

**Occupational Pensions Stakeholder Group meeting
28 March 2012**

Venue: EIOPA Headquarters, Germany;

Conclusions and Action points

10.00	Welcoming by Ms Chris Verhaegen, OPSG Chair	Type
1.	Approval of the draft agenda ➤ <i>Doc: EIOPA-12-054: Draft agenda OPSG mtg.</i>	Decision
<p>Remarks: OPSG Chair welcomed Members to their 7th statutory meeting of the Stakeholder Group. Also welcomes Daniela Rode to the EIOPA team as Director of Regulations.</p> <p>Conclusions/Action points: Draft Agenda was approved without amendments</p>		
2.	Approval of the 19.12.2011 meeting conclusions and action points ➤ <i>Doc:EIOPA-11-241-Draft-conclusions-action-points-OPSG</i>	Decision
<p>Remarks: OPSG Chair submitted the minutes of the meeting on 19 December 2011 for the Group's approval and invited amendments, if any.</p> <p>Conclusions/Action points: Conclusions and action points were approved without amendments.</p>		
3.	EIOPA advice and its publication	Discussion
<p>EIOPA Chair, Gabriel Bernardino, and OPC Chair, Brendan Kennedy, provided feedback on the OPSG opinion on the Review of IORP Directive. Amongst the points raised:</p> <ul style="list-style-type: none"> • OPSG has made a valuable contribution to the process: the Opinion was well written, constructive and coherent. In general, the opinion was in line with the expectations of all stakeholders commenting during public consultation. OPSG is considered as an extremely useful provider of feedback for EIOPA due to the wide range of views presented in OPSG and the credibility of its members. OPSG is treated first in EIOPA feedback statement. • OPSG Chair pointed out that the opinion was quite a challenging exercise and thanked all the members for the positive spirit and the constructive mind set throughout the whole process. • Some OPSG issues were not within the remit of EIOPA : <ul style="list-style-type: none"> • Tight timeline • Solvency II as a starting point • Objectives of the Call for Advice (CfA) • As a result of public consultation, EIOPA in its response to the EC made the following changes: 		

1. The **Holistic Balance Sheet (HBS)** was made conditional – the feasibility of implementing the HBS in practice and the feasibility of one common level of security needs to be investigated further as well as proportionality issues. Technical challenges were still in need of identification.
 2. New wording in the **introduction** - the response provided was limited to the questions and objectives set by the Commission and did not provide an impartial opinion of EIOPA beyond the given setting.
 3. Relevance of the **Quantitative Impact Study (QIS)** – EIOPA agrees with OPSG that the review of the IORPs remains at a theoretical level if not analysed in conjunction with a QIS exercise.
- Overall, the process of the review of the IORP Directive will need time if adequate legislative quality is to be pursued.

OPSG members expressed the following concerns:

- What would be the effect of the HBS on occupational pensions in the EU?
 - EIOPA Chair response: The overall aim is to find an EU approach that stimulates the provision of occupational pensions in a secure and sustainable manner. A range of options need to be tested to understand the possible consequences and this is the beginning of the process.
 - During the EC Public Hearing there were many political interventions from national supervisors, IORPs and insurance industry, employers, trade unions yet no one voiced concern for the loss of inter-general benefits that is taking place.
- EIOPA’s advice seems conditioned to the QIS results
 - OPC Chair response: The biggest challenge is the sheer complexity together with political aspects. There are still many open questions.
- The inter-linkage of public and private pensions since public pensions are funded by public expenditure that is raising income, among other sources, by issuing government bonds which are bought by private pension institutions. Therefore pension systems as a whole need to be looked at and hence different supervisory solutions may be needed for different Member States since the pension systems diverge considerably.
 - EIOPA Chair response: this is a challenge that calls for more Europe, for a common approach that will recognise the differences.
 - OECD also stresses that the strongest and more robust pension systems are in the countries with a multi-pillar pensions system.
- Objective of IORP review should state that new regime should not be disruptive with current regulatory regime(s) for occupational pensions

