

Insurance and Reinsurance Stakeholder Group meeting
22 February 2013

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

Conclusions and Action Points

List of participants:

IRSG: Michaela Koller (IRSG Chair), Kay Blair (Vice-Chair), Yannick Bonnet, Mads Bräuner, Paul Carty, Seamus Creedon, Guenter Droese, Hugh Francis, Lars Gatschke, Pilar González De Frutos, Helmut Gründl, Maria Heep-Altiner, Raffaella Infelisi, Rob Jones, Asmo Kalpala, Marcin Kawiński, Damien Lagaude, Jérôme Lecoq, Pierpaolo Marano, Jean-Christophe Menioux, Pierpaolo Marano, Baiba Miltovica, Alexander Sadovski, Daniela Weber-Rey and Joachim Wenning. Excused due to illness: Rym Ayadi, Oliver Beate and Chris Verhaegen.

EIOPA: Carlos Montalvo (EIOPA Executive Director), Pauline de Chatillon (Chair of EIOPA Committee on Consumer Protection and Financial Innovation -CCPFI), Damian Jaworski (EIOPA Management Board), Patrick Hoedjes (Head of Department of Operations), Daniela Rode (Head of Department of Regulations), Katja Wuertz (Head of Consumer Protection and Financial Innovation Unit), Justin Wray (Head of Policy Unit), Jarl Kure (leader Solvency II Interim implementation project team), Giulia Conforti, David Cowan, Sandra Desson, Anne Froehling, Carlos Guiné, Alexandra de Jong, Peter Kleisen, Tillman Roth and Manuela Zweimueller.

European Commission: Karel van Hulle, Head of Unit Insurance and Pensions – DG Internal Market and Services.

10.30	Welcoming by Mrs Michaela Koller, IRSG Chair	Type
1.	Approval of the draft agenda	Decision
<p>Remarks: IRSG Chair welcomes members to the tenth statutory meeting of the Stakeholder Group.</p> <p>Conclusions and action points: Draft Agenda is approved.</p>		
2.	Update on Consumer Protection	Discussion
<p>Remarks: Pauline de Chatillon, Chair of EIOPA Committee on Consumer Protection and Financial Innovation, outlined the main points of EIOPA objectives on Consumer Protection and Financial Innovation in 2013¹. She announced that an ESA Consumer Strategy Day is tentatively planned for 25 June in Paris.</p>		

¹ Presentation available on-line: <https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/insurance-reinsurance-stakeholder-group/meetings/index.html>

Subsequently the floor was open for comments/questions:

- Is a comparison between the IMD2, MIFID and the PRIPs texts available?
 - CCPFI Chair: no comparison is available at the moment, however there is currently a proposal on the table from the EP to include insurance investment products under MiFID II.
- On comparison websites: important to support regulation, as currently the health insurance field is exposed. The focus is on price to the disadvantage of quality of coverage/terms and conditions of insurance policies.
 - CCPFI Chair: the focus is more fixed on guarantees, surpluses, rather than price.
- In the UK, Retail Distribution Review (RDR) was considered a good practice as it fundamentally changes the way advisers are paid. Key question is whether that will be introduced to the rest of the EU?
- On IMD2: concern as to the erosion of consumer rights following the EP Report by Mr. Langen.
 - CCPFI Chair: EIOPA position reflects advice issued by CEIOPS in November 2010 on revision of IMD1; position that disclosure of remuneration upon request only is still valid.
- On Payment Protection Insurance (PPI): Joint reflection between banks and insurance on PPIs, is the banking industry directly involved in consultation?
- On Key Information Document (KID) for investment products: currently it does not reflect insurance specificities. Besides, who should be responsible for the quality and correctness of the information?
 - CCPFI Chair: adaptation to insurance is needed, but in the Joint Committee (joint working group with ESMA) securities and banking positions are currently dominant. She is in favour of a short formal pre-contractual information document (before buying), based on MS approaches to create a short document for insurance contracts and then compare with the KID. The topic is now in the hands of the Joint Committee of the ESAs.
- On PRIPs- scope: preliminary debate in EP: strong widening of the scope also to include occupational pension products; inclusion of "plain vanilla" instruments or exclusive focus on packaged investment products?
 - CCPFI Chair: Level 1 proposal is on the table and we should take action.

