EIOPA-11-168

Occupational Pensions Stakeholder Group meeting

20 July 2011

Venue: EIOPA, 14th floor, Westhafenplatz 1, 60327 Frankfurt am Main

Conclusions and Action Points

10.00	Welcoming by Ms Chris Verhaegen, OPSG Chair	Type
1.	Approval of the draft agenda ➢ *Doc: EIOPA-11-077 : Draft agenda OPSG mtg.*	Decision
Remarks: OPSG Chair presented the meeting agenda for approval. **Conclusion/Action points:** OPSG members approved the Draft Agenda without amendments		
2.	Approval of the 31.05.2011 meeting minutes ➢ *Doc:EIOPA-11-078-Draft-conclusions-action-points-OPSG-20110531*	Decision
Remarks: OPSG members noted broad agreement with the proposed conclusions and action points of the 31.05.2011 OPSG meeting. EC representative proposed amendments to text under item 6 as to ensure enhanced clarity as to Solvency II reference. **Conclusion/Action points:** Minutes of the 31.05.2011 OPSG meeting have been approved subject to amendment proposed by the EC representative.		
3.	Proportionality ➢ *Adoption of note prepared by OPSG Chair*	Decision

Remarks:

OPSG Chair presented in detail the time constraints for delivering the OPSG opinion regarding the EIOPA Advice on IORP Directive revision. Most notably, the OPSG Chair informed members that end November, the OPSG will need to feed its input as part of the EIOPA consultation process. This will lead to a tight timeframe for OPSG members to provide their input as to all items the EC Commission has requested technical input of EIOPA. Furthermore, OPSG Chair noted that a Steering Group will need to be created in order to analyse inputs provided by members and to provide a primary draft of the OPSG opinion.

OPSG members agreed to the proposal establish a Steer Group and endorsed its composition as follows: Chris Verhaegen (OPSG Chair); Benne van Popta (OPSG Vice-Chair); Ruth Goldman; Niels Kortleve; Giuseppe Rocco and Philip Shier;

Proportionality – Draft OPSG Chair Note

OPSG Chair introduced the draft proposals and thanked OPSG members for providing their input during the two written procedures organised to date. The difficulty of the topic was

acknowledged by both OPSG members as well as EIOPA representatives who noted that proportionality principle has been and remains an area of further work also for the Solvency II framework (i.e. proportional application of framework Directive).

While some OPSG members welcomed the note in current drafting following requests for additional time for input as to the matter, the OPSG agreed to extend the timeline for crystallising a position on the issue of proportionality and to revisit the topic in November meeting.

Conclusion/Action points: OPSG to agree on its position re use of proportionality and provide it as part of the opinion to be provided to EIOPA in November 2011. An additional round of written input shall be organised.

4.	EIOPA Consultation Paper no. 1/2011 – Draft response to Call for Advice on the review of the IORP Directive: scope, cross-border activity, prudential regulation and governance. ➢ *Presentation from OPC Chair* ➢ *Discussion on selected topics, including comments on the impact assessment of the various options considered in the EIOPA CP 01/2011:* o *The scope of the IORP Directive: – Chapter 16. CfA 1; Q.3* o *The scope of the IORP Directive: - "Should unfunded schemes be included in the scope of the IORP Directive?"* ➢ *Prudential regulation – Chapter 16, CfA 4; Q11*	Discussion

Remarks:

The Agenda item was open by a comprehensive presentation delivered by OPC Chair – Brendan Kennedy as to current Consultation paper on EIOPA Draft response to Call for Advice on the review of the IORP Directive.

OPC Chair also provided granular details as to EIOPA process undertaken prior to finalising the Draft Advice for public consultation.

With regard to process, OPC Chair underlined that a second public consultation procedure will be launched in October 2011 and the paper to be produced at that time will include revised proposals re items currently being consulted on as well as remaining topics from the EC Call for Advice.

With regard to topics highlighted on today's agenda, OPC Chair noted that this should not be seen as an exhaustive list, but rather as a starting point for discussions in the OPSG.

As the EC has requested input as to revision of IORP Directive scope, prof. D. Stanko undertook to provide a detailed presentation of CEE pillar 1-bis systems (characteristics, basic functioning rules, etc) and noted the difficulties related to providing an answer to the EC Call for Advice on whether these schemes should be included or not in the revised scope of the IORP Directive.

The EC representative welcomed the presentation and appreciated the wealth of information OPSG members shared as to their own social security systems as well as occupational pensions arrangements. The EC representative also noted that the future EU landscape for retirement provision should aim to allow for recognition of local realities while using the same basis rules for establishing capital requirements or technical provisions calculations for example. This is an area where the technical input of EIOPA will most probably be sought.

