

## Summary of Conclusions

Insurance and Reinsurance Stakeholder Group

Second meeting

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Date: 21 February 2014

Time: 10:00 – 16:00

Location: EIOPA premises

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List of participants:

IRSG: Olav Jones (Vice-Chair IRSG), Renzo Avesani, Jean Berthon, Paul Carty, Alexandru Ciuncan, Andreea Cosma, Seamus Creedon, Maria Aranzazu del Valle, Marie Dequae, Jari Eklund, Frank Ellenbürger, Francis Frizon, Thomas Keller, Edgar Koning, Damien Lagaude, Ioannis Papanikolaou, Nino Savelli, Martin Simhandl, Mojca Strucl, Claes Thimrén, Rick Watson, Dieter Wemmer and Małgorzata Więcko-Tułowicka.

Excused: Kay Blair (Chair IRSG).

EIOPA: Jan Parner (DK) (Management Board representative); Carina Andersson (Insurance Groups Supervision Committee – IGSC - Vice-Chair) and Julie Briand (Internal Governance, Supervisory Review and Reporting Expert Group – IGSRR - Vice-Chair) Gabriel Bernardino, (EIOPA Chair), Carlos Montalvo (EIOPA Executive Director), Manuela Zweimueller (EIOPA Director of Regulations), Justin Wray (Head of Policy Unit), Gabriele Arnoldi (External Relations coordinator), Pamela Schuermans (Insurance & Pensions coordinator, Policy Unit), Giulia Conforti (External Relations Unit), Szabolcs Dispite (Legal), Sandra Hack (Policy Unit), Alexandra de Jonc (Consumer Protection Unit), Dr. Huijuan Liu, Juan Lumbreras and Timothy Walters (Policy Unit).

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### 1. Welcome by Olav Jones and 2. Approval of the agenda

Olav Jones announced that Kay Blair was not able to take part in the meeting due to medical reasons, for which he was asked to chair the meeting on her behalf. Subsequently, he welcomed the newly appointed IRSG member: Mr. Jari Eklund, representing LähiTapiola Mutual Insurance Group.

The agenda was approved, with the caveat that the meeting might need to be concluded earlier than expected due to the Airport strike in Frankfurt.

### 3. European Commission and EIOPA general updates

#### European Commission update by Steve Ryan

- **On Delegated Acts (DA)**

In terms of procedure, consultation with Member States and the European Parliament is carried out through Expert meetings (first was held at the end of January and the next one is foreseen on 26 March).

In terms of timeline, Commission is now undergoing the internal Impact Assessment; the aim is to reach the inter service consultation by mid-April, to be followed by 3 months of translation.

The (new) European Parliament and the Council adoption procedure (all or nothing) is envisaged to last 3 months + another 3 months if needed: 6 months in total. Depending on the final date of adoption, there are two possible scenarios:

- By end July, DAs coming into force in January 2015
- In September, DAs coming into force in March 2015. This would be the latest possible timing as the Internal Model approval process will start.

In terms of content, the DA contains 74 empowerments. For practical reasons, Commission's Impact Assessment will cover 5 topics:

#### 1) Risk calibrations for assets for determination of Capital Requirement

- Important for investment in the real economy – COM is taking as basis the work of EIOPA. Outcome should be aligned with the banking sector.
- Some are of the opinion that risk weighting is still too high, due to the rating being based on crisis years. There is some pressure to extend data to other years.
- EU has created various capital and investments funds – putting them in the lower risk category
- Infrastructure – key issue being data – can be divided into two phases – construction and operation phase – one can significantly reduce for the operation phase but would increase the construction – more work needs to be done – like has been done for securitisation.

#### 2) Equity dampener

- Commission can choose reference period – going for longer reference period – longer than 12 months.

