

**Occupational Pensions Stakeholder Group meeting  
31 May 2012**

**Venue: EIOPA Headquarters, Germany;**

**Draft Conclusions and Action points**

List of participants:

OPSG: Chris Verhaegen (OPSG Chair), Benne van Popta (OPSG Vice-Chair), Ruth Goldman, Naomi Cooke, Gábor Borza, Gunnar Andersson, Régis De Laroulliere, Charles Cronin, Bruno Gabellieri, Otto Farny, Fritz Janda, Niels Kortleve, Henri Lourdelle, Baiba Miltovica, Manuel Peraita, Eugen Scheinker, Giuseppe Rocco, Joachim Schwind, Federica Sganti, Frank Ellenbuerger, Maria Isabel Semião, Douglas Taylor, Bernhard Wiesner, Allan Whalley, Martine Van Peer and Klaus Struwe.

EIOPA: Gabriel Bernardino (EIOPA Chair), Carlos Montalvo (EIOPA Executive Director), Justin Wray (Head of Policy Unit), Giulia Conforti, Kai Kosik, Barthold Kuipers, Teresa Turner and Manuela Zweimueller.

EIOPA Working Groups: Brendan Kennedy, Chair of EIOPA Occupational Pensions Committee (OPC)

European Commission: Ulf Linder, Insurance and Pensions Deputy Director – DG Internal Market and Services

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><b>Remarks:</b> OPSG Chair welcomed Members to their 8<sup>th</sup> statutory meeting of the Stakeholder Group.</p> <p><b>Conclusions/Action points:</b> 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><b>Remarks:</b> OPSG Chair, submitted the minutes of the meeting on 28 March 2012 for the Group's approval and invited amendments, if any.</p> <p><b>Conclusions/Action points:</b> The minutes were praised for their clarity and level of comprehension. Conclusions and action points were approved without amendments.</p>		
3.	<b>Update from EIOPA Chair, Gabriel Bernardino and Ulf Linder, Insurance and Pensions Deputy Director – DG Internal Market and Services (EC), on developments</b>	Discussion
<p><b>Remarks:</b> European Commission representative, Mr. Ulf Linder, updated OPSG members as to the outcome from the EC Public Hearing on Pensions and other developments at the political level.</p> <p>Public Hearing 1<sup>st</sup> March 2012 - Commissioner Barnier's views on the project of the revision of the IORP Directive and its timeline:</p> <ul style="list-style-type: none"> <li>• Key issues in the IORP review are the promotion of cross-border trade, the protection of policy holders and a holistic approach across all pillars from the Solvency II structure.</li> <li>• Solid analysis of IORP II will follow in the Impact Assessment, after EIOPA has conducted the QIS on the Technical Specifications, which will also take into account the</li> </ul>		

measures for Long Term Guarantees in Solvency II (= ongoing dialogue results)

- Timeline will be announced soon: Most probably the Commissioner’s proposal for IORP II will be postponed to mid-2013; the timeline is much shorter than EIOPA proposed and there may not be enough time for another/follow-up QIS exercise. Commissioner Barnier intends to conclude the review of the IORPS Directive during his present term.

Other developments:

- Political Dialogue Solvency II: progress although at a slow pace.
  - Key issues: 1. Measures to smoothen out some of the artificial volatility due to market valuation; 2. Long term guarantees; 3. nature of the legal acts (delegated acts, RTS/ITS).
  - Timeline: It is uncertain when exactly OMDII will be published in the Official Journal but most probably by end 2012, e.g. November. This could lead to cease of Solvency I and the obligation to implement the original SII framework directive while the changes introduced through Omnibus II would not yet have come into force. To avoid this, there will be a ‘quick fix’ directive to amend the transposition and application dates:
    - The Directive will be transposed in 30.06.2013 by Member States
    - The Directive will be applicable as of 01.01.2014 for EU companies.

Following the publication of OMD II, Level 2 should be published in April 2013.

- Insurance Mediation Directive (IMD II): The original Directive was expected by end of May, it has been now postponed to beginning July, including Packaged Retail Investment Products (PRIPs) and UCITS IV. Pensions were not considered to be covered in IMD II, however, there is now a reference to “retirement income”. A common, cross-sectoral framework also covering banking and securities products is intended to be created.

