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Insurance News

January 2004

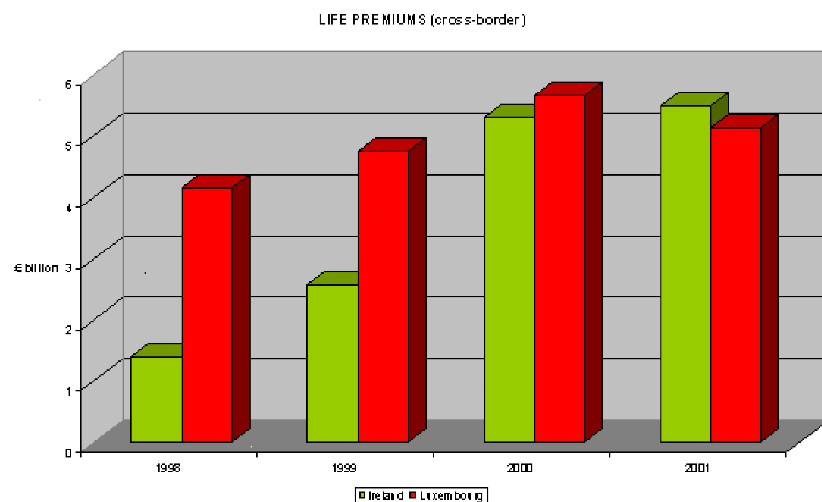
Cross Border Life Assurance - Ireland Versus Luxembourg

(Originally published in "Finance Dublin" , March 2003. Reproduced with the kind permission of Finance Dublin.)

Industry Size

From a slow start, **Ireland** has grown to become a major centre for cross-border life assurance business. By 2001, total new cross-border business had successfully grown in size to equal that of the domestic Irish market (€5.6 billion). During the 3-year period 1999-2001, there were 19 life assurance start-ups.

With a tiny domestic insurance marketplace, the Grand Duchy of **Luxembourg** has also pursued a policy aimed at developing a pan-European insurance industry. In 2001, total new life business written in the Grand Duchy was €5.4 billion (of which €5.1 billion was cross-border). More recently there has been a notable downturn in new business. New business in 2001 fell by 10%, and reports indicate a further fall in 2002, placing Luxembourg behind Ireland in new business terms. There have been comparatively few start-up life operations in Luxembourg in recent years - only 3 in the period 1999-2001.



Leading Companies

Based upon 2001 new business volumes, the top 3 international life companies in **Ireland** were Sanpaolo, Scottish Mutual and Barclays Assurance. Between them, the top six wrote €4.5 billion of business. The UK and Italy are currently the two largest international markets for Ireland's cross-border industry, but there has also been notable recent growth in other EEA and non-EEA countries.

In **Luxembourg**, the leading insurers are Lombard International (owned by a consortium including Standard Life and Aberdeen Asset Management), Investlife (BNP Paribas) and Generalife (BGL/Fortis). In 2001 the top six Luxembourg companies wrote €2.4 billion in premiums. More than 75% of Luxembourg business is written into Belgium, France, Germany and Luxembourg, with "round-tripping" into Belgium accounting for almost half of the total.

Operational Matters

Third-party administration (TPA) of insurance companies is very much established market practice in **Ireland** and has the full support of the regulatory authorities. Many start-up life operations in recent years have been wholly or substantially out-sourced.

In **Luxembourg** on the other hand, TPA is generally not permitted by the CAA. The position is also complicated by insurance confidentiality laws, which place a severe constraint on policyholder information data flows out of Luxembourg. Confidentiality has historically been an important selling point for Luxembourg. How long this will remain so (because of international pressures, see below) however is very much at question.

In terms of operating expenses, there is a very clear gulf between Luxembourg and Ireland, with advantage very much on the side of Ireland (though harmonised inflation of 4.6% pa in Ireland versus 2.8% in Luxembourg is a potential issue in the medium term).

Product Issues

In **Ireland**, the regulations define very broadly the categories of asset that an insurer may, in effect, link to its policies. Other than these broad categories, there is no "permitted links" legislation. Hedge funds and non-UCITS funds are acceptable, provided that they satisfy liquidity requirements. There are no spread of assets rules: 100% of a policy can be invested in a single asset, whether that asset is a share, a fund or a cash deposit.

In Luxembourg, although the CAA has relaxed its investment rules, the requirements are still far more restrictive and prescriptive than found in many other countries. No more than 20% of a policy's assets can be linked to liquid investments (money market/deposit funds etc). *External* funds linked to a policy may only comprise open-ended funds subject to an approval procedure and to the continuous prudential supervision of a government supervisory body. It follows that unregulated funds (including hedge funds), most closed-ended funds, and many other funds are excluded.

Under the CAA rules, investment in external funds is subject to further detailed spread of asset rules. To take just one example, Jersey/Guernsey external funds are limited to no more than 2.5% of an individual policy value. Equally prescriptive rules apply to internal life funds, and the CAA must be notified of each internal fund before its first use.

Regulation, Solvency Requirements & Policyholder Protection

Responsibility for regulation of insurance business in **Ireland**, which currently rests with the Department of Enterprise, Trade and Employment (DETE), will presently pass to the new single regulator (IFSRA).

In Luxembourg, it was evidently with some regret that the CAA moved from an "*a priori*" to an "*a posteriori*" position on conditions and tariffs, following implementation of the Third Life Directive. The Luxembourg Insurance Law requires that assets underlying policyholder provisions must be segregated and deposited with an authorised depository institution - normally a bank - the arrangements with which must be governed by a tri-partite agreement between the insurer, the custodian bank and the CAA.

Minimum solvency margin requirements - whilst in theory harmonised throughout the EU by the European Life Directives - have hitherto been notably different between Ireland and Luxembourg (the Irish model being consistent with that of the UK). In Ireland there has normally been a nil margin requirement for unit-linked (non-protection) business, compared to 1% of policy value in Luxembourg. Solvency rules will be changing in 2004 as a consequence of the "Solvency I Directive", and greater harmonisation in practice is expected.

Policyholder protection throughout the EU is currently under review, as part of the Financial Services Action Plan. Neither Ireland nor Luxembourg, in common with most Member states, have a policyholder guarantee scheme for life business.

International Developments

In Ireland, as elsewhere, the primary response to the terrible events of 9/11 has been acknowledgement of the increased emphasis of combating terrorism through vigilance in anti-money laundering procedures. As an open state, not associated with banking secrecy and confidentiality, Ireland is perhaps better positioned than Luxembourg in the increased demands for transparency post 9/11.

In relation to the forthcoming EU Savings Tax Directive, it is important to note that the measures do not apply to life insurance, pensions or annuity products.

Summary

As a final word, Scottish Equitable - an organisation spanning both Ireland and Luxembourg - have been quoted as saying that "*whilst Luxembourg offers confidentiality and investor protection, its regulatory framework can be restrictive. Dublin enjoys an advantage in terms of greater flexibility and product development potential, as well as increased fund choice. Innovation is only good if you can follow it up quickly, and Dublin gives us the flexibility to do that. Having a lower cost base also makes it 20% cheaper on average than Luxembourg.*"

Enough said?

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