

**Occupational Pensions Stakeholder Group meeting  
04 July 2012**

**Venue: EIOPA Headquarters, Germany;**

**Draft Conclusions and Action points**

List of participants:

OPSG: Chris Verhaegen (OPSG Chair), Benne van Popta (OPSG Vice-Chair), Gunnar Andersson, Gábor Borza, Naomi Cooke, Charles Cronin, Otto Farny, Bruno Gabellieri, Ruth Goldman, Marcin Kawiński, Niels Kortleve, Régis De Larouilliere, Henri Lourdelle, Baiba Miltovica, Manuel Peraita, Giuseppe Rocco, Joachim Schwind, Federica Seganti, Maria Isabel Semião, Philip Shier, Dariusz Stańko, Yves Stevens, Klaus Struwe, Allan Whalley and Bernhard Wiesner. Drafting support to OPSG: Jurre de Haar and Eugen Scheinker.

EIOPA: Gabriel Bernardino (EIOPA Chair), Giulia Conforti, Beata Kaminska, Barthold Kuipers and Manuela Zweimueller.

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

European Commission: Eelke Postema – DG Internal Market and Services

09:30	Welcoming by Ms Chris Verhaegen, OPSG Chair	Type
1.	Approval of the draft agenda ➤ <i>Doc: EIOPA-12-199: Draft agenda OPSG mtg.</i>	Decision
<p><b>Remarks:</b> OPSG Chair welcomed Members to their 9<sup>th</sup> statutory meeting of the Stakeholder Group.</p> <p><b>Conclusions/Action points:</b> Draft Agenda was approved without amendments</p>		
2.	<b>Approval of the 31.05.2012 meeting conclusions and action points</b>	Decision
<p><b>Remarks:</b> Due to the proximity of the last OPSG meeting and the current workload at EIOPA, it was not possible to provide with the draft minutes ahead of the meeting.</p> <p>Some OPSG members proposed to prepare brief follow-up's to the meetings, in order to keep up-to date with the to-do's. This should be kept in a simple format and would not replace the main conclusions &amp; action points.</p> <p><b>Conclusions/Action points:</b></p> <ul style="list-style-type: none"> <li>➤ A follow-up e-mail with immediate/concrete to-do's in form of bullet points will be provided after the OPSG meetings.</li> <li>➤ Main conclusions will remain reflected in the minutes.</li> <li>➤ The 31/05 minutes will be sent to OPSG in a written procedure.</li> </ul>		
3.	<b>Update from EIOPA Chair, Gabriel Bernardino and Eelke Postema, DG Internal Market and Services (EC), on developments</b>	Discussion
<p><b>Remarks:</b> European Commission representative, Mr. Eelke Postema, updated OPSG members as to the main developments at the political level.</p> <p>1. Triologue negotiation of OMDII: discussion is still on-going in Strasbourg. The key issue is the "Long term guarantee package". The intention of the Commission is to have comparable rules for life insurers and pensions funds alike. This outcome will also affect the revision of</p>		

the IORP Directive.

2. Adoption of the quick fix Directive by the Council in September; purpose is to adapt the date of transposition of SII Directive in Member States (30.06.2013) and implementation by companies (01.01.2014).
3. Adoption of the Consumer Package proposal on 3 July by the European Parliament: the objective is to reinforce consumer's confidence. There are 3 legislative initiatives:
  - Packaged Retail Investment Products (PRIPs) – Improves information standards; excludes IORPs, but includes 3rd pillar pensions plans.
  - Insurance Mediation Directive (IMD II) – Raise standards for advice given to consumers by intermediaries; a review clause is foreseen 5 years after investigation of market conduct related to i.a. occupational pension schemes (to be seen in the context of the IORP review).
  - Undertakings for collective investment in transferable securities (UCITS IV) – proposal to boost protection for those who buy investment funds. Council and European Parliament to finish legislation within one year.

Link to the European Commission consumer package:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/736&format=HTML&aged=0&language=en&guiLanguage=en>)

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

- On Solvency II: question related to a proposed exclusion of signed contracts in the past or a potential postponement of its application by 7 years and whether the same would apply to IORPs (back books).
  - Response by Postema: this is still under discussion, but similar approach should follow for pension providers and life insurers.
- On IMD: what type of proposal is it – rather general principles or more practical information?
  - Response by Postema: The idea is to have one single information sheet for all EU consumers, no matter what and via which distribution channel they buy. However, as it is a Lamfalussy structured Directive, it will first have Level 1, covering general principles. Detailed set of rules will not be available before L2 and L3 regulation.
- On PRIPs: will it be leading principles (Regulation instead of Directive) as to financial products, including individual pension's arrangements?
  - Comment: if we want to show how safe occupational pensions are, we will have to adopt the same principles.
  - Comment: individual pensions are different from occupational; individual is represented collectively by union, workers council; consumer protection is achieved by social and labour law.

