

## Summary of Conclusions

### Occupational Pensions Stakeholder Group

#### Fourth meeting

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Date: 19 May 2014

Time: 09:30 – 16:00

Location: EIOPA premises, Frankfurt

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#### List of participants:

OPSG: Benne Van Popta (Chair OPSG), Matti Leppälä (vice-Chair OPSG), Charlotta Carlberg, Laure Delahousse, Alberto Floreani, Bruno Gabellieri, Ruth Goldman, Fritz Janda, Thomas Keller, Michaela Koller, Niels Kortleve, Pierpaolo Marano, Hristina Mitreva, Marianne Moscoso-Osterkorn, Ellen Nygren, Manuel Peraita, Guillaume Prache, Joachim Schwind, Ján Šebo, Federica Seganti, Marius Serban, Philip Shier, Klaus Struwe, Douglas Taylor, Martine Van Peer, Chris Verhaegen, Neil Walsh and Allan Whalley.

EIOPA: Felix Hufeld (Management Board), Gabriel Bernardino, (Chair), Carlos Montalvo (Executive Director), Brendan Kennedy (OPC Chair), Janneke Toussaint, (lead OPC subgroup Effective Investment Decisions), Manuela Zweimueller (Director of Regulations), Justin Wray (Head of Policy Unit), Gabriele Arnoldi (External Relations coordinator), Giulia Conforti and Konstantinos Karountzos (Experts External Relations team), Lay Peng Lim (Expert Cross-sectoral and consumer protection unit), Beata Kaminska, Cees Karregat and Barthold Kuipers (Experts Pensions team), Tomas Walter, Expert Insurance team.

European Commission: Jung Lichtenberger, Insurance and Pensions Unit, Directorate General Internal Market and Services.

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### 1. Approval of the draft agenda and 2. OPSG Chair update and report

OPSG members approved the agenda without comments.

### 3. EIOPA and European Commission general update

#### Update by EIOPA Chair:

- On Insurance:

The Delegated Acts (DA) are being finalised by COM. COM intends to adopt them in September this year, following this the European Parliament (EP) and Council will have a period of scrutiny (yes or no, no modifications) potentially running up to February 2015.

### Solvency II Guidelines (GLs) and Implementing Technical Standards (ITS) timeline:

First set of ITS on approval processes has been published for consultation (until end June).

First set of GL will be released for public consultation on 2 June, consultation period of 3 months until end August.

This will be followed by a second set of GL and ITS, which will be finalised by June 2015 following public consultation to be launched in Autumn this year.

#### ▪ Peer Reviews Projects:

In 2014 EIOPA is launching 3 new peer reviews.

- Q1/Q2: Supervisory practices for **Freedom to Provide Services** (FOS),
- End of Q2: Supervisory practices for **Joint On-site Inspections**, and also
- Supervisory practices for **IORPs** (based on article 12 of the IORP Directive), for which the Review Panel has started deliberations on the scope.

#### ▪ Guidelines on LEI (legal entity identifier)

EIOPA is preparing a Guideline for NCA's on the use of the LEI . The LEI project is a global initiative based on an endorsement from the G20 of a proposal by the Financial Stability Board. EIOPA is participating in this initiative as Member of the LEI Regulatory Oversight Committee and via its technical working groups.

EBA has issued similar Guidelines in January, and in ESMA the use of LEI is part of the ITS package (the initiative originates from the markets area).

### **Conclusions:**

- EIOPA will invite OPSG to share any views on the draft scope for the peer review project on IORPs in July 2014.
- OPSG is invited to take part in the public consultation on the Guidelines on LEI (end of June) => draft guidelines could be shared by mid-June.
- It was agreed to include the topic on Pensions stress test in the OPSG meeting in July.

### **Update by the European Commission representative, Mr. Lichtenberger:**

- On the IORP proposal: This process took longer than expected since the 2008 public consultation. The aim was to address some demographic challenges and to contribute to the robustness of financial markets. The proposal tries to cover IORPs specificities. Among the measures proposed:
  - Smoother process for cross-border activities, which now are complex and costly. Objective is to have no additional costs because of cross border. No IORP market in some MS;
  - Introduction of a more professional governance;
  - Reporting is less burdensome than ORSA;
  - New principles on remuneration but no remuneration committees;
  - Information to members and beneficiaries for the accumulation phase but not for other phases;

COM is expecting a swift adoption of this proposal.

