

## Insurance and Reinsurance Stakeholder Group meeting

01 July 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), Thomas Béhar, Yannick Bonnet, Paul Carty, Seamus Creedon, Guenter Droese, Hugh Francis, Francis Frizon, Lars Gatschke, Helmut Gründl, Maria Heep-Altiner, Rob Jones, Asmo Kalpala, Damien Lagau, Pierpaolo Marano, Jean-Christophe Menioux, Baiba Miltovica, Alexander Sadovski, Claes Thimrén and Chris Verhaegen. Guest: Daniela Weber-Rey (expert for corporate governance).

EIOPA: Gabriel Bernardino, (EIOPA Chair), Carlos Montalvo (EIOPA Executive Director), Paolo Cadoni (Chair of IAIS FTF for Comframe; UK PRA – via phone), Giulia Conforti, David Cowan, Jarl Kure (leader Solvency II preparatory measures project team), Yvonne Schmerfeld, Pierre-Jean Vouette and Manuela Zweimueller (External Relations coordinator).

10.30	Welcoming by Mrs Michaela Koller, IRSG Chair	Type
<b>1.</b>	<b>Approval of the draft agenda</b>	Decision
<p><b>Remarks:</b> IRSG Chair welcomes members to the twelfth and last statutory meeting of the Stakeholder Group and informs the Group that Mrs. Daniela Weber-Rey has stepped down due to her new task at Deutsche Bank, but that she would still join the last IRSG meeting in quality of expert for corporate governance, due to the agenda topic on Solvency II Interim measures/governance and according to the Rules of Procedure, with an unanimous consent from IRSG members. Moreover, the Chair informed that Mr. Steve Ryan, Deputy Head of Unit DG Internal Market, EU Commission, has presented his excuses for not attending the meeting due to an overlap with the EIOPC Meeting.</p> <p><b>Conclusions and action points:</b> Draft agenda is approved.</p>		
<b>2.</b>	<b>Approval of the 16.04.2013 meeting conclusions and action points</b>	Decision
<p><b>Conclusions &amp; action:</b> Minutes were approved and are available on the <a href="#">website</a>.</p>		

3.	EIOPA general update	Discussion
<p><b>Remarks:</b> The Executive Director, Carlos Montalvo, updated IRSG members on the following topics:</p> <ul style="list-style-type: none"> <li>• <b>On-going consultations/latest publications:</b> <ul style="list-style-type: none"> <li>○ EIOPA Good Practices Reports on Comparison Websites and on Knowledge &amp; Ability of distributors of insurance products. Link to the EIOPA <a href="#">website</a>.</li> <li>○ EIOPA Opinion on Consumer Protection Issues in Payment Protection Insurance was issued in June 2013. <a href="#">Hyperlink</a> to the page.</li> <li>○ EIOPA first Quantitative Impact Study (QIS) on Pensions was published at the beginning of July. <a href="#">Hyperlink to the text</a>.</li> </ul> </li> <li>• <b>Election of EIOPA Management Board members:</b> Mr. Felix Hufeld, Chief Executive Director at BaFin and Mr. Sergej Simoniti, Director at the Slovenian Insurance Supervision Agency were appointed as new members. The full composition of Management Board is available on EIOPA's <a href="#">website</a>.</li> <li>• <b>EIOPA Work Programme 2014:</b> IRSG members are invited to provide feedback on the draft document latest until the end of the IRSG mandate.</li> <li>• <b>EIOPA Budget:</b> the feedback from the Commission on the proposed FTE, according to the establishment plan to join EIOPA in 2014 has been significantly reduced, due to the cross-cutting savings that need to be implemented across Europe.</li> <li>• <b>IRSG Selection procedure:</b> circa 100 applications have been received. Following the recommendations by the Ombudsman, EIOPA will be very strict on the deadline for reception of applications and will apply the new procedures as described in the Selection Procedure framework, as regards to balance, diversity and expertise and will further focus on the adequate representation of consumers.</li> </ul> <p>The Selection Panels meetings will take place in July and August and the new IRSG composition will be submitted for approval, first to the Management Board, and then to Board Supervisors on 26/27 September. The kick-off meeting of the new IRSG will take place on 22 October in Frankfurt.</p> <p>The following question was raised:</p> <ul style="list-style-type: none"> <li>• What will be EIOPAs role in the IAIS- FSB "Backstop"? Gabriel Bernardino replied that EIOPA is involved in the respective work streams of the IAIS.</li> </ul> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>➤ The IRSG members are invited to provide comments on the draft Work Programme for 2014</li> </ul>		