4.

**EIOPA Work Programme 2013**

Discussion

**Remarks:** the draft EIOPA Work Programme has been sent to OPSG for comments. OPSG Chair opened the floor for remarks/suggestions to EIOPA:

- It was acknowledged that the structure of the work programme 2013 is according to the EIOPA mandate and thus provides an easy reading for institutional users.
- What is the status of the topics to be assessed by the peer reviews? IORPs, colleges, etc.?
  - Response by EIOPA: this work is on-going and will be presented by the Review Panel in the next OPSG meeting in September.
- On Insurance Guarantee Schemes: are life insurers covered as well? Will this have an impact on IORPs? In relation to QIS - do IGS take into account the different risks?
  - Response by Postema: Solvency II is to be prevailing. In a risk based supervision

and a stable financial system IGS should not be necessary.

- Response by EIOPA expert: QIS only applies to IORPs; life insurers cannot participate.
- More clarity is needed on the IORPs STATISTICS, in particular with respect that IORPs are not an homogeneous class: this would be useful to understand if the quality standards are equal for all. The information should provide 3-4 key characteristics on the IORPs (number, size, type, etc).
  - Response by EIOPA expert: The US for example, have better statistics due to extensive reporting obligations. Unfortunately, this is not the case in Europe; some national supervisors struggle to get data from IORPs.
  - Comment: in UK this data is not provided by the regulator, but by the tax authority. UK has very good data.
- A sound statistical database including key characteristics of IORPs could also be useful for supervisory purposes
- Some IORPs would even volunteer to provide key information. A list, of which IORPs are obliged to register, is available from EC.
- Also White Paper calls for better information on IORPs.
- GENERAL REMARKS BY GABRIEL BERNARDINO:

EIOPA main areas of focus will be the QIS exercise, the information on DC schemes and best practices around EU.

One of the priorities for 2013 will be the information about the pension funds, where we would like to gather data in 2 areas:

- Type of Pension Fund
- Key figures (volume of assets/structure/number of members)

Not all PF will be covered, but at least the main players. Having data at EU level will facilitate supervisory convergence.

On the question concerning the data for the QIS, EIOPA needs sufficient information provided by the national supervisory authority to complete the exercise and to allow for cross-sector consistency check.

**Conclusions/Action points:**

- OPSG recommends including a statistical overview of the IORPs existing in Europe to the EIOPA Work Programme.
- Peer Review presentation to be included in the agenda of the OPSG meeting of 14 September.

5.	<b>Discussion OPSG position on White Paper</b>	Decision
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**Remarks:** OPSG Chair presented the item by reminding OPSG of the several steps taken for the preparation of the Feedback Statement on the White Paper, including the collection of comments during the OPSG meeting in May, which were incorporated in the paper. OPSG members interested in shaping a particular topic should become part of the dedicated subgroup. Drafting and refinement of contents is carried by the subgroup. Members are encouraged to respect these principles and to avoid submissions after deadlines.

Specific remarks: the paper submitted for vote contains a footnote on page 3, providing a definition of the different pillars in the new Member States and some modified text on page 7, on the reporting obligations in Member States.

**Conclusions/Action points:**

- Final OPSG Feedback Statement on the EC White Paper on Pensions was endorsed by consensus
- In the future, written procedures will be announced to OPSG in advance.

