

## Summary of Conclusions

### Insurance and Reinsurance Stakeholder Group (IRSG)

#### Third meeting

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Date: 29 April 2014

Time: 09:30 – 15:30

Location: EIOPA premises

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#### List of participants:

IRSG: Kay Blair (Chair IRSG), Olav Jones (Vice-Chair IRSG), Renzo Avesani, Yannick Bonnet, Paul Carty, Alexandru Ciuncan, Andreea Cosma, Seamus Creedon, Maria Aranzazu del Valle, Marie Dequae, Jari Eklund, Frank Ellenbürger, Francis Frizon, Maria Heep-Altiner, Marcin Kawiński, Thomas Keller, Edgar Koning, Damien Lagaude, Baiba Miltovica, Annette Olesen, Ioannis Papanikolaou, Nino Savelli, Martin Simhandl, Mojca Strucl, Claes Thimrén, Karel van Hulle, Rick Watson and Małgorzata Więcko-Tułowicka

Excused: Jean Berthon and Dieter Wemmer

EIOPA: Gabriel Bernardino (Chair EIOPA), Felix Hufeld, Peter Braumueller (Members of Management Board), Manuela Zweimueller (Director of Regulations), Justin Wray (Head of Policy), Pamela Schuermans (Coordinator Insurance team), Gabriele Arnoldi (Coordinator External Relations), Giulia Conforti, Konstantinos Karountzos, Dragoljub Sretenovic (External Relations), Declan O'Keeffe (Principal Expert, Policy Unit), Laurent Etori, Huijuan Liu, Juan Lumbreras and Ana Teresa Moutinho (Solvency II Experts, Insurance), Lay Peng Lim (Expert, Cross-Sectoral and Consumer Protection Unit), Paolo Cadoni (Chair IntMod), Fausto Parente (Chair IGSC), Julie Briand (Vice-Chair IGSRR), Romain Labaune (Vice Chair FINREQ), Tom Crossland (TF leader IGSC).

European Commission (EC): Rogier Wezenbeek (via telco)

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### 1. Welcome by Chair, Approval of the agenda and 2. Chair report

The Chair welcomed the participants. The agenda was approved. The Chair reminded the members that the deadline for approving the revised Rules of Procedure is 30 April.

Konstantinos Karountzos was introduced as the new staff member of the External Relations team, who will be taking over the support to the IRSG during the maternity leave of Giulia Conforti.

### 3. European Commission and EIOPA general updates

#### EIOPA general update by EIOPA Chairman:

- On the **EU-wide Insurance Stress test**
  - Launched on 30 April: it will be comprehensive and assess the resilience of insurance companies in adverse scenarios.

- Objective: identification of key vulnerabilities and elements of recommendation, and, perhaps, some supervisory action. But it will not be a pass/fail test for Solvency II capital requirements (January 2016) and will not target specific companies.
- Same technical specifications with Stress test for Solvency II preparatory phase.
- EIOPA will organise a workshop on 20 May with Stress test participants. The deadline for data submission is 11 July 2014, followed by local and central validation process on 31 July. The disclosure of Stress test results is expected in November 2014.
- On Packaged Retail and Insurance-based Investment Products (**PRIIPS**)
  - Agreement at political level was reached and the coverage also extends to investment products in insurance sector. Pensions are not covered, however, there could be measures in the area of personal pensions.
  - Regulatory Technical Standards (RTS) for Key Information Documents (KIDs) to be published by end 2015. EIOPA wants to have consumer testing.
- On **EIOPA Work Programme 2015**
  - Comments to be sent by 30 April 2014

