

Insurance and Reinsurance Stakeholder Group meeting

12 December 2011

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

Conclusions and Action Points

10.00	Welcoming by Mrs Michaela Koller, IRSG Chair	Type
1.	Approval of the draft agenda ➤ <i>Doc: EIOPA-11-193: Draft agenda IRSG mtg.</i>	Decision
<p>Remarks: IRSG Chair presented the draft meeting agenda and noted that agenda items no. 8 and 9 dealing with Workplan 2012 and the set-up of working groups would be dealt with first due to high relevance of the topics.</p> <p>Conclusions and action points: Draft Agenda is approved including the proposed change of order.</p>		
2.	Approval of the 19.09.2011 meeting conclusions and action points ➤ <i>Doc: EIOPA-11-194: Draft minutes IRSG mtg.- 20110913</i>	Decision
<p>Remarks: IRSG Chair submitted the Draft Conclusions and Action Points of 13.09.2011 meeting for endorsement and invited members to put forward proposals for amendments, if any. Comments were noted in relation to Agenda item 6 – Pensions/IORP Review and additional text was proposed regarding views expressed as to the proposed use of a Holistic Balance Sheet for IORPs</p> <p>Conclusions and action points: Draft Conclusions and Action Points of 13.09.2011 meeting are approved with proposed amendments.</p>		
8 & 9	Workplan 2012 and Set-up of IRSG subgroups (participants, leader, mandate, way forward)	Decision
<p>Remarks: IRSG Chair briefly presented the respective articles and text of the EIOPA Regulation regarding the establishment of IRSG working groups on technical topics and also informed about the procedural requirements at the level of the IRSG Rules of Procedure.</p> <p>IRSG Chair informed members that based on the decision taken during meeting of 13.09.2011, the following expressions of interest for membership & leader positions were received by EIOPA:</p> <p>A. Consumer Protection Working Group:</p> <ol style="list-style-type: none"> 1. Gatsche, Lars – DE, consumer (Leader) 2. Ayadi, Rym – Tunisia, academic 3. Behar, Thomas – FR, user 4. Bäte, Oliver – DE, industry representative 		

5. Blair, Kay – UK, consumer
6. Brauner, Mads – DK, consumer
7. Carty, Paul – IE, industry representative
8. Droese, Gunther – DE, user
9. Frizon, Francis – FR, user
10. Gründl, Helmut – DE, academic
11. Kawinski, Marcin – PL, consumer
12. Koller, Michaela – DE, industry representative
13. Lagaude, Damien – FR, trade union
14. Mitovica, Baiba – LV, consumer
15. Sadovski, Alexander – BG, Academic

B. Anti-discrimination Working Group

1. Kawinski, Marcin – PL, academic (Leader)
2. Creedon, Seamus – IE, User – actuary
3. Kalpala, Asmo – FI, industry representative
4. Menioux, Jean Christophe – FR, industry representative
5. Sadovski, Alexander – BG, academic

In the light of the consultations initiated recently by EIOPA with regard to the Solvency II framework for reporting and ORSA, the IRSG Chair noted that two more working groups would need to be set up in order for the IRSG to provide opinions as to both topics. The following expressions of interest for membership & leader positions were noted:

C. Reporting Working Group

1. Behar, Thomas – FR, user (Leader)
2. Ayadi, Rym – Tunisia, academic
3. Francis, Hugh – UK, industry representative
4. Heep-Altiner, Maria – DE, academic
5. Jones, Robert – UK, user

D. ORSA Working Group

1. Jean Christophe Menieux – FR, industry representative (Leader)
2. Ayadi, Rym – Tunisia, academic
3. Behar, Thomas – FR, user
4. Bonnet, Yanick – FR, industry representative
5. Creedon, Seamus – IE, User – actuary
6. Heep-Altiner, Maria – DE, academic
7. Kawinski, Marcin – PL, academic
8. Lagaude, Damien – FR, trade union
9. Weber-Rey, Daniela – DE, user

Conclusions and action points: In accordance with art. 37 of EIOPA regulation, based on provisions of art. 10 of the IRSG Rules of Procedure, the IRSG:

- Approved the establishment of the four working groups mentioned above,
- Endorsed the proposals for each of the working groups' leadership.

