



Insurance Conduct & Regulatory Trends Insight Briefing

KPMG & Insurance Ireland Breakfast Briefing

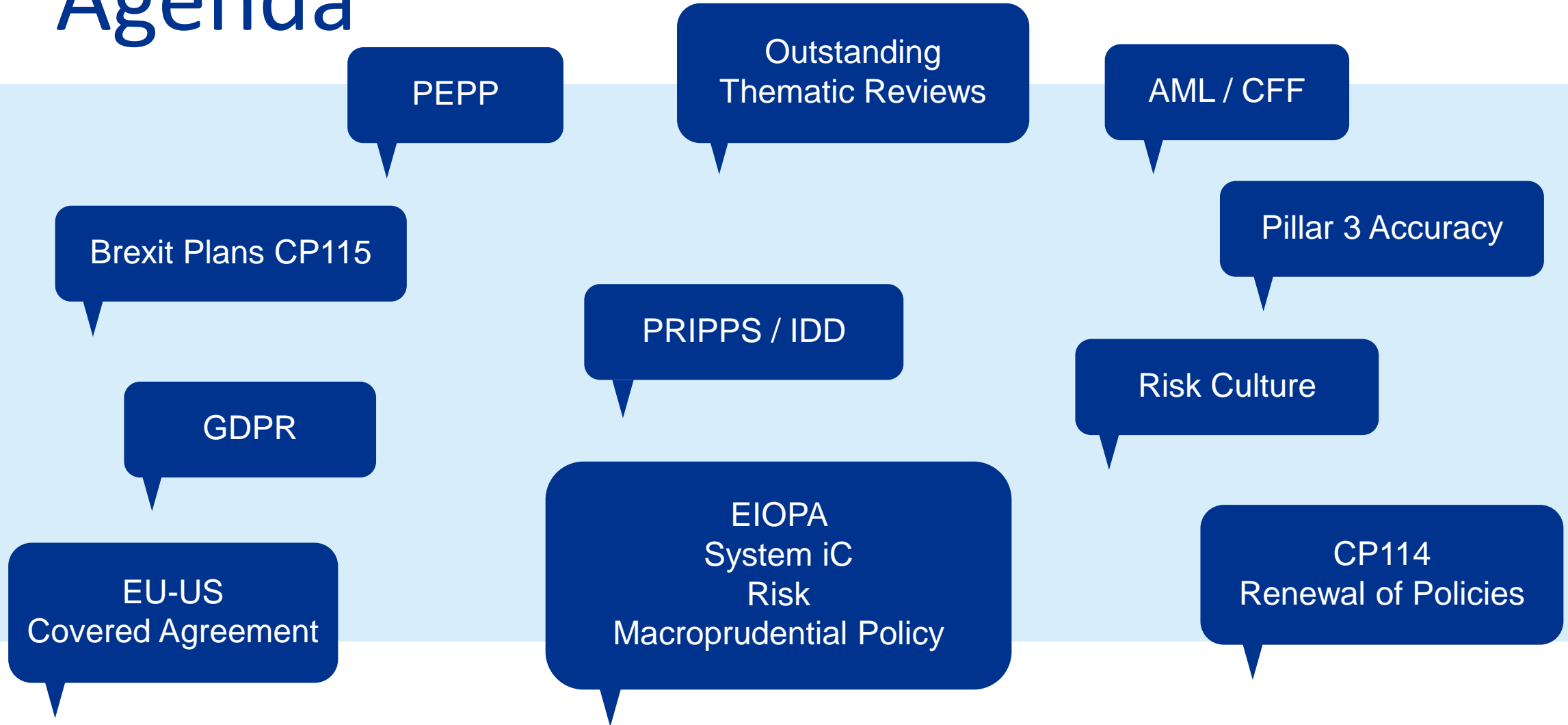
14 February 2018



Welcome & Introduction

John O'Donnell
Head of Insurance Risk and Regulatory, KPMG

Agenda





Increased Supervisory Convergence? European Commission's Proposals for EIOPA Reform

Nianhuan Mu, Holland
Regulatory Director, KPMG

EIOPA: The story so far.....

- **What is it?**

- ❑ EIOPA is an independent advisory body to the European Commission, the European Parliament and the Council of the European Union.