Conclusions/Action points:

- The EC has received multiple inputs on IORP II: from EIOPA, from OPSG and from the Public Hearing on 1st March. If EC wants to ensure the delivery of good quality pensions, they need to go beyond the questions asked in the call for advice. OPSG – as a sounding board for all relevant stakeholders across the EU - should thoroughly investigate all matters and point out the important issues, including political matters.
- If EIOPA as a supervisory authority feels it is restricted to the framework drawn by the EC, it should focus on optimizing supervision.

4.	EIOPA Presentation on the QIS	Discussion
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The OPC Chair, Brendan Kennedy, introduced EIOPA’s approach to the QIS exercise, which is a fundamental part of the overall approach of the IORP Directive revision and will also help to narrow down options.

The objectives of QIS are:

- Provide all stakeholders with detailed information on the quantitative impact of EIOPA's advice on IORPs.
 - Collect quantitative and qualitative data to support the analysis of different policy options in the impact assessment of the Commission.
 - Explore the HBS in practical terms
- QIS is a data calculation analysis, not a comprehensive cost-benefit analysis – it will not model supervisory approaches based on results.
- QIS is a very technical task, where the biggest challenge is the complexity: the more options are tested, the more answers come out. For the moment, 19 options are being considered.
- EIOPA wants to consult on Technical specifications subject to an extension of the current deadline for QIS.
- Not all answers will be provided by this first QIS.
- Participating Member States on a voluntary basis: Belgium, France, Germany, Ireland, Netherlands, Sweden, Portugal and UK.
- The OPC Subgroup QIS (chaired by Brendan Kennedy) is responsible for preparing the technical specifications for the calculation of technical reserves focusing on:
 - Data
 - Report
 - Valuation
 - Security mechanisms
 - SCR (Solvency Capital Requirement)
- On Valuation, two rates will be tested (given by the CfA):
 - Level A rate: Risk-free interest rate as for Solvency II – no allowance for counter-cyclical or matching premium.
 - Level B rate: Based on expected return on assets. This combines a risk-free rate and a non-risk free rate.
 - Technical specs will show whether future pension accrual should be taken into account.
- On Security mechanisms:
 - the subgroup will propose how sponsor support and pension protection arrangements can be included in the holistic balance sheet (HBS)
 - Look at what the sponsor would be able to contribute to the scheme each year in future under normal conditions, given the current financial position and credit-worthiness of the sponsor
 - Approach may not suit all sponsors – capital value may have to be used in some situations
 - Pension protection could be included as an asset, or as a reduction to sponsor credit risk
 - given the option to exclude pension protection schemes
- On SCR:
 - the subgroup will propose which risks to include in the QIS and which confidence level(s), shocks and correlations to apply.
 - Basic calculations of confidence level at 99.5%, for other confidence levels derived
 - Not all MCR options can or need to be calculated
 - Risks and stresses in Solvency II are used as a basis, but not all relevant to pensions; Small health module; Inflation risk is a challenge

The following questions/concerns were raised by OPSG:

- What is OPSG role or involvement in the QIS?
 - Response: The QIS is a very technical job involving many people to calculate a lot of numbers. Involvement is rather seen at a stage when conditions/specifications of the QIS are being set/consulted upon.
- What is the timeline of the QIS? Response: we are awaiting feedback from EC
- Solvency II: Some OPSG members issued concerns that SII is not easily/at all applicable to IORPs. They also pointed out that, in general, pensions experts are neither familiar with the SII language nor with the technical details of SII. It was also stated that for SII, Sharon Bowles noted that the move from level 1 to level 2 seems having been too quick. Drawing from this experience, enough time should be allowed for this initial stage in the review of the pensions directive. A consumer of OPSG stated that some pension funds could be considered under-funded. However, it is not clear to what extent. The public's awareness for the costs of a guarantee needs to be raised
- Is EIOPA looking into sensitivity of other assumptions?
- Is there a smoothing capacity between risk free and equity rate?
 - Response: EIOPA will test an option in the QIS using an upward shift in the risk-free interest rate curve to account for the long-term and illiquid nature of occupational pension liabilities.
- What is MCR and SCR?
 - Carlos Montalvo, EIOPA Executive Director, response: The Technical Provisions (the company liabilities plus a risk margin) are intended to represent the current amount the insurance company would have to pay for an immediate transfer of its obligations to a third party. The Solvency Capital Requirement (SCR) is the capital required to ensure that the insurance company will be able to meet its obligations over the next 12 months with a probability of at least 99.5% (costs/risk of having 1/200 events).

In addition to the SCR capital a Minimum Capital Requirement (MCR) must be calculated which represents the threshold at the breach of which the national supervisor (regulator) would intervene.
- What is the countercyclical and matching premium?
 - Response: The counter-cyclical premium allows for an upward adjustment of the risk-free interest rate in stressed market situations as determined by EIOPA. The aim is to avoid pro-cyclical effects of Solvency II. Subject to a number of conditions, insurers may add a matching premium to the risk-free interest rate in order for it to match the yield on a portfolio of assets that is assigned to cover a portfolio of insurance obligations. Both adjustments are still very much under discussion and will not be included in the QIS.
- A lot of Solvency II seems to have been copy-pasted into the CfA; thus there is lack of the concept of duration, which is one of the main differences between insurance and pensions (long time periods of at least 25 years). How will this long term risk be measured?
 - Response: There are many insurers writing long-term annuity business reflecting similar long time periods. For the moment, to calculate the capital requirements as alternative to a one-year Value at Risk (VaR) it would be challenging to find.

Gabriel Bernardino, EIOPA Chair, statement:

- The QIS is an on-going process, where some important elements –for instance, different confidence levels- will be tested. The full set of results will provide input to the political level for further reflections/considerations. This is the opportunity to move into the directions to risk based requirements. However, risk measures will not be decided upon right now. HBS, sponsors' liabilities, capital requirements and sensitivity analyses may create new possibilities later on.

Conclusions/Action points:

- OPSG involvement will be useful to narrow down the options that have more impact and to point out approaches reflecting well the specifics of the pension sector.
- The Commission is considering to extend the deadline of the QIS. Gabriel Bernardino has discussed this with Commissioner Barnier and Director General Faull, but no decision has been made yet.
- OPSG Chair expressed the wish to have an explanatory note on Solvency II for beginners for OPSG members.

13.00	Lunch (1 hour)	
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5.	EC Presentation on White Paper on Pensions	Discussion
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The Commission representative, Jung-Duk Lichtenberger, presented the EC White Paper on Pensions, in which sets out an EU agenda with concrete initiatives. The paper is to be read in conjunction with the EC Annual Growth Survey and the works being undertaken by DG Employment.

The document is available at:

https://eiopa.europa.eu/fileadmin/tx_dam/files/abouteiopa/Organisation/Stakeholder_Groups/OPSG/meetings/2012-03-28/EU_White_Paper_on_Pensions_EN.pdf

The main areas of focus are:

- A. The balance between time spent in work and retirement
- B. Developing complementary private retirement savings

In particular, DG Markt engages into the following initiatives:

1. Revision of IORP Directive – should contribute to bring down the cost of occupational pensions
2. Improve consumer information on Pillar 3 pensions.
3. Tracking services: encourage Member States to develop them, in the road to a minimum harmonisation.
4. Code of 'good practices' for occupational pensions on:
 - Coverage
 - Risk sharing
 - Cost-effectiveness

OPSG members expressed the following remarks:

- EC should clarify the definition of what is a "pension". The White Paper does not clarify this. A union member was surprised that the EC seems to put Pillar 2 and Pillar 3 pension schemes on the same level. Pillar I are state provided schemes while pillar II are non-state organised yet collective, privately owned schemes. Pillar III pensions are market based in nature and are individually contracted.
- The White paper seems to push the responsibility for pension income towards citizens: need to find a job and save for their pension. However, their influence over the level of their retirement income is very weak (in Pillar 1 it is decided by the government and by the employers/employees in pillar 2). Too much is left to individuals in pillar 3 contracts and the White Paper does not express any view on the regulatory framework of Pillar 3 pension schemes.
- The role of social partners is one of the most effective forms of private pension provision and the White Paper should better acknowledge this.
- The pre-requisite of high employment levels assumed in the White paper may be unsustainable; no equal mix between pillars desirable; EC should put more emphasis on labour market measures otherwise the new approach is worsening the current system.

- Is linking retirement age with life expectancy a choice of the Member States?
- Are the mandatory pensions systems included in the scope of the White paper?
- The debt crisis shows that Member States will have to focus on efficient pension systems so that they remain affordable while being sustainable in the long run. Example: a pension system with Pillar 1 and Pillar 3 will prove to be less efficient and less adequate than a system with Pillar 1 and Pillar 2 pensions.
- Surprise that EC has not emphasized the need for higher – or even full – coverage of working population of occupational pensions: how to achieve it and how to fund it? This was seen as a missing key debate.

J. Lichtenberger responses:

- EC has no preference for either pillar of pensions yet they have a preference for a multi-pillar pension system
- EC wants to focus on QIS to determine the way forward, and consult on technical specifications. No rushed decision will be taken.
- Having regard to the shift towards DC pension schemes in Pillar 3, the EC sees a need for regulation of those DC pensions (individually contracted schemes) by market operators. A legislative initiative can be expected.
- In the future one can expect that more institutions will be covered by IORP Dir.
- EC is keen to develop tracking systems for the 3 pension pillars, i.a. to avoid loss of entitlements due to cross border movements.

Carlos Montalvo, EIOPA Executive Director, added :

- The three pillars must not be prioritised, but need to work together ensuring the right balance. OPSG members need to look at adequacy, sustainability, safety of pension funds. It is important to be able to cover our own expectations on retirement as members are unaware of pension benefits.

Conclusions/Action points:

The views & concerns expressed by OPSG will be dealt with under item 8, work plan 2012.

6.	Lessons learnt from establishing a SG Opinion	Discussion
<p>EIOPA introduced this item by thanking OPSG members for in the work conducted in December and asked if there was room for improvement/suggestions and the expectations from OPSG members.</p> <p>An open floor for lessons learnt on the procedure leading to the opinions among OPSG members allowed to highlight the following aspects:</p> <ul style="list-style-type: none"> • Numerous OPSG members volunteered to join the QIS Subgroup showing a great commitment to contribute to the work. • OPSG members expressed the wish to join OPC Subgroups –for example as observers. ESMA’s Stakeholder group members are allegedly present as observers in the standing Committees. <ul style="list-style-type: none"> ➤ EIOPA Executive director response: Governance aspect regarding involvement in Subgroups: it is important to differentiate between drafters and commentators – those roles should be kept separate to avoid conflict of interest. <p>EIOPA invites OPSG members to join EIOPA working groups on specific topics, as it is already the case for IRSG representatives invited to attend as observers at the Committee on Consumer Protection and Financial Innovation (CCPFI). He believes that the current solution -making sure that the input of Stakeholders is brought to the different stages- is working well.</p>		

- The ideal way to proceed would be for OPSG members being able to discuss draft opinions during the regular OPSG meeting, but the four meetings per year may not allow all opinions being approved in such a way. A way forward could be to increase the number of meetings, eg. 6 per year, rather than outsourcing work to the Subgroups.
- No anonymous comments to public consultations should be accepted by EIOPA
- OPSG members would like to generally participate in EIOPA working group meetings as observers.
 - EIOPA Executive director response: the fact that OPC Chair is attending OPSG meetings displays willingness for interaction from EIOPA's key committee for occupational pensions. Experts from OPSG can be invited on an 'ad hoc' basis to attend EIOPA working groups or committees.