Conclusions and next steps:

- IRSG was invited to provide input into the several work streams of the CCPFI Committee. To this end, Lars Gatschke, lead of the IRSG subgroup on Consumer Protection, is invited to present a prioritisation of deliverables to the CP subgroup first and then to the IRSG in April.
- IRSG to issue an opinion on Guidelines on complaints-handling by insurance intermediaries and comparison websites (also according to the Work Plan).

3.	Updates: Solvency II and developments	Discussion
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Update on International developments on Global Systemic Insurers (g-SII)

Remarks: Carlos Montalvo updated IRSG members on the IAIS work in this field and on EIOPA position, which is channelled through the IAIS FSC working group, chaired by Paul Sharma (UK FSA) since January.

Currently, IAIS is working to submit to the FSB an identification methodology for g-SII and respective measures for those companies having been identified as g-SII. This proposal shall enable FSB to designate the g-SIIs list together with the national supervisors in April. EIOPA is not represented in the working structures of the FSB. The only domestic initiative is conducted in the US by FSOC. Primary supervisory measures would include enhanced supervision annual resolution plans.

As to High Loss absorbency (HLA) he highlighted that:

- It is linked to systemic risks, not reflected in Standard formula in Solvency II;
- It is an excellent argumentation to head for global market standards;
- To enhance group supervision, groups acting in more than one jurisdiction

EC representative, Karel van Hulle, emphasised the importance of designating g-SII to avoid regulatory arbitrage – for both banks and insurers. The problem however lies in the appropriate definition of indicators, such as size, global activity, interconnectedness, non-traditional non-insurance (NTNI), substitutability and so forth. In a nutshell: to understand what the cost of systemic risk („sifiness”) is and whether this can be reasonably separated from the entity.

Finally, he underlined the joint work of EU stakeholders in the FSB to ensure that EU insurance will not be disadvantaged, therefore a global capital standard is important. FSB, which is mainly composed of bankers, would also be prepared to postpone a decision unless a high quality approach has been proposed with respective reliable input data, provided by IAIS.. As to HLA, he believes in the idea of conducting a QIS/quantitative exercise to analyse the impact of a capital add-on, however not to be applied before 2019.

The floor was open for comments:

- Concern was raised for the fact that bank regulation allows still shadow banking. Why is EIOPA/EBA not supervising the ‘grey markets’?
 - EIOPA response: BoS does not share the approach of a unified supervision of banks and insurance due to the different business models. A respective consultation paper from the EC exists; the EC decisively fights against shadow banking. It should be avoided from the supervisory perspective that specific activities move into “grey areas”.
- Mandatory supervision of groups for all regimes and not only in Europe; Supervisors should strive for consistency across the globe.
 - Commission: Supplementary supervision of Groups is already a key element on the Insurance Groups Directive (98/78/EC). Solvency II further strengthens the group perspective by regarding the group as an economic entity. EIOPA College’s work strives for a consistent approach for European colleges. In addition, IAIS recently announced principles on risk management, group supervision and risk-based supervision.
- NTNI should be qualified as “banking” activity to be properly regulated as otherwise the risk of shadow banking is obvious. Such a definition is supposed to increase the risk that such activities move into the “grey area”.

- Insurance and banks supervisors should strive for a better cooperation to achieve effective supervision of such activities and areas.