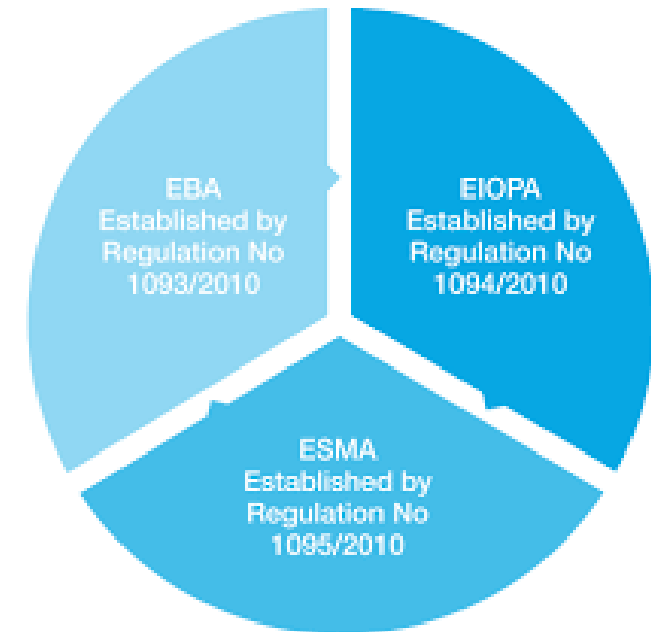
- **What is it's current role?**

- ❑ It is one of the EU Agencies carrying out specific legal, technical or scientific tasks and giving evidence-based advice to help shape informed policies and laws at the EU and national level.
- ❑ EIOPA was commissioned to monitor and identify trends, potential risks and vulnerabilities stemming from the micro-prudential level, across borders and across sectors

- **Core responsibilities:**

- ❑ EIOPA's core responsibilities are to support the stability of the financial system, transparency of markets and financial products as well as the protection of policyholders, pension scheme members and beneficiaries.

2010: European Supervisory Authorities Established



EIOPA: Achieving it's goals

- **EIOPA's key goals:**

- ❑ Better protecting consumers, rebuilding trust in the financial system.
- ❑ Ensuring a high, effective and consistent level of regulation and supervision taking account of the varying interests of all Member States and the different nature of financial institutions.
- ❑ Greater harmonisation and coherent application of rules for financial institutions & markets across the European Union.
- ❑ Strengthening oversight of cross-border groups.
- ❑ Promote coordinated European Union supervisory response.



- **Achieved by:**

Regulation & Supervision : EIOPA contributes to the establishment of high-quality common regulatory and supervisory standards and practices.

- ❑ **Regulation:** Development of a single rule book for insurance and pensions in the EU. EIOPA is empowered to draft regulatory and implementing technical standards, develop guidelines, recommendations and provide opinions to the EU institutions on the relevant European legislative acts.
- ❑ **Supervision:** Promoting convergence of supervisory procedures and approaches throughout the EU. For this purposes EIOPA uses a number of tools: work of colleges of supervisors, peer reviews, supervisory handbook, organisation of trainings and seminars.

From CEIOPS to EIOPA



- ❑ The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) was replaced by EIOPA in 2010
- ❑ Prior to that CEIOPS, which was established in November 2003 under the terms of European Commission's Decision 2004/6/EC of 5 November 2003, (later repealed and replaced by Decision 2009/79/EC).
- ❑ CEIOPS was composed of high level representatives from the insurance and occupational pensions supervisory authorities of the European Union's Member States.
- ❑ The authorities of the European Economic Area Member States also participated in CEIOPS.
- ❑ CEIOPS was a Level-3 Committee of the European Union in the Lamfalussy process.
- ❑ In the aftermath of the financial crisis, a group of high level experts, chaired by Mr Jacques de Larosière, to make proposals to strengthen European supervisory arrangements, with the objective of establishing a more efficient, integrated and sustainable European system of supervision.
- ❑ It was at the recommendation of the de Larosière Group that CEIOPS was replaced by EIOPA in January 2011,^[1] in accordance with the new European financial supervision framework. The reorganisation of macro and microprudential supervisory authorities led to the creation of three new European watchdogs, which also included, the European Banking Authority – EBA and the European Securities and Markets Authority –ESMA. These authorities have replaced each of their the previous EU committees responsible for financial market services, having had only consultative competences.