- Requested Working Groups to formally present their mandates for approval in IRSG meeting of March 2012.

3.	<p>Solvency II – Reporting</p> <p>➤ <i>Documents provided in advance: Public consultation as at EIOPA webpage, presentation and explanatory note on reporting (introduction to the topic and key points of the EIOPA Consultation on Reporting)</i></p>	Discussion
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Remarks: IRSG Chair introduced the topic, provided details as to the consultation currently run with regard to Solvency II reporting and thanked EIOPA for the comprehensive preparatory notes delivered in advance of the meeting.

EIOPA Executive Director also thanked colleagues for the preparation of the Reporting item and proceeded to inform as to latest developments regarding the timeline of the Solvency II framework noting that the Omnibus II Directive is expected to be approved in 2nd quarter of 2012. In the shorter term, the ECON Committee is expected to discuss and approve the proposals made by the EP Rapporteur for OMDII (Jan 2012).

EIOPA Executive Director briefly explained the proposals made by the EP Rapporteur and noted that with regard to the topic of the quarterly reporting there is a proposal to limit the number of undertakings submitting the reporting templates quarterly by a threshold of Euro 6 billion premiums. From this perspective, the EIOPA-ED noted that the Authority has a different view as quarterly reporting is seen as a tool to alleviate the administrative burden caused by supervisory on-site inspections. As EIOPA aims for enhanced consumer protection and a proactive approach to supervision rather than a reactive one, the Authority prefers to provide SMEs free of charge with an IT tool to facilitate the quarterly submissions and to pro-actively approach an alleged administrative burden for the smaller entities in the market. Following the ‘fit for purpose’ rule, simplifications for all the quarterly templates compared to the annual ones, or exemptions were introduced in order to create a system not too burdensome for the undertakings and at the same time providing crucial data – information necessary for the purpose of supervision. There are just 11 out of 57 templates to be reported on a quarterly basis. Supervisors ask for data that are, in any case, needed for the Boards. Compliance with the Prudent Person Principle requires detailed data. More than 600 pages of LOGs and summary documents provide explanations and do not represent the requirements themselves, as often wrongly interpreted.

EIOPA Chair highlighted that reasoning for the templates is laid out in the impact assessment and summary documents. Supervisors need data to build the framework based on early warning indicators. Risk based supervision is not possible without data.

Multiple IRSG members noted surprise and disagreement with the proposal to remove supervisor’s ability to obtain the reporting templates quarterly from undertakings that fall below a certain threshold. It was also stated that if data can be delivered on an annual basis, the information can also be provided with a quarterly frequency.

IRSG members noted that the Solvency II framework aims at introducing a risk-based approach to insurance supervision which is incongruent with the idea of normative thresholds for reporting. Supervisors cannot run blind and need to be provided with the relevant data. Also for macro-prudential purposes and to monitor the whole market, thresholds would be limiting. Some of the proposed solutions provide a tool on how to look at risks – they are important from the undertaking’s internal management perspective. SMEs, as any other undertakings subject to Solvency II, will need to report to the supervisors. What EIOPA and NSAs should do is to ensure a streamlined, operationally simpler reporting process for the SMEs in order to avoid any unnecessary administrative burden. It is important to provide proper reasoning for the requirements via cost benefit analysis. IRSG also asked for further explanation on how policyholders/customers benefit from the new reporting requirements as getting flooded with information is not helpful. However, for advisors to consumers more information available for analysis could be extremely important, e.g. on risk exposure, concentration risk.

It was also mentioned that reporting is perceived as a useful “supervisory tool” also allowing for monitoring of early warning indicators.