4.	<b>Feedback on the Public Hearing on Review of the European System of Financial Supervision (ESFS), 24 May Brussels</b>	Discussion
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**Remarks:** Gabriel Bernardino, EIOPA Chair, thanked Michalea Koller, Marcin Kawiński and Chris Verhaegen for their interventions at the hearing. Key focus of this panel was to launch a vision for the future, which was very valuable. He then summarised the messages of his speech and why he sees the need for an evolution in the development of EIOPA:

1. **Operational independence** on the budget side (complete independence on the policy side is a given fact and a pre-requisite for EIOPA's role as technical body);:

- Currently, DG MKT pays 40% of the EIOPA budget; EIOPA pursues an independent budget line in the COM budget;
- Explore partial financing by levying fees on the industry in line with the evolution of EIOPA's mandate and powers;
- More flexibility in the budgetary framework to attract good people.
- More efficient decision making to ensure the capacity to take swift and effective decisions and avoid situations of conflict of interest with the mandate of national competent authorities, for example in crisis management or breach of union law.

2. **Independent challenging role of the Authority**

- Extend the current powers of EIOPA to conduct an inquiry into a particular type of financial institution, type of product, or type of conduct. This power should not be confined to crisis periods but be used more generally;
- Access to information needed.

3. **Enhanced mandates and powers**

- Sectorial legislation in insurance and pensions is needed to make the powers under the EIOPA Regulation work. EIOPA's power to ban or restrict financial activities needs to be brought to life;
- Extension on the pension side to the supervision of personal pensions;
  - Introducing a centralized oversight role for EIOPA in the field of internal models.

Also, the IRSG Chair explained her intervention: based on the minutes of the meeting in November 2012 provided by EIOPA and the additional feedback given by some IRSG members.

Finally, OPSG Chair referred to her intervention in a different panel and underlined the need for two Stakeholder Groups, an extended mandate for personal pensions and an increased budget for EIOPA, adequate to its tasks.

The floor was open for comments/questions:

- What were the recommendations of the IMF Financial Sector Assessment in the EU with regards to EIOPA?
  - Gabriel Bernardino, EIOPA Chair, responded that they were broadly in

line with EIOPAs views: access to information; flexibility on the budget side and operational independence; on powers: EIOPA would seek greater role also on coordination the supervision of cross-border European groups.

- What is the role of EIOPA in the validation of Internal Models?
  - EIOPA Chair reported that currently EIOPA is part of the colleges and focus in particular to foster consistency and cooperation. EIOPA is about to finalise the Peer Reviews on Internal Models and will have lessons and recommendations to share. The aim is to devote a specific Center of Expertise on Internal Models, with dedicated staff focusing on processes and content of models, to ensure more consistency, develop guidelines on implementation and validation of Internal Models. In the future he sees EIOPA directly involved in a centralised oversight on the validation process of Internal Models for cross-border groups, in addition to having a mediation role in colleges.
- Will the Stakeholder Groups have new rules in its functioning?
  - According to EIOPA Chair, it makes sense to have two Groups, as otherwise there would not be enough time for the different topics in insurance and pensions. He's in favour of the best possible and dedicated ESA support to the Stakeholder Groups, depending on overall ESA resources, but sees a clear limit when it comes to drafting of Stakeholder Groups opinions.
- What does EIOPA envisage to do with regards to product intervention?
  - EIOPA Chair explained that, in his view, EIOPA has been given in principle the power to ban or restrict selling of products in times of crisis (Art. 9), but this is subject to secondary legislation, which is not in place, such as IMD II. Currently, EIOPA investigation/inquiries are for financial stability purposes only, compared to the power of ESMA.
- What changes would EIOPA wish to see when assessing the Banking Union proposal?
  - EIOPA Chair responded that insurance is in a different situation than the banking sector. In the mid-term, analysis should be carried out on how to develop supervision, in particularly for the big cross-border groups.
- Do you consider funding by the industry? How would this affect the independence?
  - EIOPA Chair response: if there are central responsibilities, this should also lead to commensurate funding by those affected; several European NSAs are funded by industry and this does not affect their independence.