EIOPA: Key Achievements 2016-2017

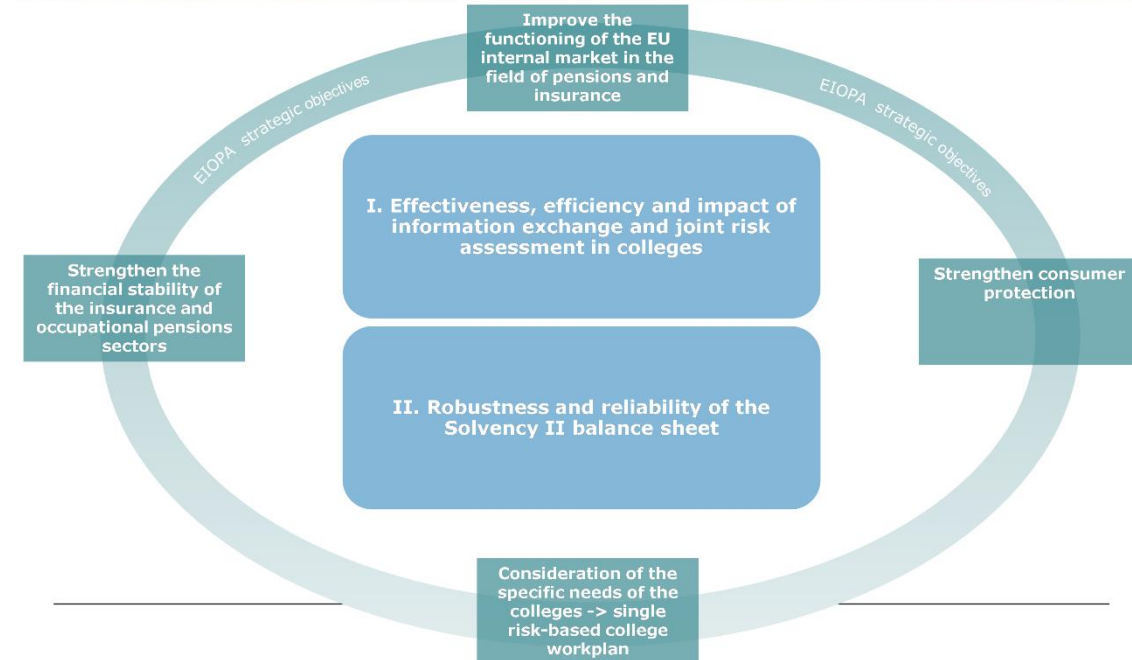
▪ Key examples:

- ❑ Technical Advice to the European Commission on possible Delegated Acts concerning the Insurance Distribution Directive (IDD): February 2017
- ❑ Draft Implementing Technical Standards (ITS) on the Insurance Product Information Document (IPID): February 2017
- ❑ Report on thematic review on monetary incentives and remuneration between providers of asset management services and insurance undertakings: April 2017
- ❑ InsurTech Roundtable – How technology and data are reshaping the insurance landscape: June 2017
- ❑ Scheduled reviews of Solvency II
- ❑ Monthly production of risk free rates and symmetric adjustment of the equity capital risk
- ❑ The EU-U.S. Covered Agreement on insurance and reinsurance measures: January 2017

▪ Supervisory Colleges:

Themes for colleges 2017 – A fully integrated approach

eiopa



European Commission Reform Proposals



- **Supervisory convergence:**

- ❑ The Commission's proposal gives the ESAs coordination powers over day-to-day supervision by competent authorities. The ESAs will set EU-wide priorities for supervision in 'Strategic Supervisory Plans' against which competent authorities would be assessed. Competent authorities will be required to draw up annual work programmes in line with the Strategic Supervisory Plan
- ❑ Responsibility for a 'Union-wide' supervisory handbook, to build on existing supervisory convergence.

EIOPA: EIOPA will be able to better coordinate the authorisation of internal models that insurance companies use to calculate requirements on solvency capital

- **Governance:**

- ❑ The ESAs will be equipped with a solid governance structure which allows decisions to be taken quickly in the European interest while integrating the knowledge and experience of national supervisors. Under the proposals, national supervisors will continue to set overall directions and decide on regulatory matters within the Boards of Supervisors in each ESA. However, newly-created, independent Executive Boards, similar to the boards of the European Central Bank (ECB) and the Single Resolution Board (SRB), will be in charge of case-by-case decisions and certain supervisory matters in each ESA.

EIOPA: Each Executive Board will consist of a Chairperson and full-time members (3 for EBA and EIOPA and 5 for ESMA).