The floor was opened for questions/reactions from OPSG members:

- What is the European Commission’s response to the current market developments?
  - Response by U. Linder: there is no initiative considered at level 1 – this should be addressed in the LT parameter package.
  - Comments by G. Bernardino: satisfied that the EC has accepted a longer timeline for the QIS compared to the original planning.
- Decisions taken on the confidence level?
  - Response by U. Lindner that different ones will be used for the QIS, but that this will eventually be a political decision and further calculations will be needed to see the broad picture before making a choice for IORPs.
- On the timing on the QIS it was also outlined by the EC representative that Commissioner Barnier prefers to deal with insurance and pension regulatory revision simultaneously.
- On the treatment of sovereign debts, still an outstanding discussion point in the Dialogue, consistency with the banking sector is striven for.
- It was emphasised that only one QIS would not be sufficient to deal with the complexity of the pensions area and that the rationale for the rush currently applied is far from self-evident.

**Conclusions/Action points:**

- No specific conclusions were drawn from this discussion.

4.	<b>Discussion OPSG position on White Paper</b>	
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**Remarks:** Klaus Struwe, leader of the Subgroup on White Paper, presented the guiding principles of the draft paper (EU approach, increasing importance of pillar II, balance between pension pillars and the OPSG recommendations) and introduced the structure of the feedback statement to the OPSG members.

The floor was open for reactions:

- Question regarding the sources/empirical data behind the growing importance of occupational pensions mentioned in the White Paper. Even if increasing numbers were true for the past, an initial trend can be seen for pillar II pension schemes no longer being offered, in particular when regarding all MS. However, the importance of Pillar II pensions still needs to be stressed. Even if PII systems are important, OPSG should not give the message that occupational pensions could replace state pensions but rather be complementary.
- Given the turbulent times we are living in, the paper should avoid traditional critics on Pillar I; instead, emphasis should be given on the development of a clear information on the risks inherent in the “products”, including sovereign debt. This is supposed to increase the level of comfort and expectations.
- Suggestion to have a survey on Pillar I pensions to understand the ‘subsistence level’ in each Member state.
- IORPs are considered to be of a unique efficiency due to their “non-profit” character and aligned interests between organisator of the occupational pension scheme and the beneficiaries. It was proposed to establish Pillar II pensions in all 27 MS to complement Pillar I.
- PORTABILITY OF PENSION RIGHTS: Theoretically there should be no impact for Pillar I and Pillar II scheme members as so far this is only possible in Pillar III. Members who leave should pay the costs for leaving, but this should not generate advantages for others, thus be on a reasonable level. The fiscal/tax policy of MS is seen as one of the key obstacles for the portability of pension rights.
- The paper should focus on the future of Pillar II as the most effective system that can alleviate the budget cuts suffered at Member State (MS) level.
- Ideally the paper should provide a definition for occupational pensions and their core advantages, namely the non-profit interest combined with the interest of the beneficiary in the security of the pension promise.

Remarks from G. Bernardino: He welcomes the OPSG initiative to prepare a feedback on the EC White paper. At this stage, EIOPA is working on the collection of information on the different types of pensions in the MS. The role of EIOPA is to observe the different realities in the EU; some group insurance companies present individual (Pillar III) pension products as pillar II to members, given the fact that the frontier is very blurry. We must not forget that tax regulation is playing a major role as well in the pension area. Recently, we noted a consumer trend going into the direction of “payment protection insurance” which would also be applicable to pensions products such as individual pensions savings product. EIOPA is currently competent for occupational pensions and would also be able to deal with an extension of the scope to Pillar III pension arrangements (private pensions), if asked by the EC.

OPSG chair could see a major benefit in the idea that EIOPA mandate may cover Pillar III pensions to avoid regulatory arbitrage and to ensure consistency on common features. She noted that a common definition of a “pension” – without having recourse to the tax treatment reference – would facilitate the debate.

OPSG is very supportive on information collection efforts carried out by EIOPA in the pensions area.

**Conclusions/Action points:**

- Klaus to gather further OPSG members’ comments in writing and to send a revised text to EIOPA in the next 2-3 weeks.
- EIOPA to circulate the text for final OPSG endorsement (2-3 days).
- Final OPSG Feedback Statement to be sent to the European Commission.

5.	<b>EIOPA Consultation on the QIS</b>	Discussion
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The OPC Chair, Brendan Kennedy, showed understanding for OPSG members’ demands on the right level of involvement, given the timeline and the complexities embedded in this project.

He assured that the QIS is a European Commission exercise, not an OPC/EIOPA initiative and that the outcome of the exercise will not lead to a general revision of the Call for Advice (CfA) response. However, the CfA contains various options and the QIS is considered to explore some of the options and provide quantitative data to enable a robust debate, support an informed choice and make options comparable on the basis of figures.

The Technical Specifications (+/- 150 pages) are complex and will represent a challenge for IORPs, which will be assisted by national supervisors. As indicated, the QIS is not a cost benefit analysis, but an input to the EC Impact Assessment.

For EIOPA the main objective is to establish whether it can work from a practical viewpoint, ultimate aim is to improve the Technical Specifications. EIOPA has broad experience from previous QIS in the insurance side and even considering that a QIS is time consuming and a labourious exercises, the efforts invested are worth it. For this, EIOPA strongly encourages OPSG to provide input to the public consultation.

OPSG members are asked to give input to the following questions:

- Are the proposed calculations feasible in the timeframe foreseen?
- Are the adjustment and security mechanism IORPs dispose of adequately taken into account?
- Is the QIS document sufficiently clear and understandable?
- Are the contained simplifications adequate and would including additional simplifications be appropriate?

The following questions/concerns were raised by OPSG:

- How will the output of QIS be shown for schemes submitting their data? And how will EIOPA compare such data?
  - B. Kennedy response: EIOPA will preserve the confidentiality of IORPs and data will be treated on an aggregate level.
- How many Member States have participated in the QIS for Insurance?
  - C. Montalvo response: in the last QIS in insurance all 27 MS participated in the exercise, which covered 92% of the technical provisions in the EU market and around 60% of companies (ca. 3000 out of 5000).
- What are the costs for IORPs to run such exercise?
  - It must be considered that the workload is even higher than for life insurers under SII as also the adjustment for IORPs have to be taken into account. However, remarks were also made that it should be differentiated between the costs for this QIS and the future costs for introducing adequate procedures for regular calculations e.g. needed for a HBS approach.
  - B. Kennedy response: This is a good suggestion to be considered; nonetheless EIOPA cannot force MS to participate. The outcome of the exercise is important on a political level. Compared to SII, the QIS is acknowledged to be more demanding due to the complexity of the existing IORPs and their numbers.
- Why is there no cost/benefit analysis?
  - B. Kennedy response: The importance of and need for a cost/benefit analysis is recognised, however, this is not possible now regarding the ambitious timeframe.
- It is important to use the correct terminology: "capital requirements" (this refers to cost of capital) should not apply to pensions – this is called "guarantee requirement".
- Concerns were raised regarding the Holistic Balance Sheet (HBS) and the sponsor support, which is not regulated by local supervisory authorities. Similar concerns were raised with regards to the challenging aggregation work a national supervisor would need to carry out to submit the country results.
- What will be the supervisory response to an unfunded IORP? The reduction of benefits?

- B. Kennedy response: The recovery period. However the QIS will not result in a concrete answer on this.
- For IORP I, we had the introduction of the prudent person principle, now for IORP II, we are summoned to adopt a HBS approach while there are no clear criteria for calculation of its elements.
  - B. Kennedy response: QIS is meant to illustrate consequences of certain policy options; results must be comparable between Member States.
- With regard to the security mechanism adjustments it was asked by OPSG members to take the IORPs-specific security mechanisms and the IORPs characteristics into account and not Solvency II/insurance.
- The planned QIS exercise suffers from unfortunate timing as it will coincide with the annual period for actuarial year-end work putting strain on actuarial resources available for the QIS.
- It was questioned again whether SII is the right starting point for IORP II.

**Conclusions/Action points:**

- No specific conclusions were drawn from this discussion.
- The subgroup intends to prepare a draft by 4 July and strives to have the final opinion ready by 15 July.

13.00	Lunch (1 hour)	
6.	<b>Developments on QIS</b>	Discussion

Benne van Popta, Chair of the Subgroup on QIS, and Niels Kortleve updated members on the work in progress for the preparation of the OPSG Opinion.