#### 3) Composition of own funds

- Currently can impose higher amounts of Tier 1 – impose high levels – 1/3 should be Tier 1: Commission takes that up to 50%. At the present would not impact insurers – the average amount of Tier 1 is much higher than that – this can be important for mutual;

#### 4) Valuation

- Commission will take the intermediate approach: to apply IFRS where market consistent, but also allow other market consistent approaches.
- One member: Can we avoid 3 different valuation standards? We try to avoid this by allowing use of existing accounting standards as long as those are market consistent

#### 5) Content and frequency of reporting

- Supervisory Report (annual)
- Public Report disclosure (annual and with a similar template as the SR with some parts being removed)
- Key info/ specifications (to be produced quarterly basis)
- One member made a remark on CAT RISK/multiplier, which COM will incorporate.
- Another member made a critical remark on the timeline for the Internal Models, arguing that if more technical information is needed this should be made available latest in summer, in order to cope with the March deadline.
- Steve Ryan also clarified that the Impact Assessment will be published together with the Delegated Acts.

- **On IORP II**

The final text covering pillars 2 and 3 will be discussed on 11/03 at the colleges of Commissioners. There are some challenges in terms of timeline, due to the end of the Commission mandate. Even if the Commission proposal is adopted, it will not be considered by the European Parliament (EP) until mid-July.

- **On IMD II**

Commission proposal will be discussed in the EP Plenary session on 25/02. The Council has no position yet. The EP is in favour of adopting amendments beyond COM proposal on:

- Key Information Document for all insurance products
- Reduction of quantitative disclosure requirements for intermediaries (only upon demand and without info on the amount of commission).

### **EIOPA general update by Carlos Montalvo:**

EIOPA Executive Director announced the **outcome on two European Court of Justice (ECJ) rulings** that would impact EIOPA's work:

- The "Meroni" doctrine on delegation of power: UK vs. Council/Parliament in relation to short selling –they said that ESMA were given powers<sup>1</sup>. Outcomes:  
When is there an obligation to consult => no obligation to consult (or to translate) on Guidelines (but EIOPA will consult).  
Obligation to consult on ITS – with Stakeholder Groups (not with public)
- A French company (MAF) lost the case<sup>2</sup> against EIOPA on the translation of preparatory guidelines => no obligation to consult on guidelines, therefore translation is not mandatory either.

Then he informed about the status of the **European System of Financial Supervision (ESFS) Report on the review of the ESAs** prepared by Sven Giegold, Member of the European Parliament, which claims that ESAs should have greater independence from the Commission, more resources. The Report is to be voted next week. Open questions remain on ESAs single seat, adequacy of the ESAs structure/financing and the Single Rule Book. COM is also working on a report on the same topic.

On the **Budget** in 2015, following the negotiation with the European Commission, the initial request of additional 25 staff members (Temporary Agents) was cut to 7.

On the **EIOPA Annual Work Programme 2015** he explained the envisaged timeline: the draft Work Programme will be sent for comments/input by the IRSG after its submission to the end of March Board of Supervisors.

On the **Preparatory guidelines**, he highlighted:

- Successful outcome towards convergence;
- Next step: publication of the technical specifications, necessary for the submission of information and the FLAOR (ORSA);
- IRSG will be informed about the informal pre-consultation on the underlying assumptions in the standard formula for the Solvency Capital Requirement calculation;
- These will be part of the final consultation on the 1. set of GL. Stakeholders comments welcome on the new additions or changes.

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<sup>1</sup> See [Link](#) to the ESMA judgement.

<sup>2</sup> See [Link](#) to the judgement (*only available in French*)

- On the **EU wide Stress test on Insurance**, he informed that:
  - It will be launched on the 30 of April;
  - There was a close collaboration with ECB and ESRB on the scenarios;
  - It includes an additional element to analyse the vulnerabilities that a prolonged low interest rate scenario will bring to the insurance sector;
  - A workshop with industry participants is scheduled in May.
  
- On the involvement by EIOPA on **IAIS activities**, he emphasised that:
  - EIOPA coordinates the European position on several topics (Basic Capital Requirements (BCR), ComFrame, the first global Insurance Capital Standard (ICS), etc.)
  - In this respect, EIOPA is the view that the level playing field should be important – to do it through risk based supervision - only way forward but that SII is not the only way to do it.
  
- He also reported on the successful **meeting between consumer representatives** of both IRSG and OPSG with the Committee on Consumer protection and Financial Innovation (**CCPFI**) held on the 13 of February.
- Finally, he updated the IRSG on the upcoming **Peer Review projects**:
  - In a document sent after the meeting, IRSG members were invited to contribute to the scoping of the supervisory practices for **Freedom to Provide Services (FOS)** – by 07.03.2014.
  - In addition, IRSG views on the scope for the supervisory practices on **Joint On-site Inspections** were invited by 07.04.2014

#### 4. EIOPA presentation on Consumer Protection – Comparison websites

Alexandra de Jong, Expert Consumer Protection and Financial Innovation Unit, introduced EIOPA best practices on the Insurance Comparison websites. The presentation is available on IRSG website: [21 February meeting](#).

IRSG members welcomed very much this topic and raised the following key aspects:

- Independence is key from Ombudsman;
- Which legislation covers Comparison website? Insurance Mediation directive could be applicable for if it is deemed as helping a person buying a product;
- Important issue is one of data – because comparison website can provide data to companies – so can be unfair for smaller companies;
- For EIOPA the criteria used by websites are a key issue, as the complexity of products is not captured in the price. Commercial links between the site and the company should be disclosed: e.g. a company can own a site;
- Comparison websites are here to stay – but the complexity of the contract makes it difficult to compare on line; it is also a matter of reputation/credibility of the company. EIOPA suggests that consumer associations have a role to play in order to fulfil the gap between the coverage expectation of consumers and the reality;
- EIOPA recommends full transparency on price. Nevertheless, IMD2 outcome cannot be pre-empted at this stage (IMD may limit disclosure requirements).

#### Conclusion/action:

IRSG agreed to respond to the informal consultation by delivering an overview paper with the input of all IRSG members on this topic. The secretariat reported that Kay Blair had agreed previously to collate the responses and to submit the paper to EIOPA by mid-March.

## 5. EIOPA presentation on Solvency II timeline and implications for IRSG

Pamela Schuermans, Insurance & Pensions coordinator within the Policy Unit, held a presentation on [Solvency II Planning 2014 – 2015: Implications for the Insurance and Re-insurance Stakeholder Group](#).

She gave an overview of the upcoming waves of consultation on Solvency II that EIOPA is working on: the draft Implementing Technical Standards (ITS) and the Guidelines (GL). She described the process EIOPA is following to come up with the final product to be submitted to the Commission in two stages – ITS set 1 “approval processes” by 31 of October 2014 and ITS set 2 “Pillar 1, Pillar 2, Pillar 3 and supervisory transparency” by 30 June 2015.

The subsequent discussion touched on the following aspects:

- On how the consultation process works in practice, especially how is EIOPA weighting the responses from individual/associated stakeholders; EIOPA response was that both individual/ industry associations comments were duly considered and addressed one by one.
- EIOPA announced that the IRSG would be getting the documents ahead of the public consultation, on a confidential basis.
- A member asked if EIOPA would require a validation process/ITS on the volatility adjustment. EIOPA response was that topic is part of the Delegated Acts (level 2) discussions; EIOPA itself has no power neither to issue ITS, nor this would be the appropriate instrument. Depending on the outcome in the DA, EIOPA will consider issuing Guidelines on this topic.
- A member raised the concern about the reporting requirements on Day 1 and the fact that the details will be shared too late. EIOPA answered that reporting was included in the „preparatory package“ and that there will be very few changes on that. Efforts from the industry will therefore not be in vain.
- The issue of the availability of DA to the public was raised. EIOPA insisted that the industry will get them before and that this also caused practical inconveniences due to the cross-references.

### Conclusion:

It was agreed that IRSG would get a pre-view of the draft ITS on a confidential basis before the public consultation. Presumably by mid- March.

## 6. EIOPA presentation on legal aspects of the legislative instruments

By Szabolcs Dispite, Senior legal expert, EIOPA Legal service, held a presentation with focus on [EIOPA Legal Instruments](#) and he covered the new rules of the Lisbon Treaty, introducing the legal systems of the Delegated Acts and the Implementing Acts.

## 7. Preview on EIOPA 1<sup>st</sup> set of Implementing Technical Standards, with focus on approval processes

The [presentation](#) of the overview of the ITS and their key features was held by Julie Briand (IGSRR Vice-Chair) and several EIOPA Insurance Policy Experts, including Sandra Hack, Dr. Huijuan Liu, Juan Lumberras and Timothy Walters.

The following ITS were covered:

1. Procedures for the approval of the matching adjustment
2. Procedures for the approval of Ancillary Own Funds
3. Procedures for the approval of USP - Undertaking Specific Parameters

4. Procedures for the approval of IMs and of major changes to an IM – Internal Models- and changes to the policy for changing an IM
5. Joint decision process for group internal models
6. SPV procedures for approval, exchange of information and formats for reporting

Subsequently, Carina Andersson (IGSC Vice-Chair) introduced the [presentation](#) on EIOPA's draft Guidelines on the operational functioning of colleges of supervisors.

As regards to the timeline, the public consultation will be carried out between April and June 2014 and EIOPA will submit the final draft to the Commission on 31. October 2014.

IRSG members raised questions as regards to the timing and form of response by EIOPA, whether the proportionality was applied at this stage and if EIOPA had already estimated the expected number of applications received for the different approval processes. EIOPA experts replied that silence would imply a negative response and that in case of supervisors needing additional documentation, the „6 months clock“ would stop. It was also assured that one application could cover different assets of the portfolio. Proportionality measures would be applied at a later stage.

#### **Conclusion/Action points:**

- The IRSG agreed to allocate the work to the SII subgroup on Pillar 1 for the ITS and the SII subgroup on Pillars 2 and 3 for the college guideline.
- The subgroups leaders were invited to highlight the major issues at the next meeting on 29 April, in view to have a draft opinion to be tabled during the 24 June meeting.

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*Lunch break (12:45-13:30)*

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#### **8. IRSG subgroups leaders appointment and discussion on the way forward and early planning**

- Solvency II – Pillar 1; Seamus Creedon
- Solvency II – Pillars 2 & 3; Karel van Hulle
- Market Conduct; Alexandru Ciuncan
- Regulatory Issues; Annette Olesen
- Strategic Areas; Ioannis Papanikolaou

The subgroup leaders presented an outline of the work streams to be carried out by the [Market Conduct Subgroup](#), the [Subgroup on Regulatory Issues](#) and the [Subgroup on Strategic Areas](#). All presentations are available on the [IRSG webpage](#).

#### **Conclusions/actions:**

- The subgroup leaders were endorsed by the IRSG
- Each subgroup to continue the work via e-mail/telco, to further refine the contents of their mandates & deliverables

#### **9. Presentation on Delegated Acts, with focus on the key outstanding issues under discussion**

Olav Jones, Vice-Chair IRSG, presented the Industry key outstanding issues as regards to the Solvency II Delegated Acts. His presentation is available on [here](#).

The main areas of focus were:

- Long term guarantees
- Long-term investments
- Equivalence
- Contract boundaries
- SCR calibrations
- Own Funds

IRSG members expressed their concern on the potential inconsistency in certain areas (Standard Formula, Internal Models), given the interrelation between EIOPA Guidelines and Commission envisaged timetable. EIOPA Chair stressed the need to have political decision by the Council and the European Parliament in due time for EIOPA to provide input. He added the possibility for some areas, like calibration, to be reviewed on a continuous basis.

### **Conclusions:**

Several issues still depend on a political decision. EIOPA is more concerned on the timeline, given that the ITS package must be in place on time for the pre-application phase (01.04.2016)

## **10. Presentation on Catastrophe Risk**

This topic was moved to the April meeting due to the strike in Frankfurt International Airport which forced an early close to the meeting.

## **11. AOB**

The meeting ended at 15:15.