

Summary of Conclusions

Insurance and Reinsurance Stakeholder Group (IRSG)

Fifth meeting

Date: 01 October 2014

Time: 09:45 – 15:35

Location: EIOPA premises

Contact: Konstantinos.Karountzos@eiopa.europa.eu

List of participants:

IRSG: Kay Blair (Chair IRSG), Olav Jones (Vice-Chair IRSG), , Jean Berthon, Yannick Bonnet, Paul Carty, Alexandru Ciuncan, Andreea Cosma, Maria Aranzazu del Valle, Marie Dequae, Jari Eklund, Frank Ellenbürger, , Maria Heep-Altiner, Marcin Kawiński, Thomas Keller, Edgar Koning, Damien Lagaude, Baiba Miltoviča, Annette Olesen, Ioannis Papanikolaou, Nino Savelli, Mojca Strucl, Claes Thimrén, Karel van Hulle, Rick Watson, Małgorzata Więcko-Tułowicka, Dieter Wemmer

Excused: Renzo Avesani, Seamus Creedon, Francis Frizon, Martin Simhandl

EIOPA: Manuela Zweimueller (Director of Regulations), Justin Wray (Head of Policy), Katja Wuertz (Head of Cross-Sectoral and Consumer Protection), Gabriele Arnoldi (Coordinator External Relations), David Cowan (Coordinator Consumer Protection and Financial Innovation), Sandra Hack (Coordinator Pensions), Pamela Schuermans (Coordinator Insurance), Ana Teresa Moutinho (Insurance), Marcus Hein, Kai Kosik (Joint Committee), Jan-Ole Wagner (Cross-Sectoral and Consumer Protection Unit).

European Commission (EC, DG FISMA): 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 draft agenda of the meeting and the minutes of the previous (24 June) IRSG meeting were approved.

The Chair called the subgroups' leads to carve out time for own initiative work and inform as soon as possible the Chair and vice-Chair of possible topics to be included in the agenda of future IRSG meetings.

The Chair praised the IRSG members' work and their valuable feedback to the public consultation on the draft 1st set Guidelines. She also mentioned the 2-hour workshop on the 1st set Guidelines that would take place after the IRSG meeting and noted that other IRSG members who were involved / contributed to the IRSG response should have been invited as well. An IRSG member commented that it would be very useful to hear from EIOPