Opening Statement by Gerry Cross, Director, Financial Regulation - Policy and Risk, The Central Bank of Ireland

Joint Oireachtas Committee on Finance, Public Expenditure and Reform, and Taoiseach

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Mr Chairman, Committee Members; good afternoon. It is a pleasure to be with you today to discuss matters relating to insurance.

I am joined today by my colleagues Mark Cassidy, Director of Economics and Statistics and Domhnall Cullinan, Director of Insurance Supervision.

As you know, under our mandate, the Central Bank seeks to ensure that the financial system operates in the best interests of consumers and the wider economy. In our recently published multi-year strategy, we have again made clear that securing the best interests of consumers and citizens is at the heart of all that we do. In regulating insurance we seek to ensure that customers and the economy are served by a well-functioning and resilient sector that policyholders can rely on to treat them fairly and to pay out on relevant cover when required.

We perform this function as a committed participant in the European System of Financial Supervision in respect of an insurance market that it is multifaceted and integrated in the overall EU insurance market. The Central Bank prudentially supervises almost 200 insurance and reinsurance companies operating in the life, non-life, health and reinsurance markets. Most of these firms are foreign owned and more than 70% of their business is written outside of Ireland. At the same time approximately 30% of non-life insurance provided in Ireland is provided by companies located elsewhere in the EU.

The sector has a very important role to play in the economic life of the State. While it has delivered, and continues to deliver many benefits for policyholders, at times the performance of the domestic non-life sector has been called into question. As regulators, we view confidence in the sector as very important. The topics we will be discussing today - including differential pricing, business interruption, and recent reports from the Central Bank's National Claims Information Database - provide good examples of how we are seeking to deliver on this, having regard of course to the limits of our mandate and powers.

Differential Pricing

In our review of differential pricing – where customers with the same risk profile are charged different premia - we found that certain pricing practices can lead to materially unfair outcomes for car and home insurance consumers. In particular, we found the practice of "price walking" - where customers are charged more upon renewal of their insurance simply for being loyal customers – to be one where the interests of the customer are unfairly subjugated to the interest of the firm.

In our Consultation Paper published in July, we proposed therefore to ban this practice of price walking. Banning the practice will remove the "loyalty penalty" on consumers that remain with their insurer for more than the short term.

We also propose to introduce new customer consent and disclosure requirements to ensure that any automatic renewal process is more transparent and more clearly agreed to by the policyholder.

In order to maintain the benefits of competition for new customers, we propose to allow insurers to maintain new customer discounts as long as these are clearly flagged as such and the likely renewal cost is also set out.

The consultation on our proposals closed on 22 October and our team is currently reviewing and analysing the submissions received. We believe that these requirements will have an important impact in themselves and make clear that in a well-functioning financial sector there is no room for practices which take unfair advantage of consumer behaviours and habits.

The NCID and the cost of insurance

An important initiative and area of focus for the Bank in recent times has been the development and ongoing enhancement of the National Claims Information Database (NCID). The establishment of the NCID was one of the recommendations made by the Cost of Insurance Working Group (CIWG), which was established by the Minister for Finance in 2016 as a key element in understanding the drivers of the costs of insurance and of underpinning policy measures to address those.

One of the issues identified by the CIWG and the reports produced on motor and employer and public liability insurance was the lack of credible and accessible data relating to premiums and claims costs. The establishment of the NCID and the annual reports produced have served to significantly improve transparency in the Irish insurance market and to support data driven analysis which is contributing to addressing the issue of high costs of insurance in a number of areas.

The classes of insurance that are in scope of the NCID are Private Motor Insurance and Employers' and Public Liability Insurance. Aggregate data are collected from insurers, including trends in the premiums, the cost of claims, how claims are settled, how costs vary depending on how claims are settled, and an analysis of the various types of cost that make up settlements. Among other findings, the data have highlighted:

- The percentage of premium that is paid out in claims;
- The considerable legal costs and significant time period associated with settling injury claims through litigation;
- The performance of the sector since 2009 and the profit making and loss making periods.

