

Summary of Conclusions

Insurance and Reinsurance Stakeholder Group (IRSG)

Fourth meeting

Date: 24 June 2014

Time: 09:30 – 16:00

Location: EIOPA premises

Contact: Konstantinos.Karountzos@eiopa.europa.eu

List of participants:

IRSG: Kay Blair (Chair IRSG), Olav Jones (Vice-Chair IRSG), Renzo Avesani, Jean Berthon, 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: Seamus Creedon, Maria Heep-Altiner, Dieter Wemmer

EIOPA: Gabriel Bernardino (Chair), Carlos Montalvo (Executive Director), Jan Parner (Member of Management Board), Manuela Zweimueller (Director of Regulations), Justin Wray (Head of Policy), Gabriele Arnoldi (Coordinator External Relations), Giulia Conforti, Konstantinos Karountzos and Peter Kleisen (External Relations), Pamela Schuermans (Coordinator Insurance team) Laurent Etori, Huijuan Liu, Juan Lumbreras, Tomas Walter, Timothy Walters, Yvonne Schmerfeld (Solvency II Experts, Insurance), David Cowan, Lay Peng Lim, Timothy Shakesby (Cross-Sectoral and Consumer Protection Unit), Lorenzo Esteban, Dora Iltcheva, Enrique Martinez (Impact assessment).

European Commission (EC): Steve Ryan (via telco)

1. Welcome by Chair, Approval of the agenda and the minutes of the previous two meetings; 2. Chair report

The Chair welcomed the participants. The agenda and the minutes of the IRSG meetings of 21 February and 29 April were approved. The Chair informed the members on the call that took place between IRSG and OPSG Chair to discuss and decide on topics of joint work, namely, risk-mitigation techniques for OTC-Derivatives - EMIR (IRSG topic owner: Rick Watson), personal pensions (IRSG topic owner: Edgar Koning) and decumulation (IRSG topic owner: Olav Jones).

The vice-Chair reported on the meeting with vice-chairs of OPSG, EBA and ESMA Stakeholder Groups that took place in London on 3 June to discuss and identify common ground for joint work.

3. EIOPA and European Commission (EC) general update

EIOPA general update by EIOPA Executive Director:

- On the **proposed budgetary cuts**

- For 2015, despite the increase of tasks, a 10% budgetary cut is proposed by the EC compared to 2014.
- On **consumer trends report**
 - EIOPA highly appreciated the feedback provided by IRSG.
- On **the risk-free rate project**
 - Discussion in EIOPA Board of Supervisors on 25 June, where decision on publication will be taken. The technical document will be consulted on.
- On **supervisory reporting**
 - It will be a toolkit for undertakings - internal application.
- On **stress-test:**
 - Deadline for data submission is 11 July. Stress-test is a supervisory toolkit and not a political communication toolkit. EIOPA does not wish and does not foresee individual disclosure (company by company).
- On **EIOPA Action Plan 2015:**
 - Toolkit for equal level of solo and group supervision, the latter to be enhanced. Feedback on the toolkit is welcome.
 - Monitor and compliance report
 - Finalisation of coordination arrangements (also in 2014 Action Plan).
- On IAIS consultation on **Basic Capital Requirements (BCR):**
 - Finalisation of 2nd consultation paper on BCR; the proposed methodology and calibration is satisfactory from EU point of view. If endorsed by FSB SRC, the public consultation will run from 9 July – 8 August 2014. EIOPA BoS will discuss its strategy on 25 June.

Action: Annette Olesen to lead on IRSG own-initiative response on BCR consultation (deadline for submission to IAIS: 8 August)
- **Comments and Q&A**
 - On the budget: the EC proposal is 1.5% increase for ESMA and 8-9% decrease for EBA
 - On risk-free rate (RFR): members described it as crucial for the industry and asked whether IRSG and/or the industry will be involved. They also requested more information on the content and, in particular they stressed that not enough disclosure was given on the volatility. In fact, the draft method of calculation reaches estimates significantly different to those reached by the industry. EIOPA explained that the RFR project comes from OMDII and is an ongoing task including a public consultation on the technical specifications document (volatility and matching adjustment). It also mentioned that already a lot of information has been provided, including a Q&A process with 127 questions, and confirmed that there will be transparency on this project.

Action: Renzo Avesani and Olav Jones to follow-up

European Commission update by Steve Ryan (via telco)

- **On Delegated Acts (DA)**
 - Delay due to translation reasons; new date: mid/end September 2014; not certain that all 3 DAs (1 for insurance and 2 for banking) will be adopted in a single package.
 - IORP II: Council meeting on 23 June.
 - IMD II: Council meeting on 24 June.

- MiFID/PRIIPS: not final text yet, moving towards consistency in the legislative texts.
- ESFS report: by end July; no proposed legislative actions, but rather recommendations for actions in short/medium term. Areas identified for actions: governance, consumer protection, funding.