Conclusions/Action points:

- OPSG requested to have OPSG observers in EIOPA Working Groups. Attendance to working groups may be granted on a case by case basis, as when consumers representatives attended CCPFI meeting.
- EIOPA assures that there will be an effective communication on QIS that will certainly go beyond the slides presented at this first occasion.

7.	OPC Work programme 2012	Discussion
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OPC Chair, Brendan Kennedy, presented the Occupational Pensions Committee (OPC) draft work programme –to be endorsed by EIOPA BoS on 29-30 March -with the expected Deliverables for 2012.

Among projects with the highest priority:

1. Prepare a first draft of a "shall" Technical Standard on reporting prudential legislation for consultation – *by end 2012*.

 Technical Standards (TS) are drafted by EIOPA but endorsed in a legal process (Lisbon Treaty) by the EC, in conjunction with the other legislative bodies of the EU, and published by the Commission. They are technical, legally binding documents and shall not imply strategic decisions or policy choices. The deadline for delivery of draft Implementing Technical Standards (ITS) is 01/01/2014. Scope of ITS is determined by the Art. 20 (11) on cross-border activities of the IORP Dir. EIOPA needs to develop procedures, formats and templates which will be used by the competent authorities of the MS to report to EIOPA on their national provisions of prudential regulation relevant to occupational pension schemes, which are not covered by the reference to national Social Labour Law in Art. 20 (1) of the IORP Dir.
2. Carry out a quantitative impact study (QIS) to prepare and test a holistic balance sheet for typical IORPs for those Member States where changes to the financial requirements (technical provisions and solvency requirements) are likely to have the greatest proportionate impact – *timeline under discussion with EC*
3. Carry out a fact finding survey on the implementation of small IORPs exemption (art. 5, IORP Dir.) to estimate the number and the size (by membership and asset values) of exempted IORPs – *by Q2*

Among projects under own initiative work:

4. Research to support the formulation of the definition of a sponsoring undertaking to accommodate the single definition of a cross-border IORP as proposed by the European Commission (*still to be confirmed*)
5. "Best practices" report on information to members of DC IORPs –*by end 2012*
6. "Fact finding" report on default investments for DC IORPs – *by end 2012 (still to be confirmed)*

- 7. Market development report 2012- *by Q3*
- 8. PRIPs and pensions – update of the database on pension vehicles– *by Q4*

OPSG members enquired/commented on the following items:

- It is important for OPSG to be given the opportunity for delivery of an Opinion on the Technical Standard
- Definition of sponsoring undertaking is critical, especially in the context of cross-border operations
- Question regarding the scope of the survey on exempted IORPs.
 - OPC Chair response: the survey will be directed to supervisors and the summary report will be submitted to the Commission.
- Several questions regarding the scope of the Report on information to members of DC IORPs.
 - OPC Chair response: the report will only cover pillar II (group contracted pensions) and it will also capture the pre-involvement aspect. It is a fact finding exercise on current practice. The report could be used as an input to the Key Investor Information Document (KIID). In a second phase, it could include DB environment.
- Question on the Extension of Guidelines on Complaints-Handling by Insurance Undertakings to insurance intermediaries [and IORPs].
 - OPC Chair response: this project is still under discussion.

Conclusions/Action points:

- EIOPA to circulate OPC final work programme to OPSG.

