

Summary of Conclusions

Insurance and Reinsurance Stakeholder Group (IRSG)

Second meeting

Date: 9 June 2016

Time: 09:30 – 16:00

Location: EIOPA premises

Contact: peter.kleisen@eiopa.europa.eu

List of participants:

IRSG: Maria Aranzazu Del Valle (Chair), Jean Berthon (Vice-Chair), Alexandre Caget, Petra Chmelová, Alexandru Ciuncan, Desislav Danov, Marie Gemma Dequae, Daniel Eriksson, Teresa Fritz, Benoît Hugonin, Jimmy Johnsson, Olav Jones, Thomas Keller, Roger Laeven, Stefan Materne, Marc Michallet, Anthony O’Riordan, Ioannis Papanikolaou, Lorian Pelizzon, Juan-Ramón Plá, Greg Van Elsen, Karel Van Hulle, Rick Watson, Małgorzata Więcko-Tułowicka, Rickard Ydrenäs

Not present: Huub Arendse, Teresa Czerwińska, Hugh Francis, Annette Olesen, Valter Trevisani

EIOPA: Gabriel Bernardino (Chair), Fausto Parente (Executive Director), Lemery Sandrine (Management Board member), Manuela Zweimueller (Head of Regulations), Justin Wray (Head of Policy), Gabriele Arnoldi (Coordinator External Relations), David Cowan (Project Manager on the Insurance Distribution Directive), Daniel Perez (Principal Expert Financial Stability), Pedro Pires (Principal Expert), Timothy Walters (Insurance Team), Peter Kleisen (External Relations Team), Katalin Almasi (Insurance Team)

European Commission (EC, DG FISMA) : Steve Ryan (via telco)

1. Approval of the agenda

The IRSG Chair welcomed members to the second meeting and introduced the draft agenda.

Conclusion/Action:

- The Agenda was approved.
- In order to maximise the presence of IRSG members in Frankfurt, it is essential to allow sufficient time for discussion on the key initiatives presented. Therefore, when setting up the agendas attention will be paid to include in the morning session all the important issues where a deep debate and dialogue EIOPA-IRSG will be needed.

2. Approval of draft minutes IRSG 26 April 2016

Minutes of the last meeting are available on the IRSG website: [link](#)

3. Updates by EIOPA and the European Commission

EIOPA Chairman Gabriel Bernardino updated the IRSG on:

- EIOPA will be collecting during the summer evidence from its members to feed into the areas of relevance for the SCR review and the areas of impact of Long Term Guarantee

(LTG) measures, both in the frame of the ongoing review projects. Aim SCR review: reduce complexity, ensure proportionality and avoid pro-cyclicality.

- EIOPA has received more than 300 questions on the Solvency II Guidelines in the course of 2015. In particular on reporting and group solvency/supervision areas. EIOPA will continue operating the Q&A process, and seek to improve its efficiency while considering the scope of the process.
- Analysing first disclosures. EIOPA also organized, following a first successful workshop held in Frankfurt, a workshop in the UK on Solvency II public disclosure. The aim of the workshops is to inform industry, consumers associations, financial analysts and journalists to the requirements, but even more to promote the understanding of Solvency II, by highlighting the main principles on which the prudential balance sheet is built, and its relation to financial reporting. Well received and to be continued, building on more experience of voluntary disclosures to come in 2016.
- Personal pensions: EIOPA is currently finalising the last pieces of the final advice. Based on the input received from the public consultation, EIOPA confirms its stances that PEPP is the more efficient solution compared to harmonisation of European Directives applicable to PPP providers.
- PRIIPs: The European Commission are preparing to adopt the RTS at the end of June. EIOPA staff continue to be ready to discuss any further questions from IRSG. EIOPA has also received an additional mandate from the European Commission to look at procedures for PRIIPs that target social and environmental outcomes.
- ESRB work on impact low interest rate environment: Given the current prolonged environment of low and even negative interest rates accompanied with ongoing structural changes in the EU financial system, a Task Force (TF) is discussing whether a combination of cyclical and structural factors might be source of systemic risks, either for the EU economy as a whole or for specific regions and sectors. EIOPA involved in the work. Draft report in 2016.
- International: 2016 Field Testing exercise initiated on end-May and will last until the Summer. Last exercise before the completion of ICS 1.0 (mid-2017). Around mid-July the IAIS should launch the 2nd ICS Public Consultation, covering the whole range of topics under discussion (Valuation of Assets and Liabilities, Capital Resources, Standard Method for the calculation of the Capital Requirements. On G-SIIs/NTNI, documents are being finalized ahead of publication.