6.	<b>ESAs Consultation on EC Call for Advice on the review of FICOD</b>	Discussion
<p><b>Remarks:</b> OPSG Chair informed that Bruno Gabellieri has accepted to lead the drafting of the OPSG Opinion on FICOD review. OPSG members who would like to volunteer to support him are invited to show interest.</p> <p><b>Conclusions/Action points:</b></p> <ul style="list-style-type: none"> <li>➤ Mr. Bruno Gabellieri appointed as topic owner, supported by Régis De Laroulliere and Eugen Scheinker. Draft opinion to be revised by Bernhard Wiesner and Joachim Schwind.</li> <li>➤ Draft opinion will be circulated on 16/07 to OPSG for comments (4 days)</li> <li>➤ Vote via written procedure on 20-24 July.</li> </ul>		
11.00	Coffee break	
7.	<b>Call for Advice on QIS to EIOPA</b>	Discussion
<p><b>Remarks:</b> Jonathan Faull's letter of 11 June 2012 to EIOPA was distributed to full OPSG, The Director General states that with the IORP Directive's review they want to provide for new choices in the internal market. OPSG Chair's interpretation was that this seems to be a promotion of the pillar 2 in countries where it is not yet available.</p> <p>The following points were raised:</p> <ul style="list-style-type: none"> <li>• Concern was raised that the pensions' QIS is a copy of the QIS5 SII approach, in particular with respect to insurance long term guarantee products. Rather concerned that it is linked to the insurance methodology without investigation whether this would be an appropriate approach. Many question marks on implementing SII into the world of IORPs.</li> <li>• Surprise about the shortened consultation time (6 weeks instead of regular 3 months)</li> <li>• surprise also that only one QIS is planned.</li> <li>• Too many assumptions so that QIS output may be dubious.</li> <li>• Ideally, a pilot study would be this first step before the QIS.</li> <li>• To make IORPs more solvent and safer to the consumer/employee, also the opinion was issued for a "safety net" to be provided by collective contributions, e.g. from IORPs, then shared to help each other.</li> </ul> <p>***</p> <p>Benne van Popta, Chair of the Subgroup on QIS, updated members as to the process for the preparation of the OPSG Opinion and made some general remarks. Niels Kortleve's presentation focused on the Holistic Balance Sheet (HBS). This was followed by Charles Cronin's and Philip Shier general comments with respect to questions 1-4 of the Call for Advice.</p> <p>The following points were raised:</p> <ul style="list-style-type: none"> <li>• The revision of the IORP Directive does not seem to be in line with the general goals of the European Pension Policy. A general remark with respect to the QIS is that it too technical and too extensive for a first QIS (supposing there will be more than 1 QISs on Level 1). However, it is not extensive enough if this is supposed to be the only QIS to provide a complete indication about the possible impact.</li> <li>• A second remark is that QIS fails to establish whether the Holistic Balance Sheet is appropriate as a supervisory tool.</li> <li>• In the HBS the funding ratio will always be 100% if the pension contract is be complete.</li> </ul> <p><u>OPSG members' tour de table:</u></p>		

- On risk-free/discount rate:
  - There is too little attention for the duration of the liabilities in the Technical Specifications. "Market-consistent" valuation of liabilities should be better defined, also because this interpretation could differ from MS to MS –markets are imperfect and volatility can be high. Shared concern that the confidence level is a political choice and a 99.5% confidence level is taken into account as basis in the consultation.
  - The valuation with the current risk-free interest rates will not be useful for long term liabilities.
  - More simple approach with duration, discount rate and interest rate as most important variables, would be worthwhile to be investigated. More stringent supervision will not solve the problems IORPs currently have.
- On HBS:
  - More development of the HBS is necessary, especially with respect to the valuation of discretionary benefits and sponsor support (not enough guidance from the consultation document). The inflation risk, which is an important risk, is missing.
  - Not sufficient attention for the interaction/co-integration between the various steering/adjustment instruments; the value of the different elements out of the HBS cannot always be aggregated.
  - HBS should not be applied to pension institutions (IORPs), but to pension schemes (IORP can serve more schemes). Also book reserves, pay as you go schemes and insurance schemes should be incorporated into the HBS approach, if this approach is applied to IORPs. The question if the HBS is the right approach cannot be answered yet.
  - Questionable if it is possible to have only one unique approach to IORPs, given the large difference between pension schemes across MS. Polish IORPs would most likely not be able to do the QIS; the costs of doing the HBS exercise could be very high (and there may be a need to use consultants). The HBS approach requires a lot of assumptions, which are appropriate in normal periods, but not in a crisis. Furthermore, it is unknown what will be done with the outcome of the QIS. It is questionable whether resulting numbers will indeed reflect reality.
  - Should the HBS be used as a supervisory tool, it will be very onerous and costly for pension funds. For small IORPs, due to the lack of data, the outcome may not be statistically sound.
  - QIS should help to find out whether or not HBS is a useful tool for safe and sustainable pensions.
- On alternative approaches:
  - Concern on the fact that there is no alternative solution in the current OPSG response: if the aim of this exercise is to provide security, in the draft response there is no hint as to how this could be achieved without applying a SII-type regime. Whatever framework will be chosen, better information will be needed to adequately protect consumers.
  - The key question is how IORPs could ensure security and what kind of a tool is needed for this aim. This question will not be answered by the proposed QIS. OPSG should table alternative approaches.
- On current main conclusions:
  - The current main conclusions of the OPSG should be stated more clearly in the response of the OPSG. The QIS is very difficult to be carried out, especially for small and medium size IORPs. Small and medium size IORPs cannot be compared with small and medium size insurers.
  - When QIS 1 of Solvency II is compared with QIS 5, there are huge differences. However, an important starting point should be that a liability is a liability, no matter if it is offered by insurer or an IORP. It is useful to have an adequate overview of the characteristics of the liabilities. The chapter of proportionality should be copied from

the Solvency II Directive. The conclusions of the QIS will be very important.