IRSG members also put forward remarks as to the following:

- Requirements for audited data will benefit large audit companies but will not further improve the quality of the supervisory work.
- There were concerns emerging that NSAs will establish at national level additional reporting requirements that would be adding to the EU reporting requirements. It was noted that this would be contrary to the "maximum harmonisation" character of the Solvency II framework which aims at establishing a single supervisory approach at EU level. It is EIOPA's role to ensure a harmonised approach via peer reviews.
- Proportionality and its practical effects with regard to supervisory reporting remain a concern as there is no a clear reporting framework for SMEs.
- Concerns were expressed whether all these supervisory requirements are really needed to enhance the NSAs understanding of the undertaking's risk profile. In some cases, undertakings may re-organise their business and establish rather "artificial" splits in their business.
- The right balance between quality and quantity must be found.
- Translation of the reporting templates will be challenging (as the Technical Standard will be published in all EU languages). The current extensive definitions provided by EIOPA have been recognised as helpful to address any translation incongruences.
- Transparency of the EIOPA process was welcomed by the IRSG members. The amount of consultations undertaken, the extensive explanations provided especially in the current consultation documents should ensure that the process leads to a high quality reporting process which will provide adequate information to supervisors to deliver on their tasks while avoiding unnecessary administrative burden for undertakings.

Conclusions and action points: IRSG members noted with regard to current discussions and consultation on Solvency II reporting requirements:

- IRSG supports the risk-based approach at the basis of the Solvency II framework and does not welcome the proposals to establish quantitative thresholds for reporting requirements. Thresholds would not provide for a level playing field.
- IRSG also supports the need for high quality data/information useful for supervisory purposes and with business & risk relevance rather than a pure administrative formality.
- IRSG notes that EIOPA must ensure that NSAs fully respect the maximum harmonisation character of the Solvency II framework and that "gold-plating" is a practice that must be avoided under the new supervisory regime.
- The IRSG Reporting sub-group will draft the IRSG opinion with regard to EIOPA consultation on the reporting package. The draft opinion could focus on the following main points mentioned during the meeting discussion:
 1. Assets lists and overview on assets templates (20 Jan)
 2. Underwriting vs accident year triangles and triangles size
 3. Quarterly reporting (20 Jan)
 4. Disclosure (20 Jan)
 5. RFF (ring-fenced funds)
 - ~~6. Variation analysis -> see 12.~~
 7. Narrative guidelines
 - ~~8. Risk concentration -> see 13.~~
 9. Local requirements (20 Jan)
 10. Assessment/Audit/Quality (20 Jan)
 11. Overview on SCR/MCR templates
 12. Overview on TP/Reinsurance/Variation analysis templates
 13. Overview on Group/Risk concentration templates

14. Proportionality and materiality (20 Jan)

- Topics 1., 3., 4., 9., 10. and 14. shall be provided by the Reporting subgroup at the latest by the public consultation deadline of 20 January 2012.
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4.	<p>Solvency II – ORSA</p> <p>➤ <i>Documents provided in advance: Public consultation as at EIOPA webpage, presentation and explanatory note on ORSA (introduction to the topic and key points of the EIOPA Consultation on ORSA)</i></p>	Discussion
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Remarks: IRSG Chair introduced the topic, provided details as to the consultation currently run with regard to Solvency II ORSA and thanked EIOPA again for the comprehensive and well written preparatory notes well delivered in advance of the meeting. IRSG Vice-Chair remarked that the cultural change triggered by ORSA will be challenging for some Boards.

IRSG members welcomed the EIOPA proposals with regard to ORSA and noted the following:

- ORSA is a tool that aims at enhancing the level of policyholder protection as an undertaking with strong governance will most likely provide best protection to their policyholders.
- Currently, there seems to be only little coordination between governance requirements for the banking and insurance sector whilst additional general governance requirements are being put forward by the Commission for all EU companies. EC representative briefly explained the legislative development of banking and insurance legislation (CRD vs Solvency II) and ensured that in insurance internal governance requirements are and will remain principle-based.
- The goal should, however, be to achieve good corporate governance which cannot be forced by mandatory law.
- Appreciation for the EIOPA approach to establish ORSA as a flexible process expected to have a proportional application was expressed. ORSA is a business tool that should ensure – amongst others – that the insurance undertakings have adequate governance in place.
- As a general principle, ORSA should not be too burdensome, contain information of use/value for the undertaking and be business/risk linked. ORSA must not be too prescriptive.
- ORSA is not an alternative to the standard formula of Solvency II but is a tool that will allow undertakings to adjust their calculations as to reflect realities of the environment of the undertaking. ORSA can support the use test and should give a full picture of the solvency situation of an undertaking.
- Pillar 2 is fundamental in Solvency II regime. Guidelines should focus on what needs to be achieved and not on what should be done.
- Assessment of the risks should start with the qualitative approach and then perform quantitative assessment. Application of the proportionality principle should be further explained.
- As information it was mentioned that the IAA Website gives access to risk management webcasts, including ORSA.

