

**Occupational Pensions Stakeholder Group meeting
14 September 2012**

Venue: EIOPA Headquarters, Germany;

Conclusions and Action points

List of participants:

OPSG: Chris Verhaegen (OPSG Chair), Gunnar Andersson, Gábor Borza, Naomi Cooke, Charles Cronin, Ellenbürger Frank, Otto Farny, Bruno Gabellieri, Ruth Goldman, Marcin Kawiński, Niels Kortleve, Henri Lourdelle, Baiba Miltovica, Manuel Peraita, Martine Van Peer, Patricia Plas, Giuseppe Rocco, Joachim Schwind, Federica Seganti, Maria Isabel Semião, Philip Shier, Dariusz Stańko, Yves Stevens, Klaus Struwe, Taylor Douglas, Allan Whalley and Bernhard Wiesner. Drafting support to OPSG: Eugen Scheinker.

EIOPA: Carlos Montalvo (EIOPA Executive Director), Sebastien Bonnal, Giulia Conforti, Dora Iltcheva, Beata Kaminska, Peter Kleisen, Barthold Kuipers, Daniela Rode, Teresa Turner, Justin Wray and Manuela Zweimueller.

EIOPA Working Groups: Raffaele Capuano, Vice-Chair of EIOPA Review Panel

European Commission: Jung Lichtenberger- DG Internal Market and Services

09:30	Welcoming by Ms Chris Verhaegen, OPSG Chair	Type
1.	Approval of the draft agenda ➤ <i>Doc: EIOPA-12-261: Draft agenda OPSG mtg.</i>	Decision
<p>Remarks: OPSG Chair welcomed Members to their 10th statutory meeting of the Stakeholder Group.</p> <p>EIOPA introduced Mr. Sebastien Bonnal and Mr. Peter Kleisen, who recently joined the External Relations team at EIOPA.</p> <p>Conclusions/Action points: Draft Agenda was approved without amendments.</p>		
2.	Approval of the 04.07.2012 meeting conclusions and action points	Decision
<p>Remarks: The 4 July 2012 Conclusions were approved.</p> <p>Exceptionally, the 31 May 2012 Conclusions had been approved via written procedure.</p> <p><u>Matters arising:</u></p> <p>Chris Verhaegen gave an overview on the matters that arose since the last meeting in</p>		

July and thanked the Subgroups/ topics owners for their excellent work on:

- Adoption of OPSG Opinion on Technical Specifications on QIS (written procedure)
- Adoption of OPSG Opinion on the Review of the FICOD Directive (majority position not to include IORPs in the scope – written procedure)
- White paper OPSG Feed Back statement:

Commissioner Andor’s response letter indicates that Commission will pursue an initiative on portability of pensions while acknowledging the need to avoid unreasonable costs.

Commissioner Barnier’s response was to say OPSG should keep close contact with the unit of Mr. K. Van Hulle.

No responses from MEPs Sharon Bowles (ECON) and Pervenche Berès (EMPL).

In addition, the Chair thanked EIOPA for providing OPSG members with the much appreciated **nutshell note on Solvency II**. She emphasized the high quality and great usefulness.

3.	Update from EIOPA Executive Director, Carlos Montalvo and Jung Lichtenberger, DG Internal Market and Services (EC), on developments	Discussion
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EIOPA Executive Director, Carlos Montalvo gave an update on IOPR review, Solvency II (SII) & Omnibus II (OMDII), FICOD, Banking Union and Long Term Investments.

On IORP REVIEW: QIS Consultation received 117 reactions. The main issues were:

1. Why only one Quantitative Impact Study (QIS)?
EIOPA stands ready to undertake more. Basically, more QISs would be useful to get a clear and comprehensive picture. However, the Commission’s timeline, in particular Commissioner’s Barnier mandate, does not allow for more time.
2. Complexity, especially due to Solvency Capital Requirement (SCR).
EIOPA aims at bringing simplicity and transparency on funding. There are simplifications (for technical provisions, interest rates, currency risks) provided by EIOPA and it is recommended to make use of them.
3. Treatment of inflation: this is a valid point that EIOPA will duly take into consideration.
4. Sponsor support: nearly unchanged.

On QIS process: first discussion on the outcome on the consultation with **BoS on 29 September**. During this meeting the Multi-annual Work Programme, which includes the work on individual pensions, will also be discussed. Then, on **19 October** there will be a kick-off workshop with the QIS participants (supervisors and IORPs), to which OPSG is also invited to attend.

ON SII AND OMDII: The outcome from the Trialogue (EP-Council-COM) on 18 September should shed some light to the Quantitative Impact Study on Long Term Guarantees (LTG) package for life-insurers.