#### **Conclusions:**

- COM to publish a report on the ESAs evaluation in autumn, to be followed by a proposal in spring 2014;
- Consultants (Mazars) on behalf of the EP to carry out structured interviews/questionnaire with stakeholders, including members of the EIOPA Stakeholder Groups;
- Feedback from IRSG self-assessment survey to be included in the Activity Report.

5.	<b>EIOPA update on International developments: focus on IAIS Task Force on Field Testing of ComFrame</b>	Discussion
<p><b>Remarks:</b> Paolo Cadoni, Chair of the IAIS Task Force on Field Testing (TFFT) of ComFrame, Technical Head of Department, UK PRA, presented the developments in this area. A link to the presentation is available on the IRSG <a href="#">website</a>.</p> <p>The floor was open for comments/reactions:</p> <ul style="list-style-type: none"> <li>• Will the consumer impact be analysed? Have you conducted a cost benefit analysis? <ul style="list-style-type: none"> <li>○ TFFT Chair agreed that it is difficult to quantify the impact. He would therefore propose to engage directly with the consumer side to discuss consumer benefits as a result of ConFrame. Representatives of the major jurisdictions joined the Task Force, including the US.</li> </ul> </li> <li>• Which framework will be the ultimate one in the future (Solvency II or ComFrame)? <ul style="list-style-type: none"> <li>○ TFFT Chair replied that in Europe the aim of Solvency II is to have the same consumer protection across the Union, with target criteria of 99.5% VaR (level of confidence). On a global scale, there is a wide range of level of protection. ComFrame as a supervisory framework would help create a globally consistent protection of consumer (not only price), with a certain confidence level and more level playing field. This would be in the benefit of consumers, firms and supervisors alike.</li> </ul> <p>Crucial for the EU is to have consistency between SII and ComFrame, e.g. with Solvency II as the practical implementation of ComFrame in the EU. It is not intended to create different or another layer of regulation.</p> </li> <li>• How will you make compatible balance the Solvency II sheet with economic/accounting valuation? What about the non-covered jurisdictions? <ul style="list-style-type: none"> <li>○ TFFT Chair: all IAIGs are asked to test different valuation methodologies in their balance sheets: in this way it will be possible to compare balance sheets; other jurisdictions not directly involved in testing can be covered indirectly: e.g. Spanish Groups to reflect the impact of their subsidiaries in South America by ComFrame.</li> </ul> </li> <li>• ComFrame Adjusted Balance Sheet (CABS), does this still form an integral part of the project? <ul style="list-style-type: none"> <li>○ At the moment there are too many approaches to test the balance sheet; the aim is to reduce them and this may change the CABS. Industry view is to use the economic models for the valuation of the balance sheet.</li> </ul> </li> <li>• How does ComFrame Field Testing fits with the FSB declaration to develop capital requirements/backstop for the G-SIIs by November 2014? <ul style="list-style-type: none"> <li>○ The TFFT will form part of the IAIS discussions.</li> </ul> </li> </ul> <p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>➤ Paolo Cadoni invited feedback from relevant stakeholders ahead of the next meeting with observers taking place on 26 July in Bank of England. He emphasized the importance of the International Groups to become part of the field testing as this would exactly be the right time to be influential.</li> </ul>		

