

Summary of Conclusions

Occupational Pensions Stakeholder Group

Sixth meeting

Date: 15 October 2014

Time: 09:30 – 16:00

Location: EIOPA premises, Frankfurt

Contact: Simona.Murariu@eiopa.eiopa.eu

List of participants:

OPSG: Benne Van Popta (Chair OPSG), Matti Leppälä (vice-Chair OPSG), Lukasz Budzynski, Charlotta Carlberg, Laure Delahousse, Alberto Floreani, Bruno Gabellieri, Ruth Goldman, Fritz Janda, Thomas Keller, Michaela Koller, Hristina Mitreva, Marianne Moscoso-Osterkorn, Manuel Peraita, Guillaume Prache, Joachim Schwind, Federica Seganti, Marius Serban, Philip Shier, Klaus Struwe, Douglas Taylor, Martine Van Peer, Chris Verhaegen, Neil Walsh and Allan Whalley.

EIOPA: Gabriel Bernardino, (Chair), Carlos Montalvo (Executive Director), Brendan Kennedy (OPC Chair) Katja Wuertz (CSCP Head of Unit); Gabriele Arnoldi (External Relations coordinator), Simona Murariu (Expert External Relations team), Alexandra de Jong, Lay Peng Lim (Experts - Cross-sectoral and consumer protection unit), Sandra Hack (Pensions team coordinator), Carine Pilot-Osborn and Barthold Kuipers (Experts - Pensions team).

European Commission: Anna Kadar, Insurance and Pensions Unit.

1. Approval of the draft agenda and 2. OPSG Chair update and report

OPSG members approved the agenda and the minutes of the 07 July meeting without comments.

3. EIOPA general update

Update by EIOPA Chair:

EIOPA Chairman informed about the following most recent developments:

- Recently published EIOPA consultation paper on further work on solvency of IORPs with a three month response period until 13 January 2015.
- Upcoming fact finding report on costs and charges (expected publication late 2014);
- Upcoming fact finding report on social and labour law (SLL) notifications in cross-border situations (expected publication late 2014)

Regarding EIOPA consultation paper on further work on solvency of IORPs EIOPA Chairperson noted that EIOPA undertook the further work on solvency for pension funds on its own initia-

tive. The consultation paper only constitutes a first step in EIOPA preparing advice to the Commission on solvency issues. As a next step, EIOPA will develop draft technical specifications by early 2015 for a quantitative impact assessment. Therefore, the consultation paper should not be misunderstood to have any relations with the political discussions on IORP II.

Conclusions:

- EIOPA to inform on an on-going basis as to release/publication of reports mentioned above.

ESFS review:

ESFS Review - Katja Wuertz, Head of EIOPA Cross-sectoral and Consumer Protection Unit, provided OPSG with an update of the latest developments on this topic including as to main conclusions in COM report, which were overall positive.

OPSG members were informed that the **COM identified areas for improvement** which were divided between short term improvements and medium term changes necessitating regulatory amendments concerning the following roles: Regulatory, supervisory, international, financial stability, consumer protection, governance, financing & structure.

More specifically, related to the ESA Stakeholder Groups, COM suggested that in the **short term the following** improvements to be considered by the ESAs:

- More balanced composition
- Strengthened transparency

COM has also identified potential **medium term** improvements to be further considered such as:

- Increased duration of mandates
- Considerations as to limiting SGs to one per ESA

In context of discussion re COM proposals on the topic of stakeholder groups, EIOPA Chair welcomed the findings of the report and noted that EIOPA work has benefited significantly from having two sector specific stakeholder groups.

In the context of current discussions at level of political institutions regarding resources available to ESAs for year 2015, OPSG supported EIOPA Chair in request to ensure adequate budgetary allowances are in place to provide resources needed for the Authority to deliver on its workplan.

Conclusions:

- On topic of budget 2015: OPSG Chair will liaise with IRSG Chair to discuss EIOPA SG's views on the matter.
- On topic ESFS review: Chris Verhaegen and Philip Shier will undertake to develop a short position paper on the COM Report. This may be part of a joint IRSG & OPSG document. Topic to be discussed in November OPSG early meeting.