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EIOPA update on several areas

The Executive Director, Carlos Montalvo, updated IRSG members on the following topics:

- **Stress test** – the exercise will not overlap with the LTGs. EIOPA BoS has decided to postpone it to second half of 2013;
- **Low interest rate scenario/** drawing lessons from the Japanese scenario – he invited IRSG members to read the EIOPA Opinion on low interest rate environment (<https://eiopa.europa.eu/publications/eiopa-opinions/index.html>), which includes a number of recommendations to be both performed by EIOPA and NSAs (see summary in the appendix). In addition, he also made reference to the recent EIOPA Financial Stability Report (<https://eiopa.europa.eu/publications/financial-stability/index.html>). He emphasised that from a legal point of view reducing guarantees would not be an option in most EU jurisdictions and also poses a severe reputational risk.
- **Replacement of Mr. Van Olphen** – he announced that EIOPA has launched a Call for expression of Interest to appoint a cooperative/mutual representative in the IRSG. The deadline for application is 21 March. He particularly encouraged representatives of cooperatives and mutual (re)insurers to apply. The term of duty is considered to be until the end of the general Stakeholder Group mandate.
- **EIOPA Annual Report 2012** will be published on 15 June, following the Financial Regulation. IRSG and OPSG Chairs were involved in revising the section on Stakeholder Groups; pictures were taken of the two Groups as well.
- **EIOPA Work Programme 2014** preliminary draft shall be ready at the end of March, following which he invites IRSG members to provide comments. The final WP 2014 will be endorsed by the BoS in September.
- **QIS on Pensions.** The preliminary results shall be available on 26/27 of March; the final Report will be adopted at the BoS on 27/28 of June. The OPSG is closely monitoring the work. The main scenarios are being tested and eight jurisdictions participating.
- **Long Term Investments (LTI).** EIOPA will deliver the first report by beginning of April, focusing on infrastructure venture capital. An EC green paper on the topic will be published by the end of March.

Update on Solvency II

The European Commission representative, Karel van Hulle, updated IRSG members as to state of play on the Solvency II framework.

Omnibus II is awaiting the results of the impact assessment of LTG in June. He expressed the desire the dialogue meeting will take place in early June to start already to look at the pre-results and not wait until the very last days of July.

Carlos Montalvo, EIOPA Executive Director, informed IRSG that following the agreement on the Terms of Reference for the LTGs, a representative portfolio of companies is now working on a best effort basis to deliver results.

The expected **LTG timeline** is:

- 19 April – EIOPA first results (qualitative)
- 26 April – submission by NSA of validated quantitative data
- 2nd half of May – Interim draft Report for dialogue parties
- End of June – adoption of Final Report by BoS

The floor was open for comments/questions:

- Impact on consumer: The results of the impact assessment on the LTG will have a huge impact – have consumers been involved?
- LTG: What could be the consequences of the outcome? Is there a “plan B” in case none of the measures work? An option for Plan B: SII, but fragmented, as the work is already advanced so it does not make any sense to stop completely.
 - Response by the ED: the outcome of the Japan scenario was de facto a cut down on guarantees. Therefore the sooner we deal with the problem in Europe the better. Our situation is better compared to Japan 12 years ago. In addition, a number of companies already triggered some actions. Legally speaking cutting of guarantees is not possible in most jurisdictions; reputational risk also plays a role. Solvency II is pre-emptive supervision, precisely not to need to rely on IGS.
 - Response EC: we need to find a pragmatic solution also for pensions. The current legal situation is that SII will still enter into effect on 01 Jan 2014.
- Benchmark: The work on Japanese scenario is most welcome: a pragmatic view needs to be found. Moreover, a solution needs to be found for the back book.
- Insurance Guarantee Schemes: IGS provide only a basic amount of protection and is not a realistic option for small concentrated markets. A change in the behaviour of consumers opting for riskier products because of the expected return is needed. IGS framework can only build upon the SII detailed implementing measures.

Conclusions

- Stakeholders should strive to continue work towards a solution within and beyond the Stakeholder Group. Further exchange and IRSG involvement in the LTG discussions should be reopened at the next meeting once some results are available.