Preliminary OPSG conclusions

- QIS is too detailed. More guidance is needed on security mechanisms – need to elaborate more on relevant points for Pension Funds.
- Numbers seem more detailed than the overall understanding of the HBS
- More attention should be given to the impact on contributions and pensions benefits.
- On the 22 questions – OPSG will provide a high level response, which will also address the political issues.
- QIS – KISS (Keep It Short & Simple). Too much detail can kill the exercise, as smaller schemes could be excluded.
- Even if the EC wants one QIS only, this is not considered to be feasible from the OPSG side.

General questions to EIOPA

- If a QIS is the first step, what are the other steps in the process?
  - Response: EIOPA is working on the basis of one QIS, therefore its complexity. The next step, after the consultation, will be to submit it to the EC.
- Is the 22 questions part of a qualitative assessment?
  - Response: No, these are consultation questions. The qualitative ones are a separate set of questions.
- What is the OPSG involvement?
 

Response: Difficult to find the right level of involvement. OPSG process is independent and EIOPA is not involved except for technical clarification. This needs to be emphasised not to create a conflict of interest. EIOPA expects a robust response by the OPSG, including, if possible, alternative proposals.

The floor was open to reactions from the OPSG:

- It is difficult to comment given that EIOPA draft Technical Specifications have not been shared with the full OPSG (for response, see conclusions).
- Principle and risk-based regulation: If IORPs have to invest in Sovereign Bonds in a low interest environment the question arises whether this is good for beneficiaries?
- U. Linder remarks:
  - It is Commissioner Barnier’s decision to maintain the HBS.
  - ECOFIN will decide on sovereign debt risk profiles.
  - EP-ECON wants to revise Solvency II Level 1 rules
  - They are in favour of simplification
  - The QIS specifications should be inclusive of measures for long term business
- C. Montalvo remarks:
  - In the recent Trialogue, the “long-term package” turned out not yet to be stable enough.
  - All legislative proposals need an Impact Assessment; EIOPA will feed into this one.
  - Material impact on calibration: This is a minor problem; the discount of liabilities is the major issue and the right recovery period as a supervisory response.
  - Simplicity vs. complexity: Solvency II is too complex, but only 20% of its features is determined by actuaries, 20% was requested by the Council (“standard formula”), the remaining granularity is requested by the industry.
- Caution on the impact on pensions market due to changes in IORPs. Terminology to be changed from insurance to pensions due to underlying differences: Supervisory actions should not be linked to quantitative requirements, there should be an own definition.
  - C. Montalvo response: the framework should remain neutral to the investment portfolio of the schemes. The link between the supervisory intervention and the cost of capital it is triggered by the Solvency Capital Requirements (SCR) and the Minimum Capital Requirement (MCR).
- Finally, OPC Chair, Brendan Kennedy, points out that for any clarifications on the QIS and its specifications, a “coordination group” has been set up with MS participation, assisted by an EIOPA pensions team member. The aim is to achieve utmost consistency across MS during the QIS exercise.

**Conclusions/Action points:**

- Timeline: the QIS Subgroup will meet informally on 22 June in Amsterdam (this meeting is not covered by the current reimbursement rules)
- The QIS Subgroup should collect input/feedback from all OPSG members.
- The draft Opinion will be shared before the next OPSG meeting on 4 July and comments included. The final opinion will be adopted thereafter by written procedure.
- EIOPA will provide OPSG with the preliminary draft Technical Specifications on QIS on a confidential basis, immediately after they have been submitted to EIOPA Board of Supervisors.

7.	<b>ESAs Consultation on EC Call for Advice on the review of FICOD</b>	Discussion
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**Remarks:** EIOPA representative, Mr. Kai Kosik, made a brief presentation on the Joint Consultation Paper on the fundamental review of the Financial Conglomerates Directive.

This consultation covers three broad areas:

- The scope of application
- The Group wide internal governance requirements

- Sanctions and supervisory empowerments

The Joint Committee issued eight recommendations in response to questions in a call for advice for the review of the FICOD, including the widening of the scope of supervision, addressing requirements and responsibilities to a designated entity within the financial conglomerate and the framework of supervisory powers provided by the FICOD.