15:45	Coffee break (15 minutes)	
8.	OPSG Work Plan 2012:	Discussion & decision

OPSG members discussed and presented individual views on the suggested OPSG Work Plan:

- A workstream on EC White Paper should be added to the programme
- OPSG member proposal to also work on DB schemes . In DC the responsibility is given to the employees: OPSG could run a survey on possibilities for risk sharing in DB and hybrid schemes and propose recommendations.
 OPSG Chair responded this proposal was interesting to work on yet needs to be further scoped/defined in the context of upcoming EU level initiative(s) on DC.
- Question regarding the 'feedback statement' expected outcome allocated to some workstreams:
 - EIOPA Executive Director response: according to the regulation, EIOPA must consult Stakeholders on Technical Standards, Guidelines and Recommendations, whereas for all other type or deliverables, such as reports, surveys, etc., OPSG can table a feedback statement on a voluntary basis instead of a formal opinion.

Conclusions/Action points:

- The following Subgroups were established :
 1. **QIS** - Leader: Benne van Popta. OPSG Vice-Chair
 Initial composition: Benne van Popta, Niels Kortleve, Joachim Schwind, Martine Van Peer, Allan Whalley (industry), Charles Cronin and Philip Shier (users), Gunnar Andersson, Manuel Peraita and Dariusz Stańko (academics). Eugen Scheinker may act as drafting support.

Benne van Popta will contact QIS Subgroup members to start organising the work. He would like to find out which members would like to provide input in terms of

drafting and which in terms of representation.

2. **White Paper** - , Leader: to be appointed.

Initial composition: Fritz Janda, Martine van Peer and Chris Verhaegen (industry), Baiba Miltovica and Klaus Struwe (consumer/beneficiaries), Régis de Larouilliere (users), Bruno Gabellieri and Bernhard Wiesner (employees/employers), Yves Stevens (academics).

The OPSG position on the White Paper to be presented during the May meeting.

3. **Information to Members** - Leader: to be appointed.

Initial composition: Marcin Kawiński and Klaus Struwe (Consumers/Beneficiaries), Naomi Cooke, Douglas Taylor and Giuseppe Rocco (Employees/Employers), Dariusz Stańko (academics).

- EIOPA Executive Director suggested members to read the following Reports published by EIOPA in 2011 (*Ctrl+Click to follow the link*):
 1. [Report on pre-enrolment info to pension plan members](#)
 2. [Report on Risks Related to Defined Contribution Pension Plan Members](#)
- EIOPA to issue the **call for candidates** to complete the composition of Subgroups and to call for **volunteers to lead** the Subgroups on White Paper and Information to members respectively. Once completed, EIOPA should inform OPSG on the final composition of Subgroups.
- Subgroup leaders to present Subgroup mandates for discussion and approval at the May meeting.
- OPSG Work Plan to be updated and submitted for approval at the May meeting.

9. AOB

1. Information on OPSG at EIOPA website

EIOPA updated on the status of the OPSG biographies/CVs, for which EIOPA is awaiting the European Data Protection Supervisor (EDPS) response to publish them. It was important to involve the EDPS due to sensitive issues in the bios/CV such as trade union membership (category of OPSG and IRSG).

Members are encouraged to submit their biographies to EIOPA, if still missing.

2. Calendar of meetings

Aside from the planned calendar of OPSG meetings on 31.05.2012, 14.09.2012 and 28.11.2012 (Joint IRSG-OPSG-BoS meeting), the OPSG Chair proposed adding an **extra meeting on 22 June in Frankfurt** (tentative, depending upon feedback from EC on QIS consultation).

3. EC assessment of the ESA's

Chris Verhaegen concluded by enquiring EIOPA on the assessment of the ESAs. The OPSG Chair thought that OPSG is in favour of maintaining the two Stakeholder Groups structure also for the future, while its added value has already been established with the very first EIOPA consultation.

EIOPA Executive Director confirmed that the success on the functioning & processes of the Stakeholder Groups will be among the aspects to be looked at in this review, which the EC will outsource to an external consultant.

Next meeting: **31 May 2012**, Frankfurt am Main.

17:30 End of the meeting