## **4. Revision of the IORP Directive**

Justin Wray, Head of Policy Unit, in his [presentation](#) highlighted the objectives and advantages of the proposal, including:

- **Removing** remaining **prudential barriers for cross-border IORPs**. In this respect, EIOPA is organising a Seminar on issues arising when going cross-border on 26 May 2014.
- Ensuring **good governance and risk management** of IORPs:
  - Members of the governing bodies to have **fit and proper requirements** on key functions: risk management, internal audit, actuarial function.
  - Sound **remuneration policies** regarding staff/management of IORPs – to be publically disclosed=> Empowerment for delegated act

As part of the **risk management**: risk evaluation for pensions – EIOPA has some experience in this area=> Empowerment for delegated act
- Providing clear and relevant information to members and beneficiaries:
  - Public disclosure of the pension scheme’s conditions (on IORP’s website)
  - **Pension Benefit Statement** (PBS) – EIOPA will be involved in this area => Empowerment for delegated act
- A **modernised** approach to the **supervision of IORPs**, by ensuring that supervisors have the necessary tools to effectively supervise IORPs:
  - Home Member State has the sole responsibility for the supervision of IORPs in its jurisdiction
  - Supervisory review process

On the timeline, it is still very uncertain. Once the new EP and the Council assess the proposal, the adoption of delegated acts will follow. Envisaged transposition date: 31 December 2016.  
On the Delegated Act procedure: DA is an act adopted by COM but EP/Council have a period of 3 (+3) months to object/reject (but not amend) it.

## Questions & Answers

- Why is there so much focus on cross-border delivery of IORPs? Tax issues in transferability has not been touched upon by COM.
- Why is the full funding requirements still maintained?
  - COM: The intention was to remove the obstacles at prudential level and to make cross-border a smooth procedure. The proposal includes new options for companies that want to go cross-border, such as the possibility to establish links with non-profit IORPs in other countries.
  - COM: The full-funding requirement is kept due to the not harmonised Solvency rules and in case of transfers, the member approval is mandatory.
- The PBS should contain key information for participants, such as re-evaluation of annuities and the information on coverage ratio and its risks. Is this comparable to the KID for UCITS? The PBS seems to contradict the Max Report approach to simple information.
  - COM: PBS is an overview of main elements of schemes. Standardisation is beneficial and leads to costs’ reduction; the information should be comparable. Commission will ask EIOPA’s advice in form of Delegated Acts (DA) for this, including annuity rates.
- What does the Risk evaluation for pensions entails?
  - COM: The format is not yet defined (will be defined by DA), but it will be a narrative description of what needs to be done if there is risk management system in place, rather than quantitative description (no capital add-ons objective; no link to HBS).
- Professional qualifications: is the intention to preclude members from the Governing Body?
  - COM: The proposal does not deal with composition of governing bodies, i.e. how members are designated, as this is within the remit of the Social Labour Law (SLL).

Members do not need to be part of a professional association, but should be able to understand what financial advisers tell them, in order for them to take decisions.

- Draft Art. 60: defines the scope of prudential supervision, but not the national social/labour law. Why?
  - COM: This is a non-exhaustive, definite list for the COM, but it also depends on the work at the EP/Council and what they will want to amend; COM wants to avoid prudential measures from being labelled under social/labour law.
- On sound remuneration policies: will there be a more detailed description of Cost and Charges in the DA?
  - COM: Information on costs and charges will be on general costs, not just remuneration. EIOPA: This is a good area for developing DA.

The COM representative informed that the Report on personal pensions could be issued before summer break. He concluded that COM will ask EIOPA how to deal with PBS information (3rd pillar).

### **Next steps in OPSG:**

- On DA: after IORP proposal is adopted, even though work may start before: this should be added to the 2015 OPSG work plan.
- OPSG Chair: OPSG mission is to comment on what COM and EIOPA are proposing; OPSG needs to see first how far OPSG can go with a common statement.
- Action point: Chair (supported by others) will draft a note/feedback statement for the July meeting.