We are acutely aware of the difficulties faced by policyholders where there are significant increases in and high costs of insurance premia. Rates are to a significant extent driven by the overall cost of claims. As a financial regulator bound by European law, we have a strictly limited role in relation to the pricing of insurance products. We seek to ensure (a) that insurers are not treating customers unfairly (as in the context of price walking practices seen above); and (b) that the pricing and underwriting practices of firms underpin a sound and sustainable business. However, the detailed transparency provided by the NCID and our reports allow for a much clearer understanding to underpin analysis and to assess the effects of wider policy actions.

For example, in our most recent Motor Insurance Report we provided analysis on the costs associated with different claims settlement channels. Between 2015 and 2020, 94% of injury claimants had total claim costs less than €100k. For claims settled directly, average compensation was €13,111 and legal costs were €1,414. For claims settled through PIAB, average compensation was €21,845 and legal costs were €665. And for claims settled through litigation, average compensation was €23,454 and legal costs were €15,235. What we see from this data is that the very significant differences in legal costs greatly outweigh the differences in compensation outcomes.

Policy actions that result in a reduced level and uncertainty of claims are likely to contribute to reducing average premium levels. In this context, the Personal Injuries Guidelines adopted by the Judicial Council have the potential to lead to greater stability and certainty in the claims environment and reduced volatility of claims, and to reduce legal costs, and in time create a more stable reserving environment for insurance firms. This in turn should contribute to an increase in the availability of insurance, and a reduction in premium levels, provided the insurance industry passes on the benefits of these changes to policyholders.

Business Interruption Insurance

The COVID-19 pandemic and subsequent business closures that were mandated on public health grounds focused attention on business interruption claims. This has been an enormously difficult and challenging time for many businesses as well as for society as a whole. From the outset of the pandemic, the Central Bank identified the significance and potential impact arising from business interruption issues on businesses across Ireland and made it a priority area of focus. We took a proactive approach to ensure that firms fulfilled their obligation to prioritise the interests of their customers.

We focused on identifying all groups of policies where, in our view, the relevant contractual provisions provided cover for COVID-19 related interruption or interference to businesses or provided a strong or reasonable basis for such an interpretation. We made clear our expectations to firms in this regard – including importantly our expectation that ambiguous language be interpreted in favour of the policyholder - and we engaged intensively with them to ensure delivery on these expectations.

We identified 27 firms that were actively providing business interruption insurance cover for infectious diseases across more than 200 individual policy wordings. By the end of this process, we had identified the policies that we considered "responsive" to COVID- 19. We engaged with the relevant firms throughout, making clear our expectation that firms identify and contact potentially affected policyholders, assist policyholders in making a claim, and were operationally ready to deal with claims and have adequate governance and oversight of the process.

As a result of our supervisory interventions, a number of insurers accepted and commenced settling valid claims early in the process. Others sought legal confirmation and clarification. When the decision of the High Court was published, from February 2021, the remaining firms accepted that cover existed for these policies. We directed all the relevant firms to contact all of the policyholders who, in our view, held a policy which was responsive to business interruption, along with details of how they could make a claim if they believed their business suffered an interruption or interference related to the outbreak of COVID-19 in Ireland. At the end of October 2021, more than €146 million has been paid to policyholders through settled claims and interim payments. This figure includes 3,929 claims that have been fully settled, and 868 who have received interim payments. For the material number of claims that remain open, mostly awaiting further information, we are monitoring progress on a monthly basis and are generally satisfied that such claims are being progressed appropriately.

As for differential pricing, we believe that the supervisory framework that we published for Business Interruption Insurance and the approach we adopted represents a material step in ensuring that the insurance sector more fully prioritises the best interests of the customer.

Conclusion

As I said at the beginning of this statement, the insurance sector sector has a very important role to play in the economic life of the State and in the economic wellbeing of citizens. This is even more the case when we consider the current context of rapid change and significant uncertainty due amongst other things to the speed of technological innovation on the one hand and the urgent need to address climate change and the transition to a net zero economy on the other. To play its full role in this regard the insurance sector needs to be well-run, financially sound and resilient and it needs to be trusted to act in a way that prioritises the interests of its customers. At the Central Bank we are committed to seeing that this is achieved.

Thank you for your attention and we look forward to addressing your questions.