### **Action**

- IRSG to look at subgroups' mandates/priorities and check on key priorities of EIOPA draft work programme that are not covered
- On Joint Committee Public Consultation (PC) on draft RTS on risk-mitigation techniques for OTC-derivative contracts not cleared by a Central Counterparty (PC on EMIR):
  - PC runs until 14 July 2014. A public hearing will take place on 2 June.
- **Comments and Q&A**
  - A member mentioned that the calibration of the Insurance Stress test should be consistent with banking sector but the magnitude of stress is different, since risks are different. Need for proper shocks relevant for the business.
    - EIOPA Chairman assured that the calibration was done in cooperation with the ESRB. The shocks applied on the balance sheet (SCR, MCR) will be relevant for the insurance business, to test the resilience and vulnerability in the sector; the intention is not to highlight the weaknesses of single companies.
  - A member highlighted the need for full disclosure of the Stress test parameters and also the methodology used to determine important pre-stress parameters such as the Volatility Adjustment and Credit Risk Adjustment . He further added that the methodology should be consistent with Omnibus II adjustments and Commission's Delegated Acts. EIOPA Chairman left open an EIOPA publication on the pre-stress parameters, but, in any case, there should be room for more methodology papers to come.
    - Responding to a member's comment, EIOPA Chairman reported that the basis will be Solvency II and the upcoming L2 agreement, which will be covered under the technical specifications. He referred to the element of proportionality when developing any piece of advice to the EC, and to the chapter on proportionality that is included in every Technical Standard and Guideline (GL). He acknowledged, simplification is not always possible.
  - A member highlighted the importance of how the results will be presented to the public, for example avoiding any implication that companies should be expected to meet SCR after the stresses because the SCR is itself based in the capital buffer needed to withstand extreme stresses.

- A member enquired about the implications to investors as regards capital charges.
  - EIOPA Chairman responded that the Joint Committee is planning to issue a paper on the interaction of Solvency II – CRD IV, but that at this stage it was too early still.

### **Action**

- It was agreed that the IRSG will respond to the public consultation on EMIR.

## **European Commission update by Rogier Wezenbeek (via telco)**

### **▪ On Omnibus II**

It will enter into force in May.

### **▪ On Delegated Acts (DA)**

- Valuation and internal audit still remain open. Two meetings with MS experts have taken place. No further Member States' (MS) Experts meetings and no final draft will be circulated ahead of publication.
- EC in the process of finalising the Impact Assessment (IA) and then there will be Inter-service Consultation.
- The aim is the DA to be ready in July. 16 July is the earliest day for submission to the European Parliament (EP) and the DA can then be adopted after EP summer recess.

### **• On IMD II**

- 95% of the text is ready. A meeting with MS scheduled for 19 May. The Greek Presidency will distribute a discussion paper, which will be probably based on the EC proposal (EC has provided the GR Presidency with a revised draft), with the addition of changes from MiFID 2 and elements of the EP report.
- There will be remuneration and conflicts of interest provisions, coming from MiFID 2.
- The Greek Presidency plans two more sessions. The file then may be closed by the Italian Presidency that follows (July-December 2014).

### **▪ On PRIIPS**

- Text is expected to be finalised by end July 2014.

### **▪ On ESFS (European System of Financial Supervision) review**

- It depends on the Cabinet to decide when to issue the report.

### **▪ Comments and Q&A**

- Responding to a member's question, the EC official explained that the open issues as regards valuation are the standards that should apply and how exceptions to these standards could be granted to SMEs based on proportionality. Similarly, as regards internal audit, the open issue are the functions to be combined by more persons, which is also an SMEs-related issue. It is currently being examined to what extent EIOPA GL could soften this requirement for SMEs.

## **4. EIOPA update on international developments**

Peter Braumüller, member of EIOPA Management Board and IAIS Chairman, provided an update to the IRSG members on international developments.

## ▪ **Main points**

- Analysis on Global Systemically Important Insurers (G-SIIs): the Financial Stability Board (FSB) will update later this year the G-SIIs list, which currently contains 9 insurers. A decision on whether any reinsurers should be identified as a G-SII was deferred until end 2014.
- The Common Framework (ComFrame) for International Active Insurance Groups (IAIG) builds on high level principles. The development phase was concluded in 2013, followed by PC on the results. As of March 2014, ComFrame focuses on field testing. Formal adoption of ComFrame is scheduled for 2018, followed by implementation.
- Global Insurance Capital Standards (ICS) will be finalised by 2016 and included into ComFrame.
- Basic Capital Requirement focusing on G-SIIs: first PC recently concluded, second PC in summer 2014.
- High loss absorbency requirement to come into force in 2019.
- Recovery and resolution plans: development has already started.
- There is now shift in implementation phase ("coordinated implementation framework"). There will be a peer review exercise for all Insurance Core Principles (ICPs) by end 2016. The IAIS Issues paper on corporate governance approaches a number of ICPs.
- If Solvency II is recognised as an implementation of ICS (perhaps with some changes), no need for multiplication of standards.