European Commission Reform Proposals



- **Resultant changes to EIOPA's Supervisory Approach**

- ❑ EIOPA will have a stronger role in promoting convergence in the validation of internal models that insurance companies use to calculate requirements on solvency capital. This will help overcome fragmentation and ensure better and more integrated supervision of the large cross-border insurance groups.
- ❑ In-depth thematic reviews on market conduct building, a common understanding of markets practices, identifying potential problems and analysing their impact, as well as developing retail risk indicators for the timely identification of potential causes of consumer detriment.
- ❑ Solvency II allows the use of internal models by insurers, subject to supervisory approval. Despite ongoing work by EIOPA on supervisory convergence in internal models, major inconsistencies remain in the requirements of national competent authorities for internal models across the EU. Divergence in the supervision and approval of internal models may lead to inconsistencies, and creates an unlevel playing field. This is intended to enhance supervisory convergence by setting out in further detail EIOPA's role with regard to internal models through: provisions on cooperation; information sharing; clear powers for EIOPA to adopt opinions and guidelines in this area, and to contribute to dispute settlement.
- ❑ Furthermore, EIOPA will set EU-wide priorities for supervision in the form of a 'Strategic Supervisory Plan' against which all competent authorities will be assessed. Competent authorities will be required to draw up annual work programmes in line with the Strategic Plan. This means EIOPA will be able to ensure convergence with respect to the prudential supervision of insurers who are primarily active in Member States other than where they are established and supervised.



Conduct Supervision Insights 2018

Leticia Cashin

Regulatory Associate Director, KPMG

Agenda

1. **Key definitions**
2. **Consumer Protection in 2017 – Ireland & EU**
3. **Consumer Protection Risk Management Framework**
4. **FSB 2017 Report**
5. **A consumer-focussed culture**
6. **But what does good conduct looks like?**
7. **Consumer Protection in 2018 and beyond**
8. **EIOPA – Single Programming Document (29/1/18)**
9. **IDD & the Consumer Protection Code**

1. Key definitions

Central Bank of Ireland (CBI) PRISM

‘Conduct Risk’ - The risk a financial services firm poses to its customers from its direct interaction with them.



‘Consumer Protection Risk’ - Risks to consumers stemming from a firm’s strategy, business model, **culture**, governance and other internal structures, its systems and processes or the **behaviours** of individuals at any level within the firm”

Insurance Distribution Directive

- Applies in relation to all **‘customers’** – though not a definition
- Exemptions in relation to the insurance of large **‘large risks’**
- **Transposition** due on 23 February 2018

Consumer Protection Code

“person” means a natural person or a legal person.

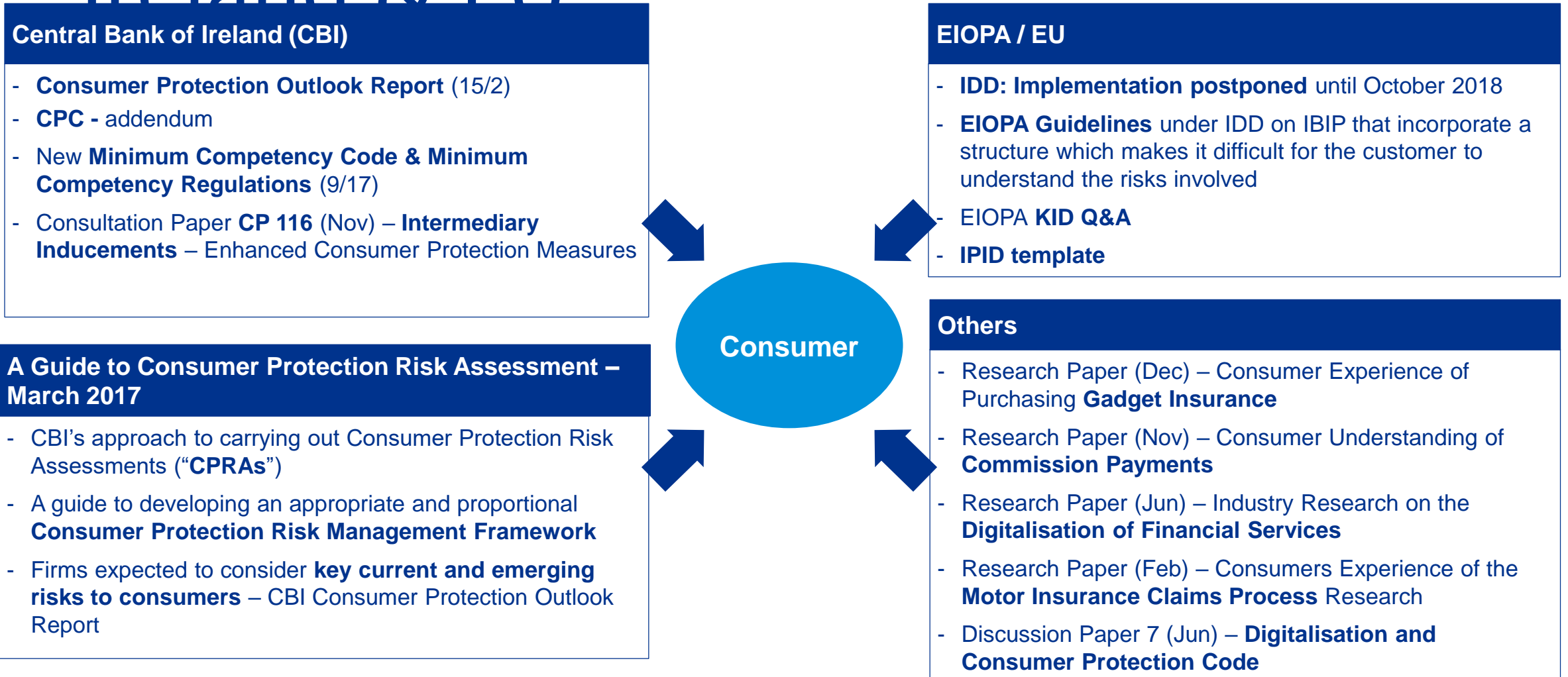
“consumer” means any of the following:

- a) a person or group of persons;** or
- b) incorporated bodies** having an **annual turnover of €3 million or less** in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said €3 million);

and includes where appropriate, a **potential ‘consumer’** (within the meaning above) [Chapter 12, Definitions, Consumer Protection Code]

“customer” means **any person** to whom a regulated entity provides or offers to provide a product or service the subject of this Code, and any person who requests such a product or service.

2. Consumer Protection in 2017 – Ireland & EU



3. Consumer Protection Risk Management Framework



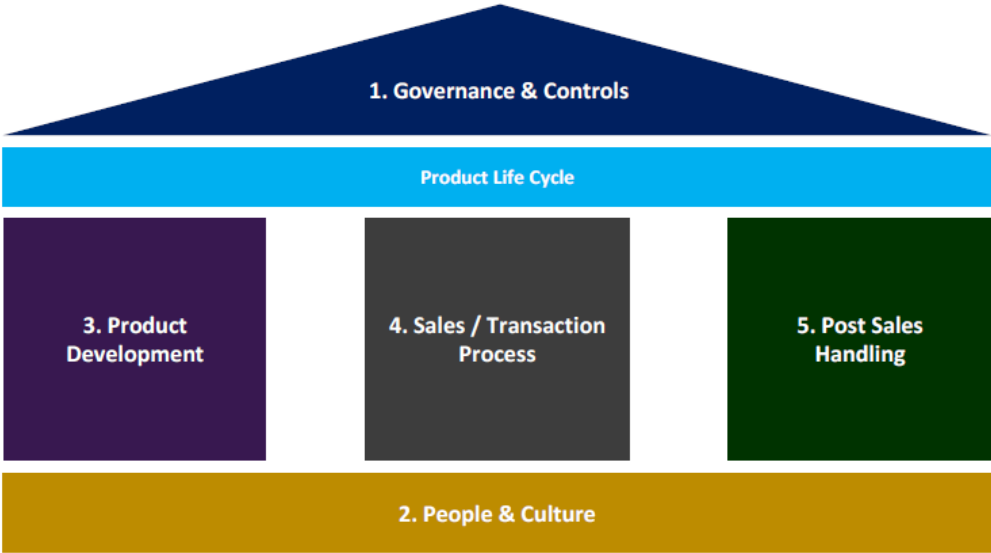
Document: specific CPR Policy?
 separate Conduct Risk register?

Training?

Consumer Protection Committee?
 Head of Consumer Protection?
 CPR owner?