## **5. OPSG presentation on Decumulation**

Matti Leppala, Vice-Chair of the OPSG, presented the OPSG subgroup on DC views on Decumulation ([link to presentation](#)). After introducing the topic (definition, risks, etc), he provided a thorough overview of the previous studies, guidelines and recommendations done in this area by several Institutions (OECD, World Bank and EU COM).

He proposed to the subgroup on the Occupational DC to mirror the Occupational Pensions Committee (OPC) work in:

- Current practices, approaches and options available to members at the payout phases - Decumulation of IORPs, both DB and DC in the various Member States;
- Aim to prepare an OPSG response to the "Report on fact finding in respect of practices at the decumulation phase for occupational pensions";
- Link to get the consumer perspective from the subgroup on Consumer Protection;
- In his view, the OPSG role is to be only technical, not to formulate pension policy OPSG work on decumulation.

Amongst the possible topics, he identified:

1. Hurdles for cross border annuity markets.
2. Other possible annuity providers.
3. Financial literacy and decumulation phase
4. Importance of good default systems for good outcomes. In which way does a DC default need to be different from a DB fund?
5. Technical issues in how to organize the annuity market in order to get good annuity pricing.
6. Need for different decumulation products; no single product can address all needs and risks.
7. Recent payout phase policy reforms in the Member States
8. Others? E.g. Information to scheme members in IORP II proposal.

## Comments:

- A member pointed out that the topics of this work stream are also covered by the COM Financial Services User Group (FSUG). Being the Vice-Chair, he offered to coordinate exchange of draft papers.
- Another member suggested making recommendations for increasing transparency during the transition period (from accrued money into annuity).
- Another member suggested providing good practices policies focusing on the needs of members, which might not always be covered by annuities.

## Conclusions:

- OPSG members agreed with the following topic prioritisation:
  - ❖ Nr. 3 "Financial literacy and decumulation phase" – without overlapping the work conducted on investment decision by the subgroup on consumer protection/task force 3.
  - ❖ Nr. 5 "Technical issues in how to organize the annuity market in order to get good annuity pricing"
  - ❖ Nr. 6 "Need for different decumulation products"
- The Occupational DC Subgroup was invited to table a draft Opinion for the OPSG meeting in October.

## 6. OPSG presentation on EMIR

Niels Kortleve presented the work of the work stream on EMIR (European Market Infrastructure Regulation). The slides are available [here](#).

Among the subgroup proposals he highlighted:

- OPSG in principle positive to EMIR => Increased transparency, increased financial stability, better functioning of financial markets;
- COM should prevent (over)piling of regulations and solve issue of conflicting regulation;
- Both IORP and EMIR target to lower financial risk, causing overlaps with possibly too much safety and higher costs;
- EMIR will lead potentially to less hedging and thus paradoxically to higher risks;
- COM, ESMA and EIOPA should recognise special position of IORPs (low counterparty credit risk) and possible negative impact on its stakeholders (in form of lower, less secure benefits and/or higher contributions). Initial margin requirement should reflect low default risk of IORPs;
- COM, ESMA and EIOPA should mitigate possible negative impact on IORPs;
- COM should link 3 year exemption period for IORPs to start date of mandatory clearing (end 2014 at the earliest).

Among the possible measures to mitigate impact, he suggested:

- Recognition of low risk characteristics of providers of pension scheme arrangements via:
  - Giving direct access to ECB
  - Direct access to CCP
  - Fully segregated accounts
  - Solution for non cash variation margin
- Guaranteed return of specific collateral posted (same ISIN - International Securities Identification Number)

Finally, he opened the debate for joining positions with the IRSG.

### **Comments:**

- Tomas Walter, EIOPA expert leading the work on EMIR made the following remarks:
  - EIOPA is aware of the EMIR difficulties, has been in discussions with industry for some years (e.g. discussion paper on this topic was issued in 2012);
  - EIOPA is now engaged in discussions with the ESAs and the Commission;
  - There is no clear legal basis for exempting IORPS from margining requirements for OTC transactions exemption for IORPs.
  - A possibility to reduce the burden for IORPs would be to facilitate the use of non-cash as collateral.
- An OPSG member expressed that the problems described are largely the same as the ones faced by the insurance industry, therefore this topic should be dealt jointly with the IRSG. The OPSG Chair welcomed the discussion on the collaboration.
- The question was posed on how detail work should be carried out by the OPSG subgroup. EIOPA Chair replied that feasible ideas and practical solutions on how to modulate the requirements in a less burdensome way would be welcome.
- Niels Kortleve suggested approach was to mitigate the negative impact on IORPs.