## ▪ **Comments and Q&A**

- Reinsurance per se does not pose great threats. Late discussions have focused on interconnectedness and non-substitutability of potentially systemically risky activities.
- FSB does not question the robustness of IAIS methodology.
- A member raised the companies' concern about multiplication of standards, which, in the end, are not going to add much to financial stability. Hence, the aim should be simplification.
  - Peter Braumüller expressed his view that if "Solvency II +/-" is recognised as a global system, then duplication of work will be avoided.

## **5. IRSG subgroup Solvency II – Pillar 1: discussion on public consultation - Solvency II 1st set of ITS and GL for colleges**

Seamus Creedon and Karel van Hulle presented the initial views of their subgroups and opened the floor for comments by other IRSG members.

## ▪ **Main points of discussion on Solvency II 1<sup>st</sup> set of ITS**

- ITS are about processes, forms and procedures, there is no policy content.
- Need to articulate what would be the benefits for consumers.
- If a company has requested approval, need for fast-track.
- Internal models vs. Undertaking Specific Parameters (USPs): while small undertakings (specialist companies are rather small) are likely to use USPs, the issue is not large vs. small but rather about whether a single standard formula calibration captures well enough the risks faced by a particular company – for example retail vs. corporate may have very different calibrations and so a company with a mix of exposure different from the average may need to use USPs. It is not just about proportionality but about the kind of business. In any case, even big

companies should not be obliged to use internal models, but such decision should depend on cost analysis.

- Internal models: Board of Supervisors' (BoS) approval on having common application package among NSAs for the process of consultation that would ensure consistency. It will be published as soon as level 2 measures are issued.

▪ **Main points of discussion on GL for colleges**

- The objective of GL is convergent and consistent implementation of processes that are already in place (operational functions).
- Confidentiality: there is already a process in place of assessing professional secrecy requirements of 3<sup>rd</sup> countries.
- Perhaps need for more precisions in GL: for instance, it should be explicitly mentioned that if confidentiality is not respected, then information will not be shared.
- Banking activities in insurance group: covered by financial conglomerates Directive (different process if banking activity is significant).
- Different kinds of stress-tests (internal in the company, by NSAs, EU-wide): when they relate to the group, the results need to be discussed in an integrated way, and that is within the Colleges of Supervisors.

▪ **Action**

- Deadline for additional comments is 8 May. Seamus Creedon to provide a timetable for circulation of the draft opinion.

**6. Preview on EIOPA 1st set of GL, with focus on approval processes**

Pamela Schuermans, Coordinator of Insurance, and other members of the insurance team held a presentation on the first set of GL for Solvency II and answered IRSG members' questions. The presentation covered 5 areas: Pillar 1 (TP, OF, SCR, Valuation), Internal Models, Governance and Own Risk and Solvency Assessment (ORSA), Equivalence, Supervisory Review Process (SRP). The draft GL could be sent to IRSG by 9 May 2014.

▪ **Main points of discussion**

- Governance and ORSA PC is out now because EIOPA can already move on with it (stable, not many new issues), otherwise time would be short.
- Qualitative approach: 3-4 GL relate to internal models and their objective is to remove duplications and streamline the process.
- Governance and ORSA: new changes relate to remuneration, valuation of assets & liabilities other than technical provisions. Changes also depend on the developments in DA.

▪ **Action**

- EIOPA agreed to show a pre-view of the GLs by mid-May, before they are launched for public consultation (June).
- Pillar 1 subgroup to have an early look at these GL.
- Karel van Hulle volunteered to lead the work on Equivalence.

**7. EIOPA Presentation on draft guidelines on third country branches (informal consultation)**

Tom Crossland (Prudential Regulation Authority/UK) gave a presentation on draft GL for the supervision of EU branches of insurers whose head office is outside of the EU.