Following specific enquiries received from IRSG members, EIOPA Chair noted the following:

- Whistle blowing duties for Board members, even those that are representatives of employees, are established by way of national law and are not to be set within the EIOPA guidelines for ORSA.
- Test d’Achat ruling of the Court of Justice of the European Union will indeed have an impact on the risk profile of the undertakings. The European Commission is expected to publish soon a first report mapping the effects of this decision on EU insurance industry (FORWARDED TO ANTI-DISCRIMINATION SUBGROUP).
- ORSA cannot “second guess” the SII standard formula. The objective of ORSA is to allow for adjustments in calculations so as to reflect realities of the environment of each undertaking.

- The idea of the top down approach is fundamental for the ORSA. It is the undertaking's own assessment, carried out and provided for the Board and only then shared with the supervisor. It is the foundation of risk management in an undertaking and a management/business tool.

Conclusions and action points: IRSG members noted with regard to current consultation on Solvency II – ORSA guidelines:

- The ORSA subgroup will undertake to draft the IRSG opinion with regard to EIOPA consultation on ORSA guidelines.
- The ORSA subgroup will reflect main points above in the draft they need to provide for IRSG written opinion. The public consultation officially closes on 20 January.

5.	Solvency II - Long-term guarantees and the countercyclical premium ➤ <i>IRSG members Prof. H. Gruendl and Prof. D. Focarelli delivered presentations on the topic</i>	Discussion
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Prof. Gruendl provided IRSG members with an extensive presentation and introduction to the topic of long-term guarantees. The intervention covered the following items:

- Interest Rate Risk in Long Term Guarantees
- Management of Interest Rate Risk under Solvency II
- The „Countercyclical Premium“
- Fundamental Problems
- General solution – a proposal

IRSG members welcomed the presentation of Prof. Gruendl and discussed intensely the proposal made under item “General solution”.

Prof. Focarelli also presented a set of slides referring to counter-cyclical measures in insurance and pleaded in favour of establishing a formula to ensure a real market consistent valuation method for long-term guarantees.

EIOPA Executive Director also put forward additional details regarding the process undertaken to date to address the matter of long term guarantees and noted that all current efforts are focused on identifying a viable solution to the issue.

EIOPA Executive Director also explained the the current Solvency I approach addresses this type of issues with “implicit prudence” and noted this will no longer be possible under the Solvency II framework. In the future, an adequate solution needs to address volatility but differently to the current effect of the “artificially increased liabilities” caused by the “implicit prudence approach”. With regard to the proposal of Prof. Gruendl, EIOPA ED also noted that a mechanism similar to the one proposed was already embedded into the Solvency II framework and is known under the name of “pillar 1 equity dampener” whilst in pillar 2 there is the supervisory ability to allow for extended recovery periods. With regard to Prof. Focarelli proposals, EIOPA ED noted that the issue needs a general solution that can be embedded into EU legislation rather than a solution that can only be applied at individual undertaking level. This is needed to ensure a level playing field from the regulatory side.

IRSG members also put forward their views with regard to this topic, noting the following:

- Markets need certainty and in order to achieve this aim, long-term instruments should be available for undertakings to invest into.
- Lapse risk (“Risk of surrender”) needs to be adequately recognised and the guarantee should be paid in full only if the policy has reached the pay-out phase. Surrender of the policy should come at a cost.
- Predictability is indispensable, i.e. undertakings need to know well in advance the trigger for a specific set of actions. Industry can work in a constructive manner to adjust the reaction elements. However, for long term products, industry needs to have predictability with regard to the applicable triggers. This is a key element for undertakings to decide to invest

long-term.

- All currently available tools as well as any innovative proposals to be agreed upon in the near future should be available for undertakings/EIOPA/NSAs to use as counter-cyclical measures.