Steve Ryan (DGFisma, European Commission) updated the IRSG by phone:

- Motor insurance: On 10 May the Commission adopted a communication on - The adaptation in line with inflation of minimum amounts of cover laid down in Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability - see [link](#)
- Commission published on 8 June an Inception Impact assessment on the revision of material and geographical scope of the Motor Insurance Directive – see [link](#)
- On 27 May 2016 the Commission adopted an Implementing Regulation on the risk-free rate under the Solvency II Directive for the 2nd quarter – see [link](#)
- Various ITS in the adoption phase: (i) equity transitional, (ii) reporting templates and (iii) ECAI mapping.
- Before the end of the month adoption RTS KID PRIIPs. Document is based on the advice submitted.
- Personal pensions: Commission published Call for tenders (focus on fiscal issues, demand side); see more information on the website, [here](#) and [here](#)
- Occupational pensions: IORPII dialogue continues. Progress made, but discussions remain on e.g. cross border area and threshold issues.
- White paper review ESAs, expected publication in 3rd quarter 2016. Focus on finance and funding issues of the ESAs.
- At the request of an IRSG member on the Call for Evidence, COM explained that it will be a factual document. Planned for the summer.
- At the request of an IRSG member of the Green book on financial services, COM stated the retail team within COM will meet Commissioner Hill later this month.

Conclusion/Action:

- None

4. End of mandate report previous IRSG, by Karel Van Hulle and Olav Jones

End of mandate report not yet available. However, the Chair of the previous IRSG, Karel Van Hulle, presented a position paper from the former OPSG and IRSG arising from the Report from the Commission on the operation of the ESAs and the ESFS, published in August 2014, in relation to Stakeholder Groups (SGs). He highlighted the topics on page 3 of the report which see on recommendations to further enhance the visibility and impact of the SGs: (i) exchanges between SGs and the EIOPA BoS, (ii) involvement in Parliamentary hearings with the Chair of EIOPA, (iii) greater involvement and interaction with the Commission, (iv) selective use of press releases, (v) encourage direct input from external parties, and (vi) improve ability to assessment of impact of SG.

The IRGS endorsed these issues, with focus on improved communication, inviting external experts and relation with the Commission. Karel Van Hulle will contact the former Chair of the OPSG and see whether the joint report can be send to the European Institutions. IRSG members stated again that they would appreciate to have a representative of the Commission attending the meetings in person.

EIOPA mentioned a number of tools which are already in place, and which contribute to the transparency and visibility of the SGs: (i) annual activity report of EIOPA with a special section on SGs, (ii) resolution of comments public consultations with separate attention for comments SGs, and (iii) end of mandate report SGs.

Conclusion/Action:

- Chair and Vice-Chair to further elaborate the recommendations of the previous Group, and see how they can be implemented for the current Group.
- End of mandate report previous IRSG will be shared once available.
- Previous IRSG-Chair to contact previous OPSG-Chair to discuss joint submission of the joint position paper to the EU institutions.

5. Consumer protection

➤ Consumer Trends Report, by Alexandru Ciuncan

Alexandru Ciuncan presented the draft IRSG-input as it stands. During the discussion IRSG-members raised issues regarding: comprehensiveness of the IRSG-input, follow-up of the topics flagged in the Consumer Trend Report, need to put the topics flagged into perspective, i.e. by more focus on percentages, avoid that issues in one country are considered an EU-wide problem. At the request of a member of emerging issues can be flagged to EIOPA throughout the year, the EIOPA Chair clearly stated that this is preferable. EIOPA can raise the issues with NSAs in such cases.