4.	Update on EIOPA Solvency II Interim measures	Discussion and decision
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Remarks: Jarl Kure, leader Solvency II Interim implementation project team, updated IRSG members on the work EIOPA is carrying out on the interim guidelines for the following areas: system of governance, forward looking assessment of the undertaking's own risk, submission of information and pre-application for internal models. EIOPA's aim of the project is to allow undertakings and supervisors to be better prepared for the application of the new regulatory regime (and not for the implementation of SII). Moreover, EIOPA focus is to enhance policyholder protection, facilitate convergent national regulation and to keep momentum in preparations.

In his presentations he outlined two scenarios:

- “Plan A”: Assuming OMII plus Delegated Acts are stabilised by end 2013 =>

EIOPA will provide guidance based on OMII and

- “Plan B”: if OMII is not agreed, upon EIOPA to provide guidance by April 2014
=> Too early to predict any specific scenarios.

Finally he explained the functioning of the “Comply or Explain” mechanism to National Competent Authorities (NCA) and gave concrete examples on how the guidelines could look like.

Carlos Montalvo, EIOPA Executive Director, referred to Art 16 of EIOPA regulation as legal basis and the fact that SII Framework Directive is nonetheless in force, even though not fully transposed (due to the absence of L2). EIOPA has the power to issue guidelines to foster convergence across EU/EEA.

Next, he outlined that the guidelines will be presented in two documents: one with only the guidelines, text subject to comply or explain; the second one will consist of the explanatory text. He also emphasised the fact that EIOPA takes into account the plea of the industry of an 18 months period needed for preparation of reporting. Finally he assured that during the interim period reporting will be simplified and that the information submitted is not supposed to trigger supervisory consequences/actions.

The floor was open for comments/questions:

- Is Internal Models part of the risk management (RM) and what will be the frequency of reporting?
 - Reply by J. Kure: Link between RM and Internal Models is by building an internal model as a decision-making toolkit (including Use test). The frequency will be quarterly and annually, with focus on larger undertakings and start later than 2014.
- Could you clarify what ‘intend to comply’ means in practical terms? What is the difference between guidelines and explanatory text?
 - Reply by J. Kure: responses will be published and thus statements on compliance will be exposed to peer pressure; this tool has proved to be valuable in other MS and EIOPA has gained experience with the Guidelines on complaints-handling by insurance undertakings. The idea is to introduce progress reporting to monitor developments, still this remains soft regulation. Only guidelines will be translated and consulted upon – not the explanatory text.
 - EIOPA initiative is welcome especially on pillar II areas, but what happens if NSA requests further reporting information from reporting undertakings on a national level. Reply by the Executive Director: this is minimum harmonisation; EIOPA has no powers to enforce maximum harmonisation, but EIOPA BoS, consisting of EIOPA Members and Observers, confirmed the benefits of a convergent approach across Europe. High quality guidelines are also important to ensure convergence. It is also important to remember that ECB is entitled to request information from undertakings too; if EIOPA cannot provide it, then ECB will act independently => risk of duplication of reporting requirements for industry.
- Examples given on System of Governance look principle based; EIOPA should continue that road.
- With regard to SII Interim Measures, some IRSG members expressed the view to balance the burden on companies with the necessary requirements of the supervisors. Further clarification on plan B was requested.

- EC representative encouraged IRSG members to provide ideas for solutions rather than to issue solely opposition.
- Reply by Patrick Hoedjes (also Chair of EIOPA ITDC): reporting and information sharing needs preparation time for firms; no double work for implementing reporting; quarterly is important, as well good quality of information. ECB will issue by the end of this year quarterly reporting requirement for all firms: ECB does not need to wait for SII transposition nor for EIOPA, however the cooperation is excellent aiming at adapting to EIOPA requirements. ECB will have a Reporting Regulation in place by the end of this year. Reporting requirements will be on a quarterly basis and scope is 100% without any exceptions. EIOPA will use the developed taxonomy and templates as far as possible, but less information will be required to be provided. The focus is on quality of data and the reports not on the respective numbers. Until end 2013 we will pursue plan A. For Plan B, we still have time, and the contents should be discussed later, otherwise we will most likely miss out on an important development; OMDII decision is expected to influence on how to carry out the calculations, but not so significantly on templates format. The outcome of the LTG impact analysis will only have a minor impact on the overall reporting framework: templates and taxonomy.
- EC views: Commission is highly supportive of the guidelines, but more cautious about quarterly reporting (personal view). For the interim measures it is recommended not to refer to the term ORSA, but try to find some other wording; e.g. "risk statement".
- General consent was expressed by IRSG on EIOPA approach of issuing interim guidelines; satisfaction was issued on the fact that EIOPA is able to act. However, there were several IRSG members who expressed doubts about quantitative requirements.
- EIOPA encourages IRSG members to revert back to EIOPA on whether any other quarter than Q1 would be more acceptable to start quarterly reporting.