### **Conclusions & Action points:**

- The subgroup intends to write an opinion on behalf of OPSG, of which the summary will be submitted to the public consultations.
- On the concrete timeline:
  - ❖ By June 17, a draft paper will be sent to IRSG and OPSG;
  - ❖ Following IRSG meeting 24 June: IRSG and OPSG feedback is expected by June 26th;
  - ❖ Draft opinion to be circulated to OPSG on 30 June ahead of the OPSG meeting on 7 July;
  - ❖ Deadline for the Public Consultation => 14 July.

## **7. EIOPA Occupational Pensions Committee (OPC): up-date on key developments, including:**

*All presentations are available [on-line](#).*

7.1. **Project on Cost and charges** introduced by Cees Karregat. In his presentation, he divided the focus of this work in two stages:

(1) First, a fact finding exercise on:

- Analysis by whom costs and charges are borne -by members/beneficiaries/sponsoring undertakings and/or IORPs;
- How costs and charges are broken down and disclosed, and to whom;
- Legal and supervisory tools.

(2) Secondly, identification of good practices:

- Existing good practices in Member States;
- Investigate if it is possible to develop common definitions and standardised breakdowns of costs and charges.

Finally, he welcomed the OPSG opinion on the context of data. Regarding the section of the PBS (Pension Benefit Statement) dealing with costs, he doubted whether it will be sufficient to show unjustifiable results in returns linked to costs.

## Questions & Answers

- A member asked if the study will cover the fact that providers seem unable to make the addition of costs available for participants.
- Several members highlighted the need to identify what type of services the members/participants are paying for, as these may vary. E.g. special services as financial adviser, but also administrative (including data protection) and commercial costs, etc.
- Another member suggested to look at the good practices in MIFID and UCITS provisions.
- A member's view was that no studies have shown a correlation between costs & performance/services. Besides, another member added that there was a correlation between costs and size of assets.

### 7.2. **Project on Investment choices**, presented by Ianneke Toussaint, leader OPC SG Effective Investment Decisions.

She referred to the EIOPA „Max Report“ based on behavioural economics and presented the project/questionnaire to describe the choice architecture for Max in 3 main areas: information, distribution and features of the scheme. The final aim would be to unravel for each step the investment decision/choices, the associated risks and the supervisory activities/legal requirements.

## Questions & Answers

- A member representing intermediaries stressed the need to maintain personal advice in the distribution channel and to have it regulated.
- Another member suggested EIOPA to look into the work conducted by OECD on default option/information or examples from other countries, such as the UK. Other members were skeptical on the default option being in the best interest of members.
- Another member expressed the view that investment choice is linked to the decumulation of the product.

### 7.3. **Developments on Solvency work** and the Holistic Balance Sheet (HBS) were presented by Barthold Kuipers.

As to the timeline, he informed OPSG members that the Public Consultation on the 5 areas of work (covering sponsor support, supervisory responses, discretionary decision-making processes, benefit reduction mechanisms and contract boundaries) is expected from end of September to mid-December 2014.

The work is divided in two parts: (1) Valuation of the HBS and (2) Recognition of those items in the balance sheet and the design of the supervisory framework.

## Questions & Answers

- The question was raised who was going to decide on the options for supervisory frameworks underlying the holistic balance sheet. EIOPA Chair answered that EIOPA intends to present an advice to the Commission by the end of 2015 taking into account the outcomes of the public consultation and the quantitative impact assessment.
- Another question related to the approach to the next QIS and stress test on pensions in 2015. EIOPA Chair responded that the aim was to conduct both exercises at the same time in order to reduce the burden on IORPs and supervisory authorities.