Conclusion/Action:

- Further input requested from those Members who didn't respond yet and/or comments on the current draft, by Friday 17 June to Alexandru Ciuncan.
- Update on the work on the Insurance Distribution Directive (IDD), by David Cowan, Project Manager on the IDD

David Cowan, Project Manager on the IDD, explained that the purpose was to discuss the questions raised on slides 11 and 16 of the presentation, rather than to have a full presentation of the slides. In that respect, he started by providing an oral explanation of the questions on slide 11 regarding the delegated acts.

As regards the first question on Product Oversight & Governance (*Do you think there should be a prohibition on the distributor to recommend the insurance product to the customer where he [the distributor] does not receive all necessary product-related information [from the manufacturer] to assess the suitability of the product for the customer?*):

David clarified that this was about the distributor not receiving all necessary product-related information from the manufacturer in order to assess the suitability of the product for the cus-

tomers. In that respect, as regards “all necessary information”, it should be made clear that the distributor might be able to get hold of some product-related information through other sources, than the manufacturer. In addition, the question did not imply a prohibition to “distribute” the product, but a prohibition to “recommend” the product, as a prohibition to distribute would contradict the appropriateness assessment under IDD, which allows for the sale of an inappropriate IBIP to the customer, provided a risk warning is provided to the customer. The idea behind this question was to assess whether more pre-emptive action was needed to tackle the consequences of mis-selling arising from poor product design, rather than using the IDD’s sanctions regime to only tackle the problem of mis-selling *ex post*. It was recognised that the whole issue of Product Oversight & Governance went much broader than just this question.

IRSG Members generally raised concerns about over-regulation by introducing a prohibition of this kind at Level 2 and in particular, in defining what “all necessary information” meant in this context, which could lead to confusion and a tick-box approach, with some suggesting a materiality threshold for the information or “all appropriate information” as a more apt alternative. In addition, better supervision by national authorities could address these issues at an earlier stage. Conversely, other Members stressed the importance of the need for professionalism on the part of the distributor and argued that it was important for the distributor to take responsibility for recommending products where they did not have sufficient information from product manufacturer as consumers would rely on the information provided by the distributor.

As regards the second question on Inducements (*what are your views on the Blacklist, as presented on slide 8? Are there any additional practices you would consider to fall under the blacklist?*):

David clarified that the European Commission had asked EIOPA in its Request for Advice to develop both a “Blacklist” and a “Whitelist” of inducements, although the terminology of Blacklist was not formally used by the Commission and was more colloquial parlance. In addition, EIOPA’s intention was not to create a “safe harbour” through a legal assumption as to when certain practices would have a detrimental impact on the service to the customer, but to illustrate the practices which could have a “high risk” of causing a detrimental impact. David clarified that the types of practices being targeted were excessive payments, profit commissions, contingent commissions/volume overrides and upfront commissions and were based on national supervisory experiences. It was clarified that EIOPA’s aim was to ensure compatibility with the approach taken under MiFID II on inducements, but it was impossible for EIOPA to ensure consistency, due to the fact that the decisive criterion under IDD (“no detrimental impact”) was fundamentally different to the “quality enhancement” criterion in MiFID II.

There were mixed views from the IRSG Members on this issue with:

- Some Members very much opposed to the use of the term “Blacklist” and the practical/legal implications in terms of using such a subjective list such as the potential for a tick-box approach and inadvertently, creating a “safe harbour” as even if a Whitelist was not elaborated by EIOPA, a White List would automatically be interpreted as the inverse of the Blacklist;
- Other Members supported EIOPA’s level of ambition in elaborating a blacklist, citing the need for EIOPA to take a brave and radical due to the level of consumer detriment that had arisen out of the payment/receipt of inducements.

As regards the third question on Suitability/Appropriateness (*When considering protection elements in an IBIP e.g. biometric risk cover, are there any insurance/specific types of information to be obtained regarding the customer’s “risk profile” to determine whether an IBIP is suitable or appropriate?*):

David clarified that the purpose of this question was to ascertain whether there were any insurance-specific elements that should be taken into account when assessing the suitability or appropriateness of the investment element of the IBIP, rather than adopting a strict “copy and paste” approach from the one taken in MiFID II. “Risk profile” related to the customer’s knowledge & experience, investment objectives and their ability to bear losses.