- **Comments and Q&A**

- Responding to a member's question, the EC explained that there should be common work-streams for all ESAs (e.g. governance, procedures).
- On IMDII, a member noticed that chapter 7 is close to MiFID text. The EC objective is to have same rules for both insurance and non-insurance structured investment products, and, in this respect, there is need to change the text.
- The Chair and a member mentioned that ESAs review report, once published, could be in the agenda of the next IRSG meeting.

4. IRSG - Solvency II 1st set of ITS and Guidelines (GL) on colleges

- On 1st set of ITS: Edgar Koning, in Seamus Creedon's absence, went through the executive summary of the IRSG draft opinion. The vice Chair acknowledged and highly appreciated the big piece of work that was produced by the SII Pillar 1 subgroup. The draft opinion was approved and adopted with 2 additions:
 - In page 2 of Comments Template on Approval procedure to use USP: "Supervisors should find it advantageous to be able to rely on professional discipline of actuaries *and risk managers*", and "Consider requiring actuarial *or risk management* function to endorse application".
- On GL on colleges: Karel van Hulle presented the final text. EIOPA Director of Regulations stressed that, for the activity report, it would be helpful to have elaborative executive summaries for every opinion / feedback statement. The Chair recognised this as good practice that should be followed. The vice Chair offered to put the text into the right template and draft the executive summary. The draft opinion was approved and adopted with the caveat that the executive summary will be expanded and the comments will be inserted in the EIOPA template. The Chair expressed her deep appreciation for the work done on these 2 opinions by both SII Pillar 1 and Pillars 2 & 3 subgroups.

5. IRSG – Solvency II 1st set of GL

Edgar Koning provided a presentation. He mentioned that, at this stage, only generic comments can be made and still a lot of work needs to be done.

- **Main points of discussion**

- The GL may be more binding than initially expected. Therefore, the key focus should be on the restriction of the scope, on clarity around responsibilities, and on quality of the document (important to have a good set of GL from the beginning) the quality of the document.
- The vice Chair questioned whether all those GL are really needed. Some GL may lead to additional legislation and this could create problems. Less is more: postpone what can be postponed; reduce the final document; and even replace GL where possible by explanatory notes.

- EIOPA answered that this is not a 'tick-the-box' exercise. Consultation is vehicle to improvement and quality is one of EIOPA's main targets. It also called IRSG to focus on what has changed, which is highlighted, and not on the entire text, which has been already implemented.
- A member expressed the concern that Solvency II initially was meant to be a principle-based regime. He identified a lot of repetition and overlaps, and stressed that it may not be possible for the industry to comply with all these texts.
- **Action:** Seamus Creedon to lead on Pillar 1 and internal models; Marie Dequae to lead on governance and ORSA; Karel van Hulle to lead on supervisory review process and equivalence; telco for both subgroups (SII Pillar 1, and Pillars 2 & 3) on 15 July; comments to be sent by Friday 11 July; deadline for submission of IRSG opinion: 29 August – draft Opinion to be approved by written procedure; stakeholders' meeting on internal models on 9 July at EIOPA premises - IRSG members were reminded to register if interested.

6. EIOPA presentation on call for evidence from the Commission on Delegated Acts on conflicts of interest in direct and intermediated sales of insurance-based investment products

Timothy Shakesby, Consumer Protection and Financial Innovation, provided a presentation.

- **Main points of discussion**
 - IMD was amended by Art. 91 MiFID II. EC has asked EIOPA to work with ESMA on coherence between MiFID and IMD.
 - A member commented that the mandate is narrow and specific, which is positive, however, it will be difficult to achieve high level of coherence with ESMA, taking into account the over 350 pages of GL prepared by ESMA (proportionality issue). A consistent approach should be followed to the CEIOPS paper.
 - Some members highlighted the very broad scope of conflicts of interest (suitability of selling anything by anybody), which could lead to far-reaching implications. Possible negative consequences to micro-entities were also highlighted if the latter will have to comply with MiFID. Disclosure is one means to regulate, but is not good per se and should apply with caution, otherwise there will be no diversity (large-small) in the markets. In other words, there has to be some level of calibration and proportionality.
 - Other tools are also necessary: there may be conflicts of interest between groups of customers; the distribution channels are also important, such products are mainly sold by banks. Besides, the conflict of interest definition already exists in the legal expenses insurance Directive. Training techniques should also be promoted so as to make companies/advisors more responsible of what, how and to whom they sell.
 - A member expressed the opinion that the issue has been wrongly tackled from the beginning: 3 Directives (i.e. MiFID, PRIIPS, IMD) in 2 sectors for 1 problem.
 - It was recognised that all this discussion gives a flavour of the complexity of the issue. The conflict should be managed but not with too much detail.
 - EIOPA commented that better and well balanced disclosure is necessary and advisable. In the KID the aim is to improve the information. EIOPA does not wish to limit itself to only one road that is why it gathers input to ensure that the final outcome will indeed enhance consumer protection. Besides, self-regulation has its own limits.
- **Action:** Paul Carty to gather comments by Market Conduct subgroup and prepare the IRSG feedback statement. Deadline for submission of feedback statement: 22 July – approval by written procedure.