ON FICOD: the majority of responses were in favour of leaving IORPs out of the scope. The ESA’s Joint Committee decided therefore on 17 September not to recommend an

inclusion of IORPs into the FICOD draft. However, this might be revised. ECB and one consumer organisation were in favour of including IORPs in the scope.

ON BANKING UNION: the supervision of Financial Conglomerates is considered to be transferred to the ECB, based on the current proposal. Little is said about the role of the ESAs in the Banking Union proposal. EIOPA could either mirror EBA or be enhanced to the counterpart of ECB on Financial Conglomerates.

European Commission representative, Jung Lichtenberger, gave an update from the the political level

1. Trialogue negotiation of OMDII: agreement currently sought in the Trialogue as to the terms of the Long term Guarantee package.
2. IORP II: The intention of the Commission is to have a proposal for a directive tabled in June 2013. EIOPA had done an excellent work in collecting the comments from the QIS Consultation.
3. White paper: lead for follow-up is with DG Employment. Several initiatives are currently discussed.
 - Jointly DG Markt + DG EMPL + DG SANCO
 - o facilitating supplementary pensions
 - o Improving the information for the 3rd pillar pensions (KIID style? Scope?)
 - Code of best practices for Occupational Pensions: DG EMPL + social partners
4. The annual Commission's Pensions Forum (chaired by DG EMPL) will be held on 2 October in Brussels.
5. On long term investments: DG Markt is working on a Green Paper on Long Term Investments targeting all the institutional investors (fund and asset managers, insurers, IORPs, etc.) about their role in European economy and more specifically how they can underpin stable economic growth.

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

- On EIOPA Work Programme 2013: OPSG recommendation to integrate as a deliverable a statistical overview of IORPs in the EU was not followed, whereas EIOPA is pursuing an Insurance database. A member considered that statistical information has a political bearing for identifying the relevance of IORPs regulation across the EU.
 - o Response by ED: the proposed activity requires considerable resources, yet it is embedded in the Multi-annual work programme 2012-2014.
 - o In addition, there is a Stress Test planned for Occupational Pensions for 2013.
- On timeline for IORPII and possibility to have a second QIS?
 - o Response by EC representative: June 2013 is the date fixed on the political agenda to deliver an IORP II proposal for a directive and therefore no time allowed for a second QIS. Even though the QIS is more complex than initially sought, the Commission will be able to assess the QIS results next year.

- EIOPA staff observed that such a timeline does not prevent a parallel QIS to be performed during the revision phase, subject to the availability of additional resources.
- On the ESAs assessment: when will OPSG be involved in the process?
 - Response by ED: this work is on-going; DG Markt has initiated the collection of information by the ESAs. Commission will approach the OPSG with a questionnaire.
- On Long Term Investments:
 - A working group is also being established by ECB. EIOPA's role not yet clear and OPSG will be informed about proceedings at the next meeting.
 - Commission adds that the Green Paper on Long Term investment is due by early 2013; this initiative should be compatible with IORPII.

Action Points:

- EIOPA to circulate the Multi-annual Work Programme 2012-2014 after the Board of Supervisors (BoS) meeting on 27-28 September. EIOPA Stakeholder Groups are kindly invited to provide input at 28 Nov. 2012 meeting.

4.	EIOPA Survey on the implementation of small IORPs exemption	Discussion
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Remarks: Teresa Turner, EIOPA expert, presented the results of the March-July 2012 Survey on the Exemption of small IORPs conducted amongst EIOPA members. Purpose: to establish a baseline for the EC's revision of the IORP Directive regarding small IORPs.

The presentation is available on OPSG website:

https://eiopa.europa.eu/fileadmin/tx_dam/files/Stakeholder_groups/occupational-pensions/2012-09-14/Survey_on_small_IORPs_exemption_presentation_for_OPSG_TT_.pdf

The following aspect were raised by OPSG:

- What is the total value of assets and number of small schemes? Close to 260 billion Euro and 118.000 schemes– these are values for small schemes (1-99 members). Most of those small schemes are located in the UK and IE.
- Only 6% of the IORPs have more than 100 members (vs. 94% with less than 100). However, 90% of the Total value of assets of IORPs is owned by them.
- Which countries have the largest IORPs? UK, the Netherlands and Germany.
- Is a follow-up questionnaire foreseen? No, unless the Commission requests it.
- It is difficult to establish the overall pension schemes number due to differentiation of active and deferred members overlapping participation in several schemes. However, some Scandinavian countries do have such a Register.

Conclusions/Action points:

➤ EIOPA to circulate a pdf version of the presentation

5.	EIOPA Peer Reviews	Decision
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Remarks: Raffaele Capuano, Vice-Chair of the Review Panel, updated members on the current work of the Peer Reviews in 2012 (see topics below): the results from the self-assessment questionnaires are currently considered in the field work phase (e.g. through visits to competent authorities, conference calls and written procedure).