KPIs – which?
 By 2nd and 3rd lines of defence
 Internal Audit & Compliance reviews
 Examples of Consumer Protection Risk Management Information provided

Diagram 2: Modules of an appropriate Consumer Protection Risk management framework



Source: 'A Guide to Consumer Protection Risk Assessment – March 2017' (Central Bank of Ireland)

4. FSB 2017 Report

“Stocktake of efforts to strengthen governance frameworks to mitigate misconduct risks”

- ➔ Firms continue to struggle to develop **good metrics** to monitor progress in improving culture
- ➔ Most firms subsume conduct / misconduct risk under **compliance risk** and **operational risk**
- ➔ Firms asked from improved **guidance from regulators** on setting expectations around a misconduct risk management framework



5. A consumer-focussed culture

CBI Consumer Protection Outlook Report 2017

On developing a consumer-focussed culture

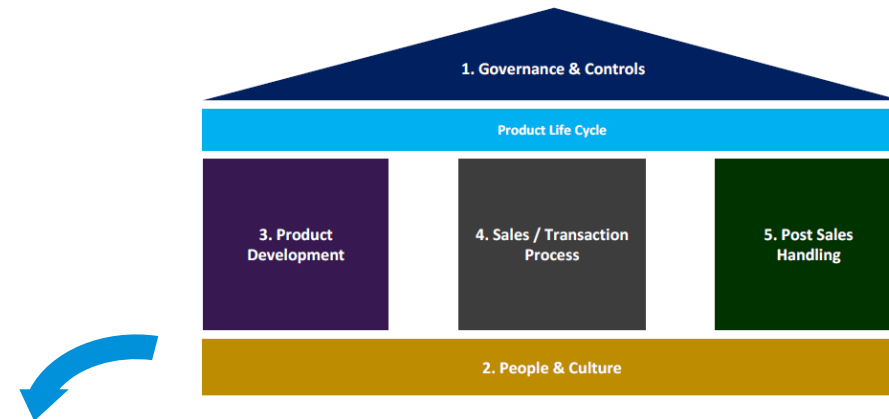
- Role of boards and senior management is key: “*where the right direction is being given from the top, the firm delivers better consumer outcomes*”
- Develop a **Consumer Risk Management Framework**

FSB Report on Misconduct Risk Management by financial institutions

- **Recognised the importance of culture in managing conduct risk:**

- Values
- Tone from the top
- Codes of conduct
- Incentive structures
- Whistle-blower arrangements
- Root cause analysis
- Ethical behaviour towards customers and other stakeholders

- **Firms continue to struggle to develop good metrics to monitor progress in improving culture**



| Module 2: People & Culture | |
|-----------------------------------------|----------------------------------------------------|
| M2.1 – Firm’s Values & Behaviours | M2.5 – People Practices |
| M2.2 – Leadership & Tone from the Top | M2.6 – Training |
| M2.3 – Internal Communication | M2.7 – Performance Management, Reward & Incentives |
| M2.4 – Speak Up, Challenge & Escalation | M2.8 – External Environment & Communication |

Source: ‘A Guide to Consumer Protection Risk Assessment – March 2017’ (Central Bank of Ireland)

6. But what does good conduct look like?

CPC General Principles

- ✓ Acts **honestly, fairly** and **professionally** in the **best interests of its customers** and the integrity of the market;
- ✓ Acts with **due skill, care** and **diligence** in the best interests of its customers;
- ✓ Does not **recklessly, negligently** or **deliberately mislead** a customer as to the real or perceived advantages or disadvantages of any product or service;
- ✓ Has and employs effectively the **resources, policies** and **procedures, systems** and **control** checks, including compliance checks, and staff training that are necessary for compliance with this Code;
- ✓ Seeks from its customers **information relevant** to the product or service requested;
- ✓ Makes **full disclosure** of all relevant material information, including all charges, in a way that seeks to inform the customer;
- ✓ Seeks to **avoid conflicts of interest**;
- ✓ **Corrects errors** and **handles complaints** speedily, efficiently and fairly;
- ✓ Does not exert **undue pressure** or **undue influence** on a customer;
- ✓ Ensures that any **outsourced activity** complies with the requirements of this Code;
- ✓ Without prejudice to the pursuit of its legitimate commercial aims, does not, through its policies, procedures, or working practices, **prevent access** to basic financial services; and
- ✓ **Complies** with the letter and spirit of this Code.