There was more limited feedback from IRSG Members on this point with Members stressing the importance of taking into insurance-specific elements such as the biometric risk cover into account to ensure protection of the family.

As regards the questions on slide 16 (IPID), David explained that this was running to a different timetable to the work on the delegated acts so there was still time for the IRSG to provide input to the process as the plan was only to launch a consultation at the beginning of August. It was also clarified that EIOPA was only working on the "format" of the IPID and not the content, as this was already specified at Level 1 and the IPID was intended as a pre-contractual document and would not replace the policy terms & conditions. Any form of customer personalisation would be carried out via the policy terms & conditions.

IRSG Members' first impressions of the best scoring designs from the 1st phase of consumer testing were positive, saying that this marked a good first step and stressed their desire to be more involved in the process.

Conclusion/Action:

- More detailed discussion on the topics to take place in the subgroup on Distribution that will be set up.

➤ Involvement of the IRSG in the thematic reviews of conduct issues

Pedro Pires (Cross-Sectoral and Consumer Protection Unit) introduced the topic presenting the methodology for thematic reviews and EIOPA's suggestions on how and at what stages of the exercise would IRSG's involvement could be most effective and valuable. One IRSG member questioned whether a thematic review necessarily leads to additional regulation. EIOPA staff clarified that there is no presumption on the type of follow-up work. Only following the thematic review, and depending on the findings, is EIOPA in a position to assess if, at all, there is a need for further investigation or regulatory measures.

IRSG members questioned how thematic review topics are chosen and if input from consumer associations is considered in the process. EIOPA staff explained that possible topics are drawn from multiple sources including EIOPA's consumer trends reports and that the decision on the actual topic is taken by EIOPA's BoS. On the input from consumers, EIOPA's Chair clarified that EIOPA gathers information from BEUC and national stakeholders in preparing consumer trends reports.

IRSG's Chair concluded pointing out IRSG would like to be involved at the early stages of thematic reviews, in particular in identifying potential topics and issues.

Conclusion/Action:

- EIOPA to continue to update IRSG on progress of current thematic review, and consider additional options for gathering IRSG input on the review.
- EIOPA to consider options for early involvement of IRSG for future thematic reviews.

6. Focus of upcoming IRSG work

The IRSG-Chair presented the envisaged subgroup structure. Based on the discussion the following changes will be made to the proposal:

- Merge the 2018 review with the work on Long Term Investments
- 'Better regulation' as a title will be changed
- 'Stability' will be merged with some topics under the subgroup 'others'
- 'Risk Based Supervision' will be changed into 'Market Conduct Supervision'

At the request of an IRSG-member to include a topic on communication issues, the EIOPA

Chair reminded the Group, notwithstanding the power of the IRSG to set-up its own working structure, that its main tasks under the EIOPA Regulation is to submit opinions and advice to EIOPA.

Conclusion/Action:

- Consumer protection and better regulation must underpin all IRSG work
- IRSG members are suggested to choose at least one of the three Subgroups so it could be made use of the skills, expertise and knowledge of all IRSG members
- Proposed subgroup structure with some modifications agreed upon.
- Chair and Vice-Chair to modify the proposed structure based on the discussions.
- EIOPA to circulate the revised proposal, together with an overview of the volunteers per subgroup.
- Subgroup leaders, in close collaboration with Chair/Vice-Chair and EIOPA, to start working on the mandates for the subgroups. These mandates will be on the agenda for approval in the next meeting.

7. Insurance Stress Test 2016

Presentation is available on the IRSG website: [link](#)

Daniel Perez, Project Manager on the 2016 Insurance Stress test, provided an update on the exercise. He thanked the IRSG for the suggestions and comments provided during the informal consultation of the stress test package prior to the launching of the exercise. It was appreciated due to the tight timeframe the effort made by IRSG members to contribute even before the first meeting in its new composition. Most of the suggestions by IRSG were taken into account in the final package published on 24 of May and are appropriately considered in the communication from EIOPA.