6.	Update on EIOPA Solvency II Interim measures	Discussion
<p><b>Remarks:</b> Jarl Kure, leader Solvency II preparatory measures project team, gave a high level feedback to IRSG members on the public consultation on Solvency II preparatory guidelines, in which EIOPA received around 4.000 comments from over 50 Stakeholders.</p> <p>The following comments/questions were raised:</p> <ul style="list-style-type: none"> <li>• Will there be an alignment of the definitions, e.g. on governance, with EBA guidelines? <ul style="list-style-type: none"> <li>○ Jarl K. replied that the guidelines are based on the Solvency II Directive and that therefore alignment with EBA was not possible without deviating from Solvency II Level 1. He added that the addressee on definitions is rather the COM and not EIOPA.</li> </ul> </li> <li>• What are the thresholds for the key functions? <ul style="list-style-type: none"> <li>○ He confirmed that firms can create any additional key function they consider to be needed, beyond the minimum of the four mandatory key functions arising from Level 1 text. EIOPA decided to consult without thresholds.</li> </ul> </li> <li>• What about "Fit and Proper"? <ul style="list-style-type: none"> <li>○ Jarl K. reported that it is not sufficient to have the fit &amp; proper senior managers only on group level; the firm must still have fit and proper persons (even if functions are outsourced) on legal entity level.</li> </ul> </li> <li>• What are the implications of the overall timeline on Reporting? <ul style="list-style-type: none"> <li>○ EIOPA Chair replied that the focus now is on preparation. One annual reporting should be sent before the year of Solvency II implementation, presumably falling on 01.01.2016. The issues on reporting might be revisited at the end of this year, but emphasized that it should be done on a best effort-basis.</li> </ul> <p style="margin-left: 40px;">In his view, there should not be a duplication of costs if EIOPA can go out with XBRL taxonomy already in the preparatory guidelines, which would be a win-win situation also for the industry.</p> </li> <li>• Will there be supervisory actions on the principle of prudent person? <ul style="list-style-type: none"> <li>○ EIOPA Chair pointed out that this point will be clarified in the explanatory text.</li> </ul> </li> <li>• Some IRSG members do not consider it appropriate for Internal Model users, due to the work load already involved, to also calculate the standard formula SCR.</li> </ul> <p><b>Conclusions:</b></p> <ul style="list-style-type: none"> <li>➤ EIOPA will run through comments during summer and further develop the guidelines;</li> <li>➤ For full transparency: consultation statement/resolution template foreseen: EIOPA to also assess IRSG comments;</li> <li>➤ EIOPA publication of preparatory guidelines in Oct 2013; current starting date for Solvency II is still January 2014 as set-out in the Quick-Fix Directive.</li> </ul>		

7.	EIOPA Paper on Long Term Guarantees Assessment	Discussion
<p><b>Remarks:</b> EIOPA Executive Director presented the main findings on the Long Term Guarantee Assessment (LTGA). The presentation, which was also used for the European Parliament, is available on the EIOPA website, IRSG section, under this <a href="#">link</a>.</p> <p>In a nutshell, he outlined the following objectives of the LTGA package:</p> <ul style="list-style-type: none"> <li>➤ Smooth shift from the old regime to Solvency II</li> <li>➤ Ensuring that volatility would not trigger unintended consequences – introduction of “Volatility Balancer” measure</li> <li>➤ Bring in supervisory discretions</li> <li>➤ Enable on-going provision of Long-Term products to policyholders</li> <li>➤ Can be regulated and supervised in an effective and efficient manner</li> </ul> <p>The Executive Director reported that the report was agreed by EIOPA Board of Supervisors and that the EIOPA Report on LTGA would also be the starting point for the Commission report. He also disclosed that the next trialogue on 10 July would focus on OMDII and that the three parties will do the utmost to come with a solution.</p> <p>The floor was open for questions/comments:</p> <ul style="list-style-type: none"> <li>• The Group Consultatif has publicly expressed their support to the report, in particular the balanced set of measures, the strong emphasis on practicability and the approach on incentives for risk management. Still, the following areas for improvement were pointed out: pro-cyclicality and simplification of the classical matching adjustment.</li> <li>• Other members welcomed the transparency/predictability of the volatility balancer and suggested to measure the impact of the absorption capacity in the different measures and that the sensitivity of the parameters should be measured.</li> <li>• What if half of the market would not meet the SCR? How to deal with this situation? <ul style="list-style-type: none"> <li>○ EIOPA Chair responded that companies will eventually adapt more to the Solvency II and emphasized that one of the values of a risk-sensitive regime, despite certain volatility, is to deal with risky situations well ahead.</li> </ul> </li> <li>• Other member expressed his support to the LTGA, which showed the huge diversity across markets. Transitionals are welcome, but is no replacement for finding a solution to address pro-cyclicality. The restrictions on the classic MA and the LT investments behavior need to be looked at. <ul style="list-style-type: none"> <li>○ EIOPA Chair opinion was that the industry is looking at the issue too one-sided; in his view, the proposed solution will provide the right incentives for sound long term investment and close potential duration gaps. Less mismatch would reduce the capital charge more than the risk charge for investment costs.</li> </ul> </li> <li>• One member mentioned that a systemic risk could be created by trying to close the duration gap.</li> </ul>		