Conclusions and action points: IRSG members welcomed the debate and agreed to revisit the topic in a future meeting. A consumer perspective would then be provided.

13.00	Lunch (45 minutes)	
6.	<p>Consumer protection and Financial Innovation (VA, Financial literacy, G&R on complaints handling)</p> <ul style="list-style-type: none">➤ <i>EIOPA Representative introduced IRSG members to the topic and key points of the EIOPA Consultation on the Guidelines and Recommendation on complaints handling and EIOPA Report on Variable annuities.</i>➤ <i>EIOPA Representative introduced the Report on Financial Literacy and Education initiatives by competent authorities</i>	Discussion

Report on Financial Literacy and Education initiatives by competent authorities

Remarks: The Vice-Chair stated that she perceived the report as extremely valuable and worthwhile doing and wanted to thank EIOPA for its good work. Financial literacy is diverse in terms of the number of initiatives being undertaken across Europe. Financial education is essentially the process and financial literacy, the end product. There are major challenges in terms of enhancing financial capability.

During the discussion, the Webpage of the Dolceta project of DG SANCO was referred to as a good model for financial education. This project is also specifically mentioned in a section of the report in which EIOPA had asked the Commission to contribute on their own initiatives in the field of financial literacy/education.

EIOPA representative pointed out that the report was a “reviewing and coordinating” exercise as these were the limits of what EIOPA’s empowering legislation currently allowed. As a next stage, a webpage would be set up on EIOPA’s website with links to all relevant national financial literacy/education bodies and further work could be carried out in the context of the Joint Committee of the ESAs’ work.

EIOPA Chair mentioned that the focus, in the future, would be on exploring further work on best practices under the Joint Committee as most of the initiatives are cross-sectoral in nature.

Conclusions and action points:

- Apart from the statements and opinions issued during the 12 Dec IRSG meeting on agenda item #6, EIOPA did not receive any specific comments from IRSG members by the deadline of the public consultation period.
- The financial literacy and education report was forwarded to IRSG members on 26 October and a deadline of 24 Nov was set for comments. EIOPA aims to publish the report soon (DONE).
- IRSG Chair will share the recently published 2nd Best Practices CEA Report on Financial Education with IRSG members (DONE).

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Complaints handling

Remarks: EIOPA representative clarified that the scope of the draft Guidelines on complaints-handling by insurance undertakings did not cover claims-handling as several IRSG members

mentioned the issue of claims together with complaints. There are, however, potential pitfalls in translating the term "complaint" in a number of jurisdictions and therefore the precision was needed in defining the correct terms. The focus of the draft Guidelines is on expressions of dissatisfaction addressed to insurance undertakings by person relating to the insurance contract or service he/she has been provided with. It was also stated that the Guidelines cover "insurance undertakings" as defined under Solvency II.

During the discussion, it was pointed out that the Commission had recently published a legislative proposal on Alternative Dispute Resolution (ADR) which required Member States to set up ADR systems at national level if they did not have existing systems. Another point was made on the definitions for the terms "fair treatment of complaints", "efficient management of complaints" and "adequate training of staff handling complaints" as otherwise there could be too much room for interpretation. EIOPA representative pointed out that the Guidelines were meant to be high-level principles as this would enable definitions under national law to be kept and thus not conflict with contract law. As local regulators will have to deal with the complaints, a high level guideline would best allow for a link to local regulation according to EIOPA Chair.

One IRSG member provided an *ad hoc* presentation to IRSG on how a guideline on claims-handling (see above re issue of scope) should look like with the aim to protect the consumer. The guideline would be based on best practices and experiences with claims-handling. His expectation would be to start from scratch and get the data and information collected by more specific working groups or committees. In his opinion, consumer protection should be an integral part of Solvency II and specific features for consumer protection and how to achieve it should be more concretely outlined in SII.