In particular, in response to the Question 1 CfA on the scope of supervision, the ESAs have described options whether IORPs should be included as part of a financial conglomerate. Stakeholder views are welcome on the proposed options:

- Option 1: Include IORPs within the definition of "financial sector"
- Option 2: Maintain the status quo; such that IORPs would not be included within group wide supervision at cross-sectoral level

The Commission will organise a public hearing on 28 June in Brussels. This consultation is open until 13 August 2012. Relevant documents are available on EIOPA website: <https://eiopa.europa.eu/consultations/consultation-papers/index.html>

OPSG Chair called for a volunteer to gather OPSG input and table a draft opinion for the next meeting. Alternative option is not to respond as OPSG, but on an individual basis.

The following comments were shared by OPSG members:

1. Suggestion to split the questions in two sets: Question 1 to be addressed by OPSG; all other questions on an individual basis.
2. The rationale for including IORPs in the scope is that they are active on the financial markets.
3. The response should refer to the discussion on the White Paper. IORP should not be part of the financial sector, as this could pose a threat for the pension promise provided.
4. The majority of OPSG members agree that if IORP is non-profit, run in the interest of beneficiaries and stand-alone, it should not be included in the scope. However, if they do not fulfil these criteria, then few OPSG members opted for excluding IORPs from the scope since doing so risks raising a conflict of interest.
5. It was also mentioned that IORPs are not competing on a market, especially Pillar II was not seen as a competitive market. The core of IORPs is not to compete on the market, but to ensure the future provision of an employee benefit
6. IORPs are already regulated in contrast to Hedge Funds which are not.
7. In the UK, banks provide occupational pensions to their staff and it was argued that those IORPs executing those schemes should be included as part of the financial conglomerate.
8. Banking/insurance mutuals are already included in the FICOD. There are concrete examples in the EU, such as the Finnish pension schemes managed by insurance companies.
9. EIOPA remarks: the question is how special are pension schemes? The OPSG should assess the characteristics of IORPs, why they are different and should be exempt, etc.

**Conclusions/Action points:**

- OPSG members should provide their written input to EIOPA. Collected input will then be forwarded to the person appointed by the OPSG Chair as FICOD topic owner and establish a draft opinion. The issued statements and reasoning of OPSG members could already for a part of this document.

➤ Progress on this topic should be discussed in the next OPSG meeting on 4 July.		
8.	<b>Approval of the OPSG Work Plan 2012-2013</b>	Discussion & decision
<p>The draft Work Plan was circulated in advance to OPSG members. A new line for the FICOD Consultation will be added to the table of deliverables. Further revisions of the Work Plan will follow when esteemed necessary.</p> <p><b>Conclusions/Action points:</b></p> <p>➤ EIOPA to update the Work Plan and to publish it on EIOPA website, OPSG section.</p>		
9.	<b>Approval of the OPSG Subgroup Mandates</b>	Discussion & decision
<p>1. White paper: draft mandate approved with minor changes.</p> <p>2. QIS: OPSG Chair proposed a number of changes.</p> <p>3. Information to members:</p> <ul style="list-style-type: none"> <li>• OPSG Chair remarks: Definition of a pension should be included. Possibility to limit the scope to occupational pension schemes (DB and DC, the latter may be more relevant) and not include UCITS and life-insurers. Pre-enrolment information for pension plan members should be included. A representative of the industry category of OPSG is encouraged to participate in this subgroup as well to achieve a balanced outcome.</li> <li>• Other comments: <ul style="list-style-type: none"> <li>○ Information to members will be more useful for DC schemes beneficiaries, rather than DB.</li> <li>○ It is important that KIID is written in an understandable manner and that it has a consistent language applied across sectors to avoid confusion among consumers.</li> <li>○ This topic should be discussed further during the next meeting.</li> </ul> </li> </ul> <p><b>Conclusions/Action points:</b></p> <p>➤ EIOPA to publish the approved mandate of the White Paper Subgroup</p> <p>➤ EIOPA to send a revised QIS Subgroup mandate to OPSG?</p> <p>➤ Mandate on Information to Members Subgroup to be discussed during the next OPSG meeting.</p>		
10.	AOB	
<p>EIOPA will share the second version of the EIOPA work programme for 2013.</p> <p>2013 meeting dates will be proposed tentatively.</p> <p>Next meeting: <b>04 July 2012</b>, Frankfurt am Main.</p>		
17:30	End of the meeting	