IRSG Members raised questions/comments around the following issues:

- One member questioned the need for EU-wide stress test when there is zero records of insurance failures in some countries. Also it was raised the point of whether the stress test is the adequate instrument or it is somehow redundant considering that Solvency 2 capital requirements are based on a stressed situation and the test may be seen as a stress over stress. EIOPA staff clarified that every country in Europe decided to have supervisory regimes and capital requirements to protect consumers and taxpayers. In this context the EU-wide stress test was introduced in EIOPA regulation conscious of the Solvency 2 characteristics as a supervisory tool to assess vulnerabilities and identify potential built up of systemic risks. The aim is to make insurance industry aware of the risks at an early stage which allow taking actions which are useful in avoiding negative consequences for the financial stability and in consequence for consumers and taxpayers. The compatibility of the stress test as risk assessment tool and the solvency 2 regime is implicitly acknowledged by the fact that solvency 2 also requires undertakings to use this tool when assessing their own risk.
- One member asked whether the scenarios are common for all participants or specific depending on countries or business types (e.g. direct insurers or reinsurers). EIOPA staff clarified that unlike the stress tests that undertakings have to run with scenarios based on their own risk profiles, the focus of the EU-wide stress test is broader and the scenarios are common and based on the major risks at European level. In particular this year, attending at the specific circumstances, the exercise focuses on market risks identified by EIOPA in liaison with ESRB rather than on underwriting risks. It is expected however that the impact of the scenarios varies per country and business type and this will be captured in the analysis. It is precisely the concerns on the challenge that current low interest rate environment poses on life insurers providing long term guarantees which led EIOPA to select the scenarios and the criteria to select participants in the exercise.
- One member highlighted the severity of the shocks in the insurance stress test which exceeds in his opinion the ones in the banking stress test. EIOPA staff explained that there are reasons justifying the differences in the scenarios proposed, because these scenarios need to be relevant for each sector and so scenarios which shocks insurers' balance sheets may not be stressing for banks and in the other way around. However the main difference

in selecting the shocks comes from the different nature of the exercises. While the banks who failed any of the scenarios tested in past stress tests were requested to raise capital to cover that gap, the insurance stress test is not a pass or fail exercise and EIOPA does not pursue a recalibration of the solvency regime.

- Some members underlined the need to reduce the burden created by the different reporting obligations from insurers and asked whether there is room to better align the calendar of the different data collections especially to avoid such obligations during vacations. In this context it was mentioned that providing a known and stable framework for the stress test, even announcing the scenarios to be tested in the future exercises, will ease the participation in the exercise. EIOPA staff explained that launching of the exercise was aligned with the supervisory solvency 2 day one reporting for the solo undertakings which are addressed by the stress test. Given the different vacation seasons across Europe and that also supervisors need to validate and analyse the data once it is submitted by the insurers it is not straight forward a one-fits-all calendar. EIOPA staff also clarified that it is an EIOPA duty to run stress test according to its regulation and instead of yearly it was decided to alternate this every second year between insurance and IORPs. The stabilisation of the circumstances and especially the consolidation of the solvency regime will allow to stabilise the stress test framework. However instead of fixing the scenarios which may or may not fit the purpose under any economic circumstance in the future, EIOPA is more supportive of a known tool box which could allow for a more focused and tailored exercise every time.
- The same member also questioned on the selection criteria and whether the occupational pensions obligations which are excluded from Solvency 2 should be part of the exercise. EIOPA staff quoted the technical specifications where the criteria is fixed at EIOPA level based on the type of business which includes long term guarantees and the minimum market share per country. According with those criteria it is for the NCAs to select the participants in their respective markets.
- There was from some members the appreciation for the considerations given by EIOPA to the suggestions provided by the IRSG during the informal consultation. It was appreciated in particular that the stress test package was published one week before than originally planned, in order to allow for more time to produce the results by participating undertakings and the fact that finally there's no request for recalculating the SCR and MCR after the shocks.