Given the complexity of the topic, the intricate interactions between SLL (social and labour law) and prudential law, the OPSG discussed at length the options presented in the EIOPA Consultation paper.

Conclusion/Action points: OPSG members to provide written input as to matters discussed above so as for Steer Group to propose OPSG draft opinion in November meeting.

5.	EIOPA Consultation Paper no. 1/2011 – Draft response to Call for Advice on the review of the IORP Directive: scope, cross-border activity, pru-	Discussion

	dential regulation and governance. ➢ *Discussion on selected topics, including comments on the impact assessment of the various options considered in the EIOPA CP 01/2011:* o *Supervision of outsourced functions and activities- Chapter 16, CfA 12; Q17* o *Outsourcing, Chapter 16, CfA 20; Q18:* o *Internal control system, Chapter 16, CfA 17, Q.15*	

Remarks:

With regard to the selected topics related to outsourcing, the following remarks and generally accepted point of views were conveyed:

- OPSG finds it is a good general practice for the supervisor to be able to directly interact with the 3rd party provider. As the third party is acting on behalf of the IORP, the supervisor should be able to have a similar relation to the provider as it has with the IORP.
- OPSG notes that the IORP sector has always kept good governance as one of its key principles. As such, the Group tends to favor ex-post notification of outsourcing contracts as less burdening from an administative perspective and that prior notification, if used, should only apply in cases of IORP outsourcing a critical function. On this point both EIOPA and EC representatives assured that cases of prior notificaton should cover only critical cases and that from a supervisory perspective prior notification of a new contractual relation does lead to an authorisation process.
- OPSG agrees that supervisory intervention if applicable to the IORP shoudl also be available in relation to the 3rd party provider. Nevertheless, additional clarifications as to meaning of concept "supervisory intervention" are needed.
- OPSG aknowledges that details as to content of contractual agreemetns between IORPs and 3rd party providers will most probably be established in future IORP - L2 Implementing Measures. It was also noted that prior notification of outcourcing contracts is not a contractual rule but a MS option and that it would be prefferable for contractual rules to provide details as to interaction between 3rd party provider and supervisors.

With regard to internal control system rules and proposed options for IORP Revision, OPSG members noted that having a sound and strong internal control is part of the general principles of good governance. With regard to issues of proportionality, especially when applying the new concept of "compliance function", OPSG members noted that there may be practical difficulties to implement such a requirement in case the IORP has a small organisational structure.

Conclusion/Action points: OPSG members to provide written input as to matters discussed above so as for Steer Group to propose OPSG draft opinion in November meeting.

6.	EIOPA Advice on the IORP Directive review – future issues ➢ *Solvency matters (update from the OPC Chair)* ➢ *Information to members (update from EIOPA)*	Discussion

Remarks:

OPC Chair undertook to update OPSG members as to work to date on matters related to solvency in the EC Call for Advice. EIOPA representative also presented work to date in relation to information to be provided to members and the main points of interest in relation to this area of the Call for Advice.

With regard to the issues raised the OPSG noted the following:

- there is general agreement with the principle of aiming to further harmonise the level of beneficiary protection just as there is agreement that the ways of providing this protection should be left as a national decision. OPSG members went on to further debate the areas

that will need further in-depth analysis before agreeing on a position in relation to the topic: national specificities re pension promise/benefit level; valuation rules; approach to balance sheet; treatment of risks like longevity; etc.

- Regarding risk margin - it was noted that this is not specific for IORP sector although, EIOPA Executive Director noted that this is not an additional capital requirement but a built-in element of the capital requirements.
- Regarding reduction of benefits – it was noted that this instrument is available in many of the MS and its use its established either by contractual base or by supervisory decision when IORP is in difficulty.
- Regarding sponsor support – OPSG members noted that is the most important difference from the insurance sector and agreed that any future IORP Directive will need to fully acknowledge the role it has in the context occupational pensions.
- Regarding information to members – it was noted that the pre-contractual phase does not seem to be very developed in the sector of occupational pensions as participation in IORP is automatic based on employment relation. It was also noted that in case of DC Schemes and in particular the CEE ones, there may be interest in exploring information to be provided during the pre-contractual phase.

Conclusion/Action points: As these topics will only be consulted upon in October 2011, OPSG members may provide written input also as to these future matters discussed above so as for Steer Group to propose OPSG draft opinion in November meeting.

7.	Next Steps: ➢ *Written input from the OPSG will be requested.* ➢ *Future meetings:* o *19 October 2011* o *22 November 2011.*	Decision
17.30	Scheduled end of the meeting	