- EIOPA Chair noted that he does not consider this to trigger a herd-behavior as there are different types of products in the different countries.
- Another member requested more simulations with data to ensure more stable results.
- Intermediaries felt unfairly treated as regards to accountability, which may have harsh implications for them; in their view the duty of care is already embedded in the prudent man principle.
- A mutual/cooperative voice welcomed the initiatives to have a longer liquid market, rather than prolonging the extrapolation period.
- Consumers asked if the low-interest-rate environment was an incentive for companies to go into the LT investment market.
  - EIOPA Chair view is that the role of the regulator is not to prescribe an investment behavior, but to provide incentives for a proper asset liability management (ALM). The investment choice, however, is with the management of the company.
- Users welcomed consistent messages from EIOPA and national supervisors on the role of the SCR to start a closer dialogue between the supervisor and the company. It is in the nature of risk-based regimes in general that such risk ratings fluctuate.

**Next step:**

- The Commission report is expected on 13 July.

13.00	Lunch	
<b>8.</b>	<b>Update on IRSG Subgroups work</b>	Discussion

**1) Consumer protection - IMD2, presented by Pierpaolo Marano**

**Remarks:** Pierpaolo Marano presented the second draft which was prepared following the inputs from members of the Subgroup on Consumer Protection.

**2) Consumer protection - Guidelines on Complaints-Handling by Insurance Intermediaries, Paul Carty**

**Remarks:** Paul Carty presented the draft opinion, which was submitted before the meeting, and welcomed comments by members.

**3) Consumer protection - EIOPA consultation papers on comparison websites and on Knowledge & Ability of distributors of insurance products**

**Remarks:** the Chair asked for volunteers to prepare a draft response to the public consultation, which Pierpaolo agreed to pursue as drafter/lead.

**4) Long Term Guarantees, by Hugh Francis**

**Remarks:** Hugh Francis presented the results of the own-initiative



questionnaire, which covered eleven countries in total (UK, Sweden, Poland, Czech Republic, Slovenia, Belgium, Spain, Finland, Italy, France and Germany) and provided information on the nature, type and relative importance of such products, both historically and currently in addition to providing relevant background information of the rationale and socio\economic importance of such products within the respective markets.

He then gave an overview of the key findings:

- Long Term products play a very important role in each country (both existing and new business);
- A diverse picture emerges – there are a range of different types of long term products (savings to annuities, some with profit participations, others not; also hybrid products – unit linked and some guarantees);
- There are dynamic changes in long term products over time (product/consumer preferences change) ;
- The consumer desire for guarantees is a common theme (nature and amount may change);
- A range of political/social/fiscal reasons - strong link to national pension provision (Pillar 1/Pillar 2/Pillar 3), tax incentives, consumer preferences, government policy.
- A main observation is that when consumers/particulars strive for guarantees, this is often the most challenging time for companies to provide them.