7. IRSG - Joint Committee ongoing Public Consultation on EMIR

Rick Watson presented the views of the ad-hoc group.

▪ Main points of discussion

- The vice Chair commented that there is full agreement from the insurance sector. There is not the same treatment for non-IORP business (IORPs tend to be ring-fenced). In general, IORPs seem to be presented as less risky, when in fact, they are not non-risky. Insurance does not want either direct access to ECB liquidity or to central counterparties (CCPs).
 - A joint IRSG/OPSG is workable to a large extent (they can both agree to the overall objectives of EMIR), apart from the fact that OPSG thinks that pension funds should be treated fundamentally different. Since insurance is not carved-out, it focuses on other issues.
 - Insurers and IORPs should not be forced to change capital and liability management.
 - Even though insurance sector will have to deal with EMIR, it would have preferred a more generic solution. Costs are expected when making markets more stable, but unnecessary costs should be avoided.
- **Action:** IRSG members to send comments within the next 2 days (until 26 June), fall-back: within the next week. (OPSG meeting: 7 July; Deadline for submission of IRSG opinion: 14 July); Executive summary on issues and benefits.

8. IRSG – draft GL on third country branches

Marcin Kawiński presented the draft feedback statement.

▪ Main points of discussion

- A member commented that ring-fencing leads to subsidiarisation. In addition, concerns were expressed about the conformity of these GL to the internal market. In particular, one member expressed the view that EC cannot apply rules to 3rd country entities, and this needs to be checked with EC legal service.
 - EIOPA commented that the primary goal is the protection of policy holders, there is room for proportionality (e.g. ORSA, reporting requirements) but not on distribution of assets. It further affirmed that all measures are Solvency II compatible, and that the EC has fully agreed with the exception of disclosure. There are no disclosure requirements for the branches but only for the mother companies. EIOPA believes that it needs to check where the power is held and not just the branch manager.
 - As regards ring-fencing, since not all Member States have the same techniques, EIOPA wants to leave it open, that is why the GL are principle-based.
- **Action:** the IRSG feedback statement should call for confirmation of the legal basis; the feedback statement should remain high level: Marcin Kawinski to take it forward. Deadline for submission of feedback statement: 4 July.

9. IRSG – presentations on European consumer perspective

Alexandru Ciuncan, Malgorzata Wiecko-Tulowiecka and Andreea Cosma, and Jean Berthon from market conduct subgroup, provided presentations on European Consumer Trends and Conduct Risks Indicators respectively.

▪ Main points of discussion

- The Chair stated that the key message here is to encourage best practices. The vice Chair raised the issue that 90% derives from 60 responses out of 6000 persons asked, and therefore it cannot be necessarily true.
 - Members confirmed that there are several countries with similar problems. There are already some tools in place (e.g. EIOPA GL on complaints handling), but there is no collective redress Directive to ensure that implementation is done properly at MS level.
 - EIOPA mentioned that the material received is better than what it had received in previous reports. EIOPA is following closely the situation also in relation to local regulator. EIOPA recognised that is difficult to have a trend in all MS, but elements occurring in a number of MS; therefore, for future consumer trends reports, it could be useful to have clusters of MS for which certain consumer issues are more relevant.
 - On conduct risk indicators, a member mentioned that statistical models could use these indicators to put correlation dependence with a stress moment of the company. EIOPA is keen on developing elements of product governance and oversight but it is not the sole tool; there is need for simple indicators, and then EIOPA could start working on prevention rather than damage containment.
- **Action:** Alexandru Ciuncan to gather comments on how this could be developed and get back to IRSG with recommendations.

10. EIOPA presentation on peer review

Dora Iltcheva, Impact Assessment, provided an overview of peer review on supervisory practices for joint on-site inspections.

- **Main points of discussion**

- The peer review is thematic across all MS and not for individual countries. EIOPA is currently in the process of launching the peer review.

- **Action:** deadline for input is 7 July.

11. EIOPA presentation on draft GL on the use of Legal Entity Identifier (LEI)

- **Main points of discussion**

- The LEI is needed to create a consistent system. It is needed for EMIR to match CCPs (derivative reporting). As regards insurers, its scope is narrow and straightforward.
- The Chair tried to identify any appetite for submitting an IRSG opinion. Rick Watson volunteered to take a closer look and then suggest whether to draft an opinion or not.

12. AOB

- The mandate of the market conduct subgroup was approved with the caveat that some dates of own-initiative deliverables will change.
- The mandate of the strategic areas subgroup was considered ambitious but was approved since the lead confirmed that the subgroup has the resources.
- The other regulatory areas subgroup was decided to act on ad hoc basis and its mandate to be reconsidered the next year.
- The IRSG meeting dates for 2015 will be further discussed and announced at a later stage
- The meeting ended at 16:00.