Conclusions

- IRSG proposed to forward the IRSG statement to the EIOPA Board of Supervisors meeting at the end of March, due to the importance of the subject.
- Hugh Francis volunteers to integrate into the summary (from the 25/01 informal meeting with EIOPA) the comments/discussions held today and then to circulate to full IRSG for comments and endorsement.
- IRSG members to send comments on the revised statement as soon as the document will be available.

13.00	Lunch (45 minutes)	
5.	Update on IRSG Subgroups work	Discussion

a) Governance: update on progress, Seamus Creedon

Remarks: Seamus Creedon reported to IRSG on progress of the subgroup, whose comments –overall satisfied with the balance between principle and description part- to the draft guidelines on Governance were submitted to EIOPA in October

2012. EIOPA IGSRR discussed the input embedding several of the suggestions into the final version.

Conclusions and next steps:

- Subgroup to discuss during a telco in April their initial views on the governance elements of the interim measures on which EIOPA will be consulting.
- Subgroup to report back to IRSG at the next meeting in April.

b) Subgroup on Anti-Discrimination - Report on Discrimination vs. diversification in insurance: gender, age and disability.

Remarks: Marcin Kawiński presented an overview of the ECJ Ruling in the report on discrimination and mentioned that the final impact will only be fully reflected in a few years with sufficient experience gained.

Reaction by the audience:

- Some members expressed their concern as to the nature of the report and its purpose. Some members expressed their support to the ECJ ruling.
- EIOPA Executive Director expressed the view (as lawyer) that a general principle and ruling issued by the ECJ cannot be challenged by the Stakeholder Groups and that focus should rather be on the impact of the measures instead. In general, such a report should be balanced, including both, negative and positive aspects, and also include a mid-term outlook.
- How is the assessment of the Ruling and its impact on the market, access & pricing reflected in EIOPA Work Programme?
 - Reply: A mapping exercise could be implemented at the national level.
- Marcin explained that the initial idea was to warn about the potential effects of the judgment; however, there has been too little time to observe the positive effects, due to quite recent implementation.
- IRSG should focus less on gender, but on age, in their discussions, which has a much stronger significance from an actuarial perspective.
- Another aspect mentioned was that there is no consistency across the MS what "new contract" means.
- It needs to be differentiated between the actuarial aspect of the ECJ Ruling and what society believes is fair, e.g. the same premium for man and woman, unisex tariffs.

Conclusions:

- IRSG Members agreed not to vote on the Report, given the different views on the aim and purpose, also considering that a "warning" would have only made sense before 2012 ECJ Ruling.
- Going forward, gender is no longer supposed to be the focus; IRSG prefers rather to investigate the potential impact pending of the proposal on age and disability showing the same wording as in the gender directive (but currently blocked by some MS).
- IRSG supported the offer for a CPFI enhanced mandate for a factual analysis on the impact of the Test-Achats ruling. Feedback on this analysis could then be provided by the incoming IRSG.

c) LTG: interim discussion

Remarks: Hugh Francis distributed a progress note outlining the approach for launching the questionnaire on the nature of the LT products in the national EU Member States -with the involvement of Insurance Europe and Groupe Consultatif- and asked members to provide feedback on the specific questions to be included. In terms of timeline, the survey will be conducted from March until mid-April, including 17 EU MS.