Also:

- **Putting consumers' interest before profits / the insurers' own interests?**
- **Going beyond complying with the CPC?**
- **Selling products that meet the insurance needs of customers and the market? – ensuring financial inclusion**
- **Avoiding poor customer outcomes such as:**
 - Customers being sold products they do not need
 - Customers failing to buy insurance products they do need / being inadequately insured?
 - Customer's reasonable benefit and service expectations not being met?

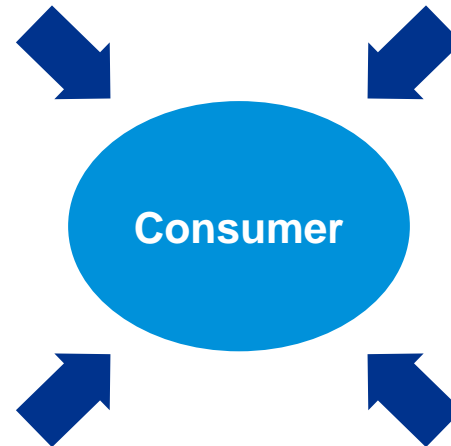
7. Consumer Protection in 2018 and beyond

Central Bank of Ireland

1. Behaviour and Culture Assessments – insurers?
2. Consumer Protection Risk Assessments
3. Thematic reviews / Inspections
4. Surveys
5. 8th Consumer Protection Bulletin 1/18 – Key Trends in Health Insurance Complaints

Regulatory Agenda

- EIOPA Revised Single Programming Document 2017-2019
- March 2018 – meeting of the **G20/OECD Task Force on Financial Consumer Protection**
- March 2018 – meeting of the Governing Council of **FinCoNet**



New legislation & Guidelines:

- **Consumer Protection Code:** more addendums?
 - IDD & June Discussion Paper on digitalisation of financial services
- **January: PRIIPs and KID**
- **October: Insurance Distribution Directive (IDD)**
 - transposition date?
- **EIOPA Guidelines on POG**

Consumer Protection in the Media

- **FT, 30 Jan 2018**, “consumer protection “went into **hibernation**” during the financial crisis
- Zurich’s Group CRO 1/18: **direction of the regulatory agenda?: “Consumer Protection”**

8. EIOPA – Single Programming Document (29/1/18)

EIOPA Objectives and work plan:

- Development in **consumer protection regulatory frameworks** in the EU
- Stronger emphasis on **convergence** of EU supervision of conduct of business
- Promote a more **consumer-centric culture** to ensure transparency, simplicity, accessibility and fairness
- Foresees both conduct and prudential supervisors working together to assess insurers' **POG arrangements**
- May develop **Level 3 Guidelines** on product oversight and governance (POG) arrangements
- Focus on impact of **digitalisation of financial services** on consumers
- Supervision of **conduct of business visits** to EU NSAs in 2018/2019
- Claims handling procedures **thematic reviews**

← IDD a good start – EU transposition?

← Module 2: People & Culture (CBI's Consumer Protection Risk Assessment Framework)

← Could be addressed by CPC – will consider international developments and guidance: FSB, IAIS, FinCoNet, G20/OECD Task Force on Financial Consumer Protection

} CBI queries, surveys or thematic reviews / inspections

9. IDD & the Consumer Protection

IDD

- Applies in relation to **all customers** – except the insurance of ‘**large risks**’
- Applies in relation to **insurance distribution activities in the EEA**
- Regulates the way insurance products are **designed** and **sold** both by insurance intermediaries and directly by insurance undertakings:
 - Additional **knowledge and ability requirements** – MCC/MCR 2017 amended to reflect these
 - Additional **disclosure** requirements – e.g. whether advice is provided
 - Additional **provision of information** requirements
 - **Product oversight and governance** requirements (product approval process, target market,)
- Also relevant:
 - Regulation on the standardised **IPID**
 - Regulation on **product oversight and governance** requirements
 - Regulation on **IBIP**’s information requirements and conduct of business rules
 - Q&A on the comprehension alert in the Key Information Document for Insurance-Based Investment Products (21/12/2017)
 - EIOPA Guidelines under IDD on IBIP that incorporate a structure which makes it difficult for the customer to understand the risks involved

CPC

- Chapter 2 (General Principles) applies in relation to **all customers** in Ireland; all other chapters apply in relation to **consumers** only.
- Applies to **regulated entities operating in Ireland**



Declan Jackson
Director of Government Affairs, Insurance Ireland



Questions and Answers



Thank you

#InsurConReg18

Contact us



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