Conclusion/Action:

- No further input/participation is asked from IRSG-Members until publication of the exercise. A telco will be organised with interested IRSG-members before the publication of the results. An event will be organized in January 2017 to discuss the Insurance Stress Test 2016 exercise.

8. Risk Free Rate methodology

Presentations are available on the IRSG website: [link](#)

Justin Wray, Head of Policy Unit gave a presentation on the Ultimate Forward Rate and on updated the IRSG on the Representative Portfolios.

The representative portfolio will be discussed in the UFR workshop on 14 June.

IRSG members made the following points:

- While EIOPA's proposals were based on legislative requirements, that same legislation required the UFR to be stable over time and it could be questioned whether EIOPA's proposals were consistent with that.
- It is very difficult to say what is the correct UFR.
- The impact assessment, while welcome, needs to emphasise more the impact on those undertakings which are most affected.
- The timing of any change to the UFR should be linked to either the review of the solvency capital requirement in 2018 or to that of long term guarantees in 2021.
- If the UFR were to move because of changes to changes in interest rate expectations, then the risk margin, which is also driven by interest rates, should also change.

IRSG members had no comments on the representative portfolios.

Conclusion/Action:

- IRSG is asked to comment on the UFR public consultation by the deadline of 18 July.
- If any other member would like to be part of the UFR sub-group, should inform Olaf Jones.
- Methodology to derive the UFR and its implementation will be discussed during Risk Free Rate Workshop with Industry on 14 June.

9. Feedback on IRSG responses to Public Consultations

Presentations are available on IRSG website: [link](#)

Public Consultation on "Further advice on Solvency II requirements for investments by insurers in corporates"

Tomas Walter, Senior Expert Insurance Policy and Timothy Walters, Insurance Policy Expert, gave a presentation on EIOPA's reaction to the main IRSG comments on the Consultation paper on advice on investments in infrastructure corporates. EIOPA's Advice is due to be finalised by the end of June.

Issues:

- EIOPA's approach to analyse listed infrastructure corporate companies was challenged as not representative of the risk of privately placed transactions. It was stated that in the absence of data, an approach based on judgement would have been more appropriate. EIOPA staff stated that it is aware of the limitations of its approach, but as explained in the CP, it is still considered to be the most appropriate.
- It was argued that the analysis by Moody's on infrastructure has shown that the recovery rates for secured debt in infrastructure corporates is similar to that of infrastructure projects. EIOPA staff responded the better recovery rates for corporates should be reflected in the spreads which EIOPA has analysed.
- EIOPA's recommendation for a separate treatment for infrastructure projects and corporates was disputed on the basis that it will result in regulatory arbitrage, since over time a project may adopt a corporate structure. EIOPA staff responded that this issue is addressed by the changes to the qualifying criteria for infrastructure projects which no longer provide a restriction to project finance (SPVs).
- It was stated that the requirement for diversified revenues may exclude social infrastructure, such as hospitals. EIOPA staff clarified that the diversified revenues requirement refers one of the following elements: location, activities or payers (not all three elements). It was also stated that the requirement would apply to infrastructure corporates but not to infrastructure projects; thus where there is a single asset entity with a single payer, this may qualify as an infrastructure project.

Consultation Paper on the "proposal for amendments to ITS on the templates for the submission of information to the supervisory authorities"

Manuela Zweimueller, Head of Regulations provided a presentation and explained the background to the consultation and the feedback received.

- The objective of the consultation was to reflect in the reporting ITS the amendment to Commission Delegated Regulation introducing tailored treatments to insurers' investments in infrastructure, in European Long-Term Investment Funds (ELTIFs) and in equities traded through multilateral trading platforms.
- The main comments and the resolutions, adaptive and corrective publications of taxonomy and the summary timeline on reporting can be found in the presentation.

Conclusion/Action:

- None

10.AOB

- Remaining IRSG meeting dates 2016: Thursday 15 September, Monday 28 November (Joint BoS, IRSG and OPSG meeting).
- Dates for IRSG in 2017: Wednesday 15 February, Wednesday 5 April, Wednesday 7 June, Tuesday 12 September, Tuesday 28 November (Joint BoS, IRSG and OPSG meeting).