Reaction by the audience:

- Ownership: discussion was held as to who was involved in this work and whether EIOPA should take part in it. The Executive Director issued the view that EIOPA would only look at it from a supervisory angle and that IRSG activities would provide a much broader angle, especially for the qualitative items. The nature and outcome of the questionnaire should remain an IRSG product.
- Level of detail/expectations: the questionnaire should not be over complicated because undertakings contribute on a voluntary basis; therefore expectations need to be managed as to what can be achieved on a timely basis (as input to the LTG discussion).

Conclusions:

- Balance needs to be sought on the level of detail of the questionnaire regarding products and the response to be obtained from the national associations, who will compile results on a best effort basis.
- EIOPA offered to discuss the supervisory perspective when finalising the questionnaire.
- Hugh Francis to report back at the next IRSG meeting.

d) Consumer Protection: progress on IMDII

Remarks: Lars Gatschke presented the main points of discussion during the Subgroup telco in light of the amendments on IMD2 proposed by the ECON rapporteur, Werner Langen. His intention is to circulate the position paper first to the subgroup and then to the full IRSG.

As subgroup lead, he committed to discuss with CPFI EIOPA current work plan on Consumer Protection issues and to put forward a suggestion to the subgroup for a prioritisation of tasks and the involvement/ownership of individual subgroup members in the then to set up work streams of IRSG CP subgroups. Should PPI be included in the work of the subgroup, an extension of the mandate would be needed.

Conclusions/next steps:

- Lars Gatschke proposed to prepare a draft position paper on IMD2, to be submitted for comments to the subgroup and then to full IRSG at the beginning of April.
- Lars to discuss with the CPFI EIOPA's current activities and to propose a prioritisation of tasks for feedback by the subgroup first, then to be submitted to the full IRSG in April.

- Lars to look for volunteers in the Subgroup to work on specific topics.

Consumer Protection: progress on ADR

Remarks: the legislative process is more or less finalized (discussion in Parliament on 12 of March). Now, an IRSG feedback statement on the implementation of the ADR Directive could add value.

Conclusion

- ADR paper: initial scope revised; Francis proposes to prepare an opinion with focus on the internal and external complaints handling as to the implementation of the ADR Directive.

6.	IRSG Organisational item: decision on IRSG subgroup on Internal Models Mandate	Discussion
<p>Remarks: Pierpaolo Marano introduced the main elements of the mandate, both in terms of tasks and deliverables of the subgroup. He also stated that current national differences mainly refer to timing, amount and format of supporting information needed to be provided for a pre-approval of an internal model.</p> <p>EIOPA Executive Director welcomed the ambitious initiative and invited the subgroup to liaise with the newly created EIOPA Center of Expertise for internal models. Subsequently, IRSG agreed to address this point within the tasks of the subgroup.</p> <p>Conclusion/Action points:</p> <ul style="list-style-type: none"> ➤ Subgroup mandate was approved with an editing correction on task 1 and the inclusion of an additional task – feed back into EIOPA with regard to the newly created 'Centre of Expertise for Internal Models' (e.g. on convergence, expertise provided, arbitrage situations). ➤ The approved mandate is now available on EIOPA website/IRSG section: https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/insurance-reinsurance-stakeholder-group/meetings/index.html 		
<p>AOB:</p> <p>New IRSG: the call for Expression of Interest will be launched in the course of April/May and IRSG members will be duly informed. The new IRSG will be appointed by the BoS in September 2013.</p> <p>Other: Karel van Hulle was thanked for the continuous input of the Commission's perspective. IRSG wishes him all the best for his retirements and the pursuit of his academic career. Members were convinced that also in the future, ways will cross.</p>		
<p>Next meetings: 16/04 and 01/07. Get together drinks planned at the end of the last meeting.</p>		
16.00	End of the meeting	