Conclusions and action points:N/ A

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Report on Variable annuities

Remarks: Complaints and mediation cases with regard to VA products increased during and after the crisis. The main issue was the quality of the advice given to consumers when buying a VA product. During the discussion it was emphasized that, in particular, for complex products such as VAs, the clarity of the advice given to a consumer, the design of the sales process, the appropriate qualification of the sales person and the incentives for the sales person (remunerated on an on-going basis, spreading the fee over a larger time period and not on an one-off basis at the moment when the product is sold) all play a key role in consumer protection. For these reasons effective client targeting is extremely important

In addition, the quality of disclosure documents is of key importance. For example, positive and negative scenarios should be described in the disclosure documents. Pricing should be made more transparent and incentives be disclosed. Re-dress mechanisms are also key, in particular in cross-border situations.

Regarding the scope of the report it was pointed out by EIOPA that it has to be aligned with the CEIOPS Task Force Report on VA. For this reason the report covers all the types of VA products encountered in the market, including GMAB, which were seen as relatively less risky by one IRSG Member.

On the topic of remuneration and incentivisation, a so called "collective bargaining" was proposed, i.e. that terms and conditions of the product should be negotiated for the whole range of VA products and not be left to individual negotiations between seller and buyer.

Conclusion and action points: The discussion focused mainly on the topics "qualified advice" to be given to the consumer at the point of sale of a VA product and an adequate incentive structure for the sales person keeping in mind the long-term perspective of the product. These

topics should be the preferred ones for the IRSG subgroup to form an opinion on the Report on Good Practices for Disclosure and Selling of Variable Annuities (VA).

7.	IORP consultation update ➤ <i>OPSG Chair Presentation</i>	Discussion
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Remarks: OPSG Chair updated IRSG as to the process undertaken in relation to producing an opinion to the EIOPA consultation on the revision of the IORP directive.

OPSG Chair also presented the proposed structure of the OPSG opinion and proceeded to inform as to main messages to be conveyed by the OPSG with regard to the following items:

- Main messages to be conveyed:
 - ❖ Objectives of IORP Review – the primary objective should be to improve the security of pension benefits across EU, taking into account the particular nature of institutions for occupational retirement provision
 - ❖ Security shall be enhanced through a holistic approach: balance between affordability, adequacy and level of security
 - ❖ Both quantitative impact studies and qualitative impact assessments at every stage of the legislative process are needed.
- CfA-1, 2: Scope of the IORP Directive and Cross-border activity
- CfA-5,6,8: Quantitative requirements incl. views on Holistic Balance sheet approach, Valuation and Investment rules
- CfA 9-18: Governance and other qualitative requirements
- CfA 14 & 23: Fit/proper & Information to members/beneficiaries

Following this comprehensive presentation of OPSG work and main points to be covered in the OPSG opinion to EIOPA consultation on its draft Advice to the Commission on the revision of the IORP Directive:

- Concern as to duration of the legislative process and need to establish a transitional period especially in those cases that currently fall under art. 17 of the IORP Directive.
- There is a good basis in Solvency II pillar II requirements that can be used (adapted and applied in a proportional manner) for IORPs.
- IORP industry is more nationally oriented compared to the insurance industry which has a EU oriented business model. IORPs are playing also a strong social role and for this reason they tend to undertake their business on national rather than EU basis. This also explains the OPSG position to allow for various levels of security within Member states (the contribution of the occupational retirement system into the overall retirement income differs among MS and the higher the reliance on the IORP the higher the level of security required)
- With regard to the proposed Holistic Balance Sheet approach and the role the sponsor covenant is to play in this approach is a subject of further investigation. While OPSG will recognise that this is a theoretically plausible approach, thorough impact assessment will be needed in order to establish its practical viability and benefits.
- Regarding the information to be provided to the pension fund members this was recognised as a general aim that needs to be observed across both insurance and IORP sectors. In the case of the IORPs, there will be an emphasis on information requirements needed for DC schemes as there the member is the one bearing the investment risk.

Conclusions and action points:

- IRSG members welcomed the presentation and look forward to the final opinion to be adopted by the OPSG in end December 2011.
- Topic will be further revisited as part of general mutual updates.

8.	Verbal Update on EIOPA conference (16 Nov) and Consumer Day (6 Dec)	Discussion
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	➤ <i>IRSG Chair and Vice-Chair to give a short verbal update: next meeting.</i>	
Remarks: Given time constraints, the topic will be addressed in the next meeting of the IRSG		
Conclusions and action points: N/A		
16.00	Scheduled end of the meeting	