- More statistical data will be necessary to compare different IORPs in Member States (like number, size, participants).
- On the consultation process:
  - Very difficult to calibrate a useful outcome in such a short time and with only one QIS.
  - Large UK IORPs have difficulty with the process of the QIS since in the UK it will be the supervisor to respond to the QIS. Those IORPs want to send a response on their own behalf to EIOPA. In contrast, BaFin reported that there would be fewer participants in case of direct data transmission to EIOPA.
  - Concern about how the information is provided : aggregated data such as those supplied by national supervisors, may conceal large differences impairing their usefulness to draw policy conclusions from them
  - Should there be a QIS (at all)? Many of the proposed technical specifications are heavily inspired from the Solvency II framework for insurance companies, even though the Commission had said the rules for IORPs would not be just cut and paste from Solvency II.
  - The level of detail in the consultation is well beyond the capabilities even of those international companies who sponsor pension funds. This QIS is tailored to the financial sector where the relevant expertise can be found. The real challenge will be to offer adequate and sustainable pensions, and this will be jeopardized by this review of the IORP Directive.
  - Unclear how the reporting template will look like, while this is quite important, as it will also be useful for auditors.
- Supporting comments:
  - There were also supporting comments to use SII methodology as IORPs should be dealt with similarity to insurance long term guarantees.
  - A QIS is necessary for the IORPs review and the outcome of the QIS must be taken into account. Surprised about the refusal of the use of the HBS as this will enhance consumer protection, seen as a valuable solution.
  - As occupational pension schemes become more and more important, any kind of exercise done could be useful.
  - Any kind of liabilities are "just" liabilities, regardless whether belonging to insurance or pension funds.
  - The QIS will bring additional insight which is good.

#### Feedback from EIOPA

Gabriel Bernardino thanked the OPSG for their valuable discussion and contribution to the Consultation and made the following statements:

- Reminded that initially stakeholders demanded a QIS in order to test the HBS.
- Agreed that the QIS is very complex. EIOPA would welcome more Member States to participate in the QIS, but that is a decision which is up to national supervisors. IORPs should thus be encouraged to knock at the door of their supervisor if they wish to participate.
- Agrees with the comments that the prudential framework is not tested in the QIS. However, EIOPA/ EC first need to know the impact, before they can determine which prudential framework will be appropriate.
- The concerns with respect to the discount rate are understandable, and this is also a point of concern in Solvency II. EIOPA will look very carefully to this valuation, and the fact that also another level of discount rate will be tested in the QIS ("Level B") is very positive.
- The impact of discount/swap rates is a fundamental element to be tested in the QIS. The use of different discount rates will help to come to a conclusion. The QIS also calls for the

calculation of the sponsor support which is an important element of the HBS. It will reflect the duration and nature of the assets and liabilities and raise the question who will bear the risk of the difference/gap between the two sides.

- Concluded by saying that the major goal of the HBS is to increase transparency to members and sponsors and to properly understand the risks carried. Therefore, the HBS could be useful. The QIS will also test how it could work as a supervisory tool.

The OPC Chair, Brendan Kennedy, presented an update on status of the QIS. He stated that EIOPA's objective is to set up a set of figures that would be used further (for the impact assessment purposes done by the Commission.) He stressed that the EC will determine the final Technical Standards, not EIOPA. In addition he highlighted the following points:

- It will be a difficult exercise for EIOPA as well, because of the many alternative options in the QIS and the high technical level of this QIS. EIOPA is now looking actively to some possible simplifications for the QIS.
- Concrete and specific proposals by stakeholders are very welcome, also for the inflation risk module. EIOPA did not have sufficient time to develop an appropriate inflation risk module. The remarks of the OPSG with respect to the valuation of steering mechanisms and discretionary benefits are right.
- He would personally welcome more time and several QISs.
- In this consultation, EIOPA is asking for comments on the Technical Standards on the QIS and the QIS procedure, not on a possible outcome. EIOPA would like to know whether IORPs will have more issues with the outcome of the HBS/QIS itself or with the process.
- With respect to the risks out of the SCR which are not material according to the stakeholders, he asked for evidence why it will not be material in order to exclude it from the QIS.
- It is true that only 8 of 27 Member States will participate in the QIS, but these 8 Member States are (by far) the most relevant ones. The resources which should be available to perform a QIS is an issue which is up to national supervisors.
- The valuation of long-term liabilities is currently heavily debated, in particular in the insurance sector. Duration is "a parameter" amongst others. With respect to the criticism on the market-based approach of valuation, Brendan Kennedy asked what should be a better alternative.
- In both cases, for discretionary benefits, as well as with regard to the market-based approach, national supervisors can make specific proposals and/or model other alternatives.
- The OPC Chair highlighted again that QIS doesn't copy and paste SII but it in some way it takes it as a model; he also mentioned that for some Member States it will be only practical to use aggregate data (and do a model) and not to use real IORPs.
- As last remark, he said that if the QIS will show unfavourable results, this could be due to the HBS approach and the assumed parameters, but also due to the structure and the risks of the IORPs liabilities itself. Therefore it could be a useful exercise even if it were to prove that the HBS is not a workable concept.

Response Benne van Popta:

- The OPSG wants to be constructive. However, sometimes it is not an easy task in particular when prior OPSG advice is not taken onto account and Solvency II as a starting point drives the direction.
- Additional QISs will be helpful. The OPSG is very surprised by having only one QIS.
- The OPSG has certainly difficulties with the process. Only real IORPs should perform the QIS; this should not be done by supervisors. The aim of the QIS should be to know if IORPs can perform the HBS/QIS and what will be the impact on IORPs. Furthermore, he highlighted that the results of a 97.5% and 95% confidence level cannot be derived from the 99.5% outcome.
- Finally: not sure whether QIS will be useful to test HBS' ability to be used as a supervisory tool and also whether it will properly reflect who bears the risk at the end/which are the mistakes.

<b>Conclusions/Action points:</b>		
<ul style="list-style-type: none"> <li>➤ EIOPA to invite for written comments from OPSG members by 11 July, 6pm CEST</li> <li>➤ EIOPA to send final document with incorporated comments for vote on Monday, 16/07 (until Wednesday, 18/07)</li> </ul>		
13.00	Lunch	
8.	<b>Discussion and approval of OPSG Subgroups mandates:</b>	Discussion & decision
<b>Remarks:</b>		
<ul style="list-style-type: none"> <li>• On White Paper: OPSG Chair informed members that the mandate was modified to extend the timeline and include the reference to also give feedback to the EC under par. VII.</li> <li>• On QIS: The duration of the mandate should be extended to mid-2013 (until expiration of OPSG mandate) in order to include the analysis of the QIS results.</li> <li>• On Information to members: <ul style="list-style-type: none"> <li>○ A discussion was held on the scope of the mandate. The OPSG Chair proposed that the Subgroup is co-chaired by Marcin Kawiński and Klaus Struwe.</li> <li>○ It was agreed that the report of the subgroup should be presented to the OPSG on 28 November prior to the joint meeting with IRSG and EIOPA BoS. There will be a closed OPSG session from 8-10am to endorse the Opinion.</li> </ul> </li> </ul>		
<b>Conclusions/Action points:</b>		
<ul style="list-style-type: none"> <li>➤ EIOPA to publish the revised mandate on the White Paper Subgroup</li> <li>➤ EIOPA to provide legal background for the QIS mandate. Subgroup to complete the mandate latest by <u>30 August</u>.</li> <li>➤ Subgroup on Information to members: <ul style="list-style-type: none"> <li>○ Marcin Kawiński and Klaus Struwe are coleaders of the Subgroups</li> <li>○ Subgroup to prepare a draft mandate latest by <u>30 August</u>.</li> <li>○ First discussion at OPSG on 14 September – document to be provided at the latest by <u>5 Sept</u>.</li> <li>○ Final discussion and adoption at OPSG on 28 November.</li> </ul> </li> </ul>		
9.	<b>Calendar of OPSG meetings in 2013</b>	
<ul style="list-style-type: none"> <li>➤ Wednesday, 13 February</li> <li>➤ Thursday, 25 April</li> <li>➤ Thursday, 4 July</li> </ul>		
10.	AOB	
Next meetings:		
<b>14 September 2012</b> , Frankfurt am Main.		
28 November (joint IRSG and EIOPA BoS)		
15:30	End of the meeting	