has considered the issue of IGSs in a level of detail at this stage of the review and welcome that it is proposing the establishment of a European network of national IGSs across the Member States of the EU, which are sufficiently harmonised and adequately funded. This has been an issue that has proven to be difficult to resolve in the context of the recent negotiations in Council on the Motor Insurance Directive, and our Minister set out his views on this at the December Ecofin meeting. In addition, the Department responded to EIOPA's recent consultation on this issue in October 2019 (EIOPA-BoS-19-259) and our high-level views below reinforce key aspects of our response to that consultation.

As you may be aware, Ireland already has an IGS for non-life insurance. This is a host-based Scheme in that insurers passporting into Ireland and covering risks based in this State must be members of the Scheme, and make relevant contributions to it. In general, our experience in relation to this type of Scheme is that it has worked quite well. Our preference therefore has always been that should a European system of IGSs be introduced, relevant IGSs would operate in this way. Notwithstanding this, we note that EIOPA is proposing a home-based system. This is something, while not our preference, we could lend support as an alternative approach. However to do so, such an IGS would have to have harmonised funding mechanisms enshrined in level one legislation. It is important also that minimum harmonised rules for IGSs would take into account how a wider European Recovery and Resolution framework for insurers might operate to ensure consistency. Finally, we support the idea that the legal structure for IGSs should be a matter for each Member State, as the current system in Ireland is more of a “process” than an entity, and this has not impacted on its effectiveness.

In conclusion, we wish to thank EIOPA again for its work in relation to the Solvency II Review and look forward to EIOPA’s final Opinion later in 2020. If your teams require further information or clarification on any point, please contact, Mr. Michael Taggart (353.761.100.7690 / michael.taggart@finance.gov.ie), or Mr. John Maguire (353.1.604.5074 / john.maguire@finance.gov.ie) of the Funds, Insurance, Markets and Pensions Division, the Department of Finance, Government Buildings, Merrion Street, Dublin 2, D02 R583, Ireland. I will also remain available to discuss the matter and developments with you as required.

Yours sincerely,



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