## Conclusions:

- Both EIOPA projects on cost and charges and investment choices were much welcome by the OPSG. The OPSG subgroup on Occupational DC will prepare feedback statements in due course.

- Solvency work – it was agreed that EIOPA would share the draft paper sent to the September Board of Supervisors ahead of the public consultation.

## 8. EIOPA presentation on Consumer Protection

Lay Peng Lim, expert in the Cross-Sectoral and Consumer Protection Unit, presented the Questionnaire on EIOPA Annual Consumer Trends Report. In her [presentation](#) she encouraged OPSG members to help EIOPA identify some of the main trends and/or issues in areas of consumer protection observed in 2013, such as (but not exclusively):

- Governance/management of pension schemes: charges, value for money, options to switch funds;
- Disclosure: lack of relevant, or inappropriate information provided;

She added that the IRSG has also provided such an input, which together with the OPSG, will be included for the purpose of identifying trends in the Final draft of the Consumer Trends Report to be submitted to EIOPA Board of Supervisors for adoption in November 2014.

### Comments and Q&A

- Concerns were raised on the use of examples that might not necessarily lead to identification of trends and could make problems appear bigger than in reality.
  - EIOPA Chairman admitted that it will take a few years before EIOPA can obtain a good quantitative basis (in terms of data provided by the National Supervisory Authorities). However, he assured the trends identified were not anecdotal, even if they might not apply to all EU countries.
- Another member highlighted the lack of trends on performance of retail investment products.
- Reference was made to the difference between Occupational Pensions schemes and personal pensions products and that OP members/beneficialies should not be labelled as consumers.

### Conclusions:

- OPSG agreed that given the limited time available, the best approach would be to have a collection of inputs by OPSG members – Ruth Goldman volunteered to gather the inputs on behalf of OPSG.
- The deadline for submission to EIOPA is on 4th June.

## 9. OPSG subgroups discussion on the way forward and further planning:

OPSG Chair suggested adding the “task 1: to Prepare an OPSG opinion on Advice on potential Delegated Acts for IORPs (Remuneration policy, Risk evaluation and Pension Benefit Statement)” under every subgroup.

- **On the Subgroup on Solvency issues:** it was agreed to remove the IORP II from the name of the subgroup. The mandate was approved and the final draft should be resubmitted for the July meeting.
- **On the Subgroup on Occupational DC:** it was agreed to have the final draft resubmitted for the July meeting.



- **On the Subgroup on Consumer Protection issues:** the overlap in some topics with the Occupational DC mandate was discussed, with the conclusion that the subgroup could feed the consumer perspective into the work-streams on decumulation, cost & charges and IORP II directive. The mandate of this subgroup and its deliverables should be refined and presented for the July OPSG meeting.
- **On the overview EIOPA consultations/publications:** OPSG members were asked to review all the upcoming consultations envisaged by EIOPA and to assess their involvement as a Group. Beyond the topics under the pensions area, the following items were agreed:
  - Line 19: "Advice to COM on way forward for third pillar pensions". Michaela Koller volunteered as topic owner.
  - Line 15: "Report on fact finding in respect of practices at the decumulation phase for occupational pensions". The possibility to have a joint report with the IRSG was left open: Matti Leppälä to get in touch with Olav Jones.
  - Line 32: "EMIR (European Market Infrastructure Regulation)". Similarly, OPSG topic owner (Niels Kortleve) will liaise with IRSG topic owner (Rick Watson) for a potential collaboration/joint report in this area, also depending on the timeline for delivery.
  - Line 41: "Guideline on the use of the LEI (legal entity identifier)". Matti Leppälä volunteered as topic owner.

#### **Conclusions and action points:**

- All mandates to be tabled at the next OPSG meeting:
  - ❖ Mandate Solvency issues Subgroup was approved
  - ❖ Draft mandate Occupational DC will be refined
  - ❖ Draft mandate Consumer Protection issues will be refined
- Overview EIOPA consultations/publications – topics for joint work with IRSG were discussed. Matti Leppälä will lead the work on LEI (legal entity identifier) and Michaela Koller the work on Personal Pensions.

#### **10. AOB**

OPSG members were reminded by EIOPA on the confidentiality rules: documents labelled as "confidential" need to be restricted to members of the OPSG.