#### **5) Long Term Investment, by Seamus Creedon**

**Remarks:** Seamus presented the draft own initiative IRSG opinion and welcomed comments by members following the meeting and before the written procedure. It was agreed that a revised text would be provided for approval by the IRSG

#### **Conclusions & actions on all work streams:**

- 1) Position paper on IMDII to be put for vote to the subgroup, then to IRSG.
- 2) Opinion on Complaints Handling by intermediaries to be put for endorsement to the subgroup, then to vote to the IRSG.
- 3) Pierpaolo Marano volunteered to draft a feedback statement on EIOPA Good practices report on comparison website and industry training standards, in agreement with Lars Gatschke
- 4) Outcome of the LTG questionnaire to be used by the next IRSG as background information and as a current stock take of the LT products across Europe to allow to follow evolutions over the next years.
- 5) Action: Seamus to revise the text on long term financing/investments by next Monday, 8 of July and then the document shall be sent for approval to full IRSG.

9. & 10.	<b>IRSG organizational item: IRSG Work Plan and Activity Report.</b>	Discussion
<p><b>Remarks on work plan:</b> Giulia Conforti, External Relations team, presented the overview of deliverables in the IRSG Work Plan for 2012-2013 and its level of completion. She recognized the efforts by the IRSG members to fulfill not only the Work Plan, but also to respond to the several informal consultations requests from EIOPA that were dealt with positively beyond the agreed work plan.</p> <p><b>Remarks on activity report:</b> the IRSG Chair reported that the draft Activity Report will be completed with the outcome of the self-assessment questionnaire sent to IRSG members. In addition, she invited the relevant topic owners to conclude the work and corresponding summaries for the Activity Report on the following topics:</p> <ul style="list-style-type: none"> <li>• IMD2</li> <li>• Complaints Handling by Intermediaries</li> <li>• Long Term Investment/Financing</li> <li>• Long Term Guarantees</li> <li>• Comparison websites</li> <li>• Knowledge &amp; Ability of distributors of insurance products</li> </ul> <p><b>Conclusions &amp; actions:</b></p> <ul style="list-style-type: none"> <li>➤ Action Plan was deemed to be fulfilled, except the opinion on the calculation methods of consolidation of the FICOD. No further action by IRSG is needed.</li> <li>➤ Topic owners to deliver their inputs for the Activity Report (by next Monday, 8 July COB).</li> <li>➤ Following the input on the topics above, EIOPA will deliver the Activity Report to Rob Jones for consistency check and proof reading.</li> <li>➤ Thereafter, the Activity Report to be endorsed by IRSG and to be shared with a broader public.</li> </ul>		
<p><b>AOB:</b></p> <p><b>1. Feedback to the Joint ESAs Consumer Strategy Day (25 June), Paris</b></p> <p>EIOPA Chair's view was that it proved a valuable day, which allowed for a stock take on the different realities in the different sectors. In addition, the event helped to create a better understanding from the different sectors and the areas where there should be consistent approaches on a cross-sectoral level. He concluded by announcing that the Joint Consumer Strategy Day will be pursued again next year in London.</p> <p>IRSG members attending the event reported that it was a valuable and constructive experience that should be continued. The only point for improvement in the future would be to further raise the number of consumer representatives.</p>		

## 2. Closure IRSG mandate

The IRSG Chair concluded the meeting by thanking the audience for the open debates, the richness of the variety of the group members and their active support throughout the mandate. She also thanked Gabriel Bernardino, EIOPA Chair, and Carlos Montalvo, EIOPA Executive Director and the members of the Management Board for the good working environment and for regularly attending the meetings, as well as working group Chairs and EIOPA experts. Next, she thanked EIOPA dedicated staff for their support and showed much appreciation for the nutshell notes. Finally, she praised the good collaboration with Kay Blair as Vice-Chair in the running of the Group.

EIOPA Chair and Executive Director also joined in and particularly thanked for the open and frankness in the IRSG debates as well as for the good group spirit and constant input to EIOPA and a very high level of quality of work.

16.00	"Get together" at the Botschaft restaurant	Social event
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