4. Consultation on EIOPA's solvency work and the use of the holistic balance sheet

Presentation was delivered by Barthold Kuipers, Principal expert on Pensions who noted that the Consultation paper is a further step towards tested EIOPA advice to the Commission (although related to Commission's proposal for IORP II).

The presentation focused on the key sections of the consultation paper i.e. the mapping exercise pursued, the approach to using a Holistic balance sheet (HBS), valuation in the HBS, sponsor support valuation, benefit adjustments and security mechanisms as well as examples of supervisory frameworks.

EIOPA will run a consultation that will end on 13 January 2015. Using stakeholders input, EIOPA will then develop by mid-March 2015 its QIS specifications. The QIS exercise would then be run in the second half of 2015 with the aim of providing advice to COM by end on the year.

The initial views from the OPSG – Solvency Subgroup were presented by Philip Shier (SG leader). The SG leader also presented a work planning proposal for delivering input to EIOPA consultation. The document is available

Following a clarifications request from an OPSG member, EIOPA Chairperson noted that EU COM has put forward a IORPII with no changes to the capital requirements section. By end 2015 EIOPA will provide its Advice to EU political institutions and then it will be up to these political institutions to take EIOPA findings further in the revision work for the IORPII directive.

EIOPA Chairperson noted that even if the political level will not use EIOPA advice, the simple fact that we are working on this in a really serious way, will have positive impact on improving transparency and solvency of the IORPs. And this EIOPA work will be a new step on the long journey to revise the solvency requirements for IORPs.

Specific technical discussions between OPSG members and EIOPA expert followed mainly focused on treatment of sponsor support and contract boundaries.

Conclusions:

- OPSG approved proposed Solvency SG work timeline
- Topic to be discussed in 26 November OPSG early meeting.

5. COM's Call for Advice on Personal Pension Products

Presentation was delivered by Cees Karregat, Senior expert on Pensions. The slides are available [here](#).

OPSG members were informed as to:

- organisation of work: 3 EIOPA workstreams
 - ✓ 'Horizontal' issues: Scope of PPPs (ch. 1 CfA); Product standardisation (ch. 5, part 1); Cross-border activity and transfers (ch. 6); 2nd regime (ch. 8);
 - ✓ "Institution focussed" issues: Governance financial institution (ch. 2); Product governance (ch. 5, part 2); Quantitative requirements (ch. 7)
 - ✓ Conduct of business issues: Pre- and post-contractual information to PPP holders (ch. 3) and Distribution (ch. 4)
- Data requests:
 - ✓ Number of PPPs (contracts) in EU per industry category
 - ✓ Assets managed (broken down by DB/hybrid schemes and DC schemes)
 - ✓ Distributors of PPPs
 - ✓ PPPs offered through freedom of establishment (FOE) or freedom to provide services
 - ✓ PPPs offered by financial institutions that do not benefit from 'passport'
 - ✓ PPP schemes transferred across Member States
 - ✓ Detailed data on 1st pillar bis schemes
 - ✓ Investigate possible discriminatory issues in field of taxation
- EIOPA timeline- tentative:
 - ✓ Finalising draft reports 3 work streams – by 2nd week February 2015
 - ✓ Finalising overall draft report – by 1 June 2015
 - ✓ Public consultation – 1 July until 30 September 2015
 - ✓ Seeking BoS approval of final draft advice – January 2016
 - ✓ Final advice to EC – 1 February 2016

Initial views from the OPSG – Personal Pensions Subgroup were presented by Michaela Koller (SG leader). The SG leader also provided a high level overview of the work plan of the SG for delivering input to EIOPA work on delivering to COM request for Advice as follows:

The sub-group came together by way of telco to prepare OPSG meeting and discussed how to best approach the work and to what extent we can work on the OPSG opinion under existing mandate. This is an issue sub-group members are looking at it in light of recent EU COM Call for Advice.

Being mindful of EIOPA timeline, the subgroup has agreed that they will focus on 4 key areas:

- definition of PPPs,
- the scope of the Regulation (we separate btw pillars and make clear in which direction work should develop),
- SWOT analysis of the COM proposals and form a tentative view as to a way forward
- transparency requirements and possibly interactions with new regulations

Michaela Koller reminded that personal pension is a workstream that is meant to be joint with the IRSG. In a 1st step, the subgroup will focus on what OPSG wants. A first discussion with IRSG members will take place at the November joint meeting. To date there is no knowledge of IRSG work on the topic.