▪ **Main points of discussion**

- Objective is to ensure that policyholders enjoy the same level of protection, whether they deal with a subsidiary or a branch.
  - Two elements are essential: i) the whole undertaking is solvent (by an adequate margin); and ii) if it fails, the assets available to pay policyholders on winding up are distributed to pay policyholders' insurance claims in priority to other claims.
  - The draft GL seek to achieve these aims without imposing the full weight of Solvency II calculations and reporting on the whole undertaking.
  - If only local policyholders are protected, then need to ring fence the branch's assets. So, far there has been localisation of assets, which is not sure that it will lead to distribution to all policyholders. Whether the liquidator can obtain control of the asset, is relevant.
  - Concerns how the ring-fencing will interfere with small operations.
  - Perhaps, draft GL would be disproportionate if applied to small branches.
- **Comments and Q&A**
    - The Director of Regulations stressed the confidential nature of the document and that it should remain within the IRSG.
    - Regarding the definition of 'adequate margin of solvency', it was explained that it is up to the NSA's judgment. Home jurisdictions rules will form the basis for this assessment; nevertheless, EIOPA reserves the right to request additional information from home NSA.
    - No margin above Solvency Capital Requirement (SCR).
    - EIOPA cannot draft GL on pure re-insurance branches.
    - A member commented that attention should be given to subsidiarisation (i.e. branches are treated as subsidiaries for supervisory purposes). There is however a commercial and capital advantage through branch operations, since they lead to reduced capital requirements.
    - In EU there are 50-60 foreign branches.
    - The EIOPA Chairman commented that these draft GL are fundamental for consistency reasons, level playing field and consumer protection, and that risk for divergent application is real. Major third countries will be involved.
    - IRSG members acknowledged that this is an important issue.
  - **Action**
    - Set-up of a Task Force led by Marcin Kawiński, with the participation of Kay Blair, Olav Jones and Karel van Hulle
    - IRSG to respond by 13 June 2014 (ex-post extended to 2 July).

## 8. EIOPA presentation on Consumer Protection

Lay Peng Lim, Cross-Sectoral and Consumer Protection Unit, presented the Questionnaire on EIOPA Annual Consumer Trends Report.

- **Comments and Q&A**
  - It is a very important task for EIOPA. Need for both quantitative and qualitative information. It is an EU-wide report but at the same time it is important to understand the different issues in various MS, since this would help EIOPA dialogue with NSAs.
  - The objective is to raise attention on these issues. Afterwards, action will be taken either under policy or supervisory perspective.

- Difficult to sort out a tendency at EU level. For instance, Payment Protection Insurance (PPI) was a problem only for some MS. However, first we should collect the material and then sort it out. It is important that data are carefully interpreted, since labelling an incident as trend requires sufficient data.
- A member commented that there is a big number of claims and complaints because consumers do not bear any cost, and this makes the assessment of those complaints difficult.
- Even though mainly anecdotal evidence can be provided, the input received so far is encouraging.

▪ **Action**

- Deadline to informal input by IRSG is 13 May.
- Internal deadline for Alexandru Ciuncan to collect members' comments is 6 May.

## **9. Presentation on Catastrophe Risk**

Marie Delquae and Ioannis Papanikolaou provided two presentations on natural and man-made hazards. It was noted that these presentations express individual views and neither the views of EIOPA nor the IRSG.

▪ **Comments and Q&A**

- Particular interest was shown in the element of cyber-risk.
- Events and costs are about vulnerabilities. There is also linkage between prevention/amount of coverage and sustainability of public finances.
- Interest in understanding geological risk models.

▪ **Action**

- Public version of the two presentations will be sent to EIOPA by Ioannis Papanikolaou and Marie Delquae and will be uploaded on the EIOPA website.
- Marie and Ioannis should try to convert these presentations into deliverables.

## **10. IRSG subgroups' presentation on the draft mandates and EIOPA upcoming consultations**

▪ **Action**

- Draft mandate Solvency II – Pillar I approved.
- Draft mandate Solvency II – Pillars II and III approved with the caveat to add 1<sup>st</sup> set of draft GL on governance and ORSA, and SRP.
- Draft mandate Market Conduct: approved with the caveat to set longer deadlines for the 3 own initiative reports (current deadline is 24 June 2014).
- Draft mandate Other Regulatory Issues: deliverables need to be set before approval.

- Draft mandate Strategic Areas: no draft yet but it will be ready for approval in IRSG June meeting.
- Overview EIOPA upcoming consultations by areas: Chair, Vice-Chair and Giulia will look into the potential allocation of work streams for the IRSG, in view to prepare the IRSG work plan.
- Rick Watson volunteered to lead the work on EMIR.

## **11. AOB**

### **▪ Conclusions**

- Need for balance between PC that EIOPA must consult with IRSG (leading to 'Opinion' papers) and other topics on informal consultations and IRSG own initiative work (leading to 'Feedback/Position papers').
- Confidentiality: documents labelled as "confidential" need to be restricted to members of the IRSG.
- Personal capacity: a member cannot be replaced and is not bound to bring across the opinion of his/her association/institution.
- Next IRSG meeting: 24 June 2014 at EIOPA premises

The meeting ended at 15:30.