For 2012 the focus is on the implementation of ARTICLE 13 (IORP Directive) on the information to be provided to the competent authorities (CA) AND ARTICLE 14 (IORP Directive) on the powers of intervention and duties of the competent authorities. For this peer review, the best practices which may be identified as a result of the peer review could contribute to the development of the “code of best practices” currently considered by the EU Commission. The result of this review will be presented in Q1/2013.

Further planning for 2013 includes a peer review focused on the implementation of the “shall” provisions of ARTICLE 9 (IORP Directive) meaning those provisions where Member States don’t have an option: art. 9, par. 1 and par. 5 (on cross border and prior authorisation). The objective of the exercise is to 1) identify the level of convergence and effectiveness in implementing regulation by CA and 2) to identify–best practises that can promote a higher level of convergence. It should be noted that, the role of the Peer Review tool is not to verify the compliance with the IORP Directive. Mr. Capuano invited input from OPSG on the focus of this planned exercise.

The following points were raised:

- How is the exercise conducted? First a questionnaire is sent to the Competent Authorities (CA) to check the practices and their capacity to undertake them. EIOPA collects and facilitates comparable replies. A third step is the individual assessment, which could include on-site visits. The last step is to prepare a Report with conclusions and best practices.
- The peer review needs to have a clear objective to achieve a better focus, as the areas included in art. 9 (IORP Directive) are quite broad.
- On para 1, a) national register: members expressed interest in this item, as it would be good to know how the register is built.
- On b) good reputation and professional qualification: members expressed a view that it would be good to find out the best/good practices, although admitting that there may be difficulties in the process. In addition, the governance of the scheme could be an interesting area for investigation.
- On c) Information to members on scheme rules. Members expressed a view that it would be important to know which is the competent entity to establish the rules, in which way the information is provided to members and a review of the effective functioning of the governance.
- On d) Technical Provisions. The rationale could be to check it from a practical point of view, the different technical solutions.
- On e) sponsoring undertaking. The Peer Review is conducted on CA and not on single IORPs. It would be good to know how they establish control.

- OPSG Members supported the idea of including para 5) on prior authorisation by host MS in case of cross-border activity, in order to understand better the rationale of authorities to introduce certain types of pre-authorisation.

It is necessary to check with OPC about their previous experience and analysis in these areas to avoid overlap.

It is important to note that a peer review is not a fact-finding exercise and that it is targeting supervisors not IORPs. The purpose of the peer review is to encourage supervisory convergence and to provide input for legislative process.

Conclusions/Action points:

- OPSG recommends the inclusion of IORP - Article 9 "Conditions of operation" in the Peer Review of 2013, in particular par. 1 and par. 5. Exception is made for art. 9, par. 1,e) *where the sponsoring undertaking guarantees the payment of the retirement benefits, it is committed to regular financing;*

13h	Lunch break	
6.	Update on QIS	Discussion

Remarks: Barthold Kuipers, EIOPA pensions expert, updated OPSG members on the consultation process and the next steps.

Following the intense work over summer -117 responses/13 confidential, 1350 pages of comments, EIOPA's BoS will decide on the revised draft technical specifications on 28 September 2012. Responses were very much similar reflecting widespread consensus on a number of main concerns:

1. Timeline of consultation - only 6 weeks - and in general, the timeline pursued by the Commission
2. Commission's approach to IORP review based on Solvency II.
EIOPA view: QIS is intended to assess the impact, therefore too early to conclude this.
3. Participation in QIS is not representative.
EIOPA view: 8 Member States are representative. Plus, Norway has also decided to join.
4. If there is only time for one QIS then technical specifications need to be comprehensive. Staged approach to QIS is preferred by starting simple and increasing complexity in further QISs.
EIOPA agrees that more QISs are needed. Some areas are not covered (such as, supervisory responses) while other areas need to be further developed (such as, sponsor support, pension protection schemes, determination lower confidence levels, LTG package and risk margin).

The high level of concern by respondents was pointed out in EIOPA's introductory statement of its response. It also hinted there could be more than one QIS. Further, EIOPA has made some changes on:

- Clarification of specifications
- Inflation: now market rates are used and an inflation risk module has been add-

ed

- SCR & MCR: simplified
- Proportionality section condensed and made more accessible
- Valuation of sponsor support

As regards to timeline:

- The draft technical specifications will be published by EIOPA after BoS approval (28 September 2012) and submitted to the Commission for its consideration. After possible amendments, the Commission will establish the final technical specifications.
- The QIS is expected to start in the beginning of October and end mid-December (10 weeks).
- A QIS launch event to take place on 19 October 2012 in Frankfurt. This will be a technical workshop for IORPs and supervisors. OPSG is invited too.

OPSG members raised the following questions:

- What is the role of the European Commission with regard to the technical specifications?
 - Response: EIOPA will finalise the draft technical specifications and submit them to the Commission for its consideration. The Commission will take ownership of the final technical specifications after having made possible amendments.
- How will the QIS look like, will there be a qualitative assessment too?
 - Response: EIOPA is working on the spread sheet and the qualitative questionnaire, which will be published together with the final technical specifications.
- Who will have access to QIS data submitted by IORPs?
 - Response: QIS reports will only contain aggregated data provided by National Supervisory Authorities to EIOPA. The BoS will decide whether data of individual IORPs will also be validated at EIOPA, which will be subject to strict confidentiality protocols. Only a limited group of EIOPA staff / national supervisors will have access to the data and these persons will have to sign a dedicated confidentiality agreement.
- Why have other MS not taken part in the exercise?
 - Response: We do not know, but probably due to the fact that DB pension provision is limited in many MS (DC is out of scope) and the need for resources to perform such an exercise.
- What is the expected involvement of OPSG?
 - Response: EIOPA will establish a coordination group during the QIS exercise and will update OPSG on developments. EIOPA will inform OPSG in due time on the outcomes of the QIS.

Conclusions/Action points:

- EIOPA to send the invitation to the QIS Workshop, taking place on 19 October in

Frankfurt.

➤ EIOPA to circulate the presentation from Barthold Kuipers

7. **Subgroup on Information to Members**

Discussion

Remarks: Klaus Struwe, co-lead of the Subgroup, invited OPSG members to comment on the questions provided in the document "Usage and Usefulness of Information: questions for a debate".

Open debate:

Question 1: Do members need information?

- What type of information to communicate? What about the understanding? Comment: it is obvious to link information to understandability. How to measure the understanding of members? Info needs to be accurate and correct – also having regard to potential legal liability.
- Paper versus IT? In favour of IT: more information, economy (less expensive than paper). Recognition of E-solutions for information (website, e-mail, etc.). However, not everyone wants on-line reading. Members should get the possibility to opt out from the e-information stream and receive information on paper.
- A balance should be achieved between "IT & accurate information" or "paper & less accurate", in addition to "relevant vs. understandable".
- Simplification issue. Should OPSG create a standard, like KIID?

Question 2: Do members look for information?

- This is considered to be an education issue at Member State level, not by the IORPs.
- Key fundamental information should be communicated before signing up to a pensions scheme.
- Members want advise not just information,
- However, IORPs must not give advice since this may bear a risk in the context of Tort law (legal responsibility). Reference was made to the US where Pension Funds have been sued for alleged misinformation.

A recommendation could be that there are different "layers" of information. First layer could then be the basic information. What questions and how do you present them? This will affect the pattern/structure/contents of information. It is impossible to cover all information issues on one side.

On question4: The scope of the information should be differentiated according to the characteristics of the scheme?

- Occupational Pensions differs from other financial products, since information is not only given on point-of-sale, but on-going and a pension is more than an investment fund.
- The information need issue should be approached differently for a compulsory scheme in contrast to a voluntary one.
- Comments that followed enhanced the fact that more information should lead to

less risk, in the sense that an informed beneficiary is not willing to take unnecessary risk.

Question: What should not be in the information package?

- No advice on deduction (taxes), only on the type of regime applicable.
- Language should be plain and understandable for "everybody".

EIOPA staff recommended to look to UCITs and insurance regulation to assess their adequacy or not for occupational pension schemes. A member reacted highlighting that IORPs and occupational schemes were not financial products yet employee benefits.

- **Conclusions/Action points:** Draft document to be presented at the OPSG meeting on 28 November during the morning session, prior to the joint OPSG-IRSG-BoS meeting. The final document/feedback statement to be finalised thereafter depending on debate.

8.	Discussion and approval of OPSG Subgroups mandates	Discussion & Decision
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Conclusion:

- Subgroup on QIS mandate was approved
- Subgroup on Information to members was approved with slight modifications on the composition of members and delivery dates.
- EIOPA to send revised mandates and to upload them on the website

9.	AOB
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Suggestion by Charles Cronin: OPSG to work on IORP corporate governance.

Change of meeting date in 2013: 13 February has been moved to **14 February**, due to the Ash Wednesday Bank holiday.

No changes to the remaining meeting dates in 2013: 25 April and 04 July.

Calendar of next events:

- 19 October, Frankfurt: QIS Workshop
- 21 November, Frankfurt: EIOPA Annual Conference
- 28 November, Frankfurt: Joint OPS-IRSG-BoS meeting, including dinner in the evening.
- 04 December, Frankfurt: EIOPA Consumer Strategy Day

16h	End of the meeting
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