In terms of substance of the EU COM Call for Advice, the personal pensions subgroup believes on the issue of interactions with existing frameworks, the initial starting point is not to change anything (Solvency II, CRDIV etc) but an analysis will be needed as to see whether any changes are in fact needed.

One OPSG member noted that personal pensions will become a more and more important topic for future. The OPSG supports EIOP work on this topic and highlighted that and it is important to put a strong definition out there as to what personal pensions are. When a good definition becomes available then we know what we are working towards.

Conclusions:

- Members of the OPSG Personal Pensions to inform SG leader of their choice of work areas by 07 November.
- Depending on input available, topic could be discussed in 26 November OPSG early meeting

6. EU COM Update

EU COM representative – Anna Kadar debriefed as to the following:

Review of the IORP II Directive:

- Key aims:
 - ✓ Professionalise governance and risk management
 - ✓ Provide more effective information to members and beneficiaries
 - ✓ Facilitate cross-border activity and transfers
- Current status: discussions are on-going at the council level, on the following topics:
 - ✓ Governance: Remuneration & Formalised risk assessment for IORPS
 - ✓ Cross-border issues: authorisation procedure
 - ✓ Pension Benefit Statement (PBS): format, layout, structure and sequencing of the PBS and Layered approach
 - ✓ Delegated acts, EIOPA guidelines – still under discussion.
- **Next steps:**
 - ✓ Work in Council continues
 - ✓ European Parliament: designation of rapporteurs
 - ✓ Some shadow rapporteurs already known
 - ✓ New Commission mandate and new Commissioner as of 1/11/2014

Personal Pensions:

- COM Call for Advice to EIOPA of July 2014 on the development of an EU single market for personal pension products
 - ✓ Broad scope: including an analysis of life insurances, group pensions and 1st pillar bis schemes
 - ✓ Due for delivery by EIOPA to COM by 01 February 2016
- Based on the EIOPA Advice, EU COM will analyse whether legislating PPPs specifically is necessary. Outcome of this assessment may not be necessarily be resulting in EU level regulation.

Slides used for this presentation are available [here](#).

7. Review of the IORP Directive

- OPSG input to COM – Review of the IORP Directive, report from Benne van Popta.
- OPSG Proportionality workstream - Presentation by WS leader, Chris Verhaegen

Benne van Popta provided a short status update on work undertaken to date OPSG input to COM on the Review of the IORP Directive. Document is close to finalisation following written inputs received in September. Matti Lepalla will join Benne van Popta for this final leg of the work as still quite a few comments are to be processed and transformed into revised drafting.

The response will be further discussed at OPSG early meeting of 26 November 2015 when, all things fine, the OPSG will be requested to approve the Opinion on the Review of the IORP Directive.

Chris Verhaegen, leader of the OPSG Proportionality workstream delivered a presentation on the use of the proportionality principle in EU legislation, and more specifically re IORP II proposal.

Whereby proportionality is a principle that is relevant at all levels of policy making process, the WS leader noted it is relevant

- Across the Directive, not only to those articles with explicit or implicit reference to proportionality.
- Delegated Acts from Commission
- Technical Standards, Guidelines and Recommendations from EIOPA and EU COM
- Implementing legislation at Member State level
- Exercising supervisory powers both EU level (EIOPA) and national one (Competent Authorities)

The main objective of OPSG workstream in developing the feedback statement is to ensure that EU legislation and quasi-legislation:

- is not too burdensome i.e. it takes account of the **nature, scale and complexity** of the business
- takes account of the **particular nature of specific institutions/industries**, e.g. corporate IORPs, DC schemes, DB schemes

The main outcomes of this work were:

- The over-arching principle of proportionality offers opportunities to make upcoming legislation and quasi-legislation adapted to specificities of institutions as to size, nature, scope and complexity.
- The concept is vague yet potentially powerful especially given new COM agenda:
 - ✓ "Respect for the principles of subsidiarity, **proportionality** and better regulation will be at the core of the work of the new Commission. We will concentrate our efforts on those areas where only joint action at European level can deliver the desired results.

When we act, **we will always look for the most efficient and least burdensome approach.** (C. J. Juncker mission letters)

Conclusions:

- OPSG will approve in November early meeting its input to COM on the Review of the IORP Directive
- Chris Verhaegen to revise paper circulated to OPSG and submit it, if practicable, to November early meeting.

8. COM's Call for advice regarding transferability of supplementary pension rights

Presentation was delivered by Alexandra de Jong, Expert on Consumer protection. OPSG received an update and progress report on Good Practices Report regarding portability (transfers –in and –out) of acquired rights within occupational pension schemes.

In terms of background, the OPSG was informed that 2005 the Commission published a proposal for a Directive on improving the portability of supplementary pension rights which i.e. included a right to transfer.

In the subsequent legislative process, the topic of transferability was discussed at length. The eventually adopted Directive 2014/50/EU on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights generally contains no provisions on transferability; nevertheless, states in recital (2): "This Directive does not provide for the transfer of vested pension rights. However, in order to facilitate worker mobility between Member States, Member States should endeavour, as far as possible, and in particular when introducing new supplementary pension schemes, to improve the transferability of vested pension rights."

In 2014, EU COM asked EIOPA for further input and advice on the topic of transfers of supplementary occupational pension rights.

The EIOPA representative noted that the good practices to be outlined the report it will produce, will depict particular existing rules and practices that facilitate (cross-border) transfers of vested supplementary pension rights.

With this body of work, EIOPA aims to contribute to greater transparency regarding national legal rules and market practices for transfers of supplementary pension rights. The objective is not to give a full comparison of all countries in all aspects but to identify the main obstacles to transfers and good practices to overcome these. These apply to both domestic transfers within a country as well as to cross-border transfers.

Furthermore, this future EIOPA Report could be used as a source for stakeholders wishing to improve the conditions for both domestic and cross-border transfers within their schemes.

EIOPA representative stressed that the Authority is and will remain neutral as regards the topic of transferability of pension rights itself i.e. will not provide any advice or comments as regards whether a transfer may be preferable to the simple preservation of dormant rights. Any choice between a transfer or the preservation of dormant rights should be made taking all relevant specificities of the case into account, including the nature of the transferring and receiving schemes, applicable national laws, the personal circumstances of the pension rights holder, etc.

Conclusions:

- OPSG will monitor the topic and will input to EIOPA public consultation on this Advice.

9. OPSG subgroup leads/topic owners debriefing on on-going projects:

- Consumer issues:
 - ✓ Doug Taylor (consumer trends) delivered a short presentation as to focus of most recent discussions in the WS. Some concerns were noted as to potential overlaps among the mandates of some of the workstreams.
 - ✓ Charlotta Carlberg informed as to state of play in area of investment choices and noted that there is scope for further refining the scope of the workstreams in the area of consumer issues to as to avoid duplications/overlaps.
 - ✓ Klaus Struwe noted work on costs and charges will intensify in the upcoming months (taking into account EIOPA updates).
- Personal Pensions – Aside from points of substance made under item 5, Michaela Koller informed cooperation will be pursued with IRSG members interested in the personal pensions topic. A joint input is expected to be provided to EIOPA future consultation.
- Guillaume Prache also delivered a presentation of latest findings on topic of private pensions real return following study pursued by Better Finance for All. The slides are available [here](#).

OPSG members welcomed presentation of Guillaume Prache and requested further clarifications as to methodology used for compiling the report data as well as for its analysis. As already noted by author, this study is only the first in what hopefully will be a regular publication and as such, data collected and methodology used for its analysis and interpretation will further develop in the future.

10. AOB

New OPSG meeting will take place early on the morning of the day of the Joint EIOPA BoS – IRSG – OPSG meeting (26 November 2014). The following items to be covered:

- Approval of OPSG feedback statement - Proportionality in the context of the IORPII Directive – under lead of Chris Verhaegen
- Solvency issues – response to EIOPA consultation – under lead of Philip Shier
- Review of the IORP Directive – finalising OPSG opinion.
- ESFS Review – OPSG input – under lead of Chris Verhaegen and and Philip Shier

OPSG Meeting dates in 2015:

- Tuesday, 10 March
- Friday, 8 May
- Wednesday, 8 July
- Tuesday, 20 October and

Joint BoS-IRSG sate in 2015:

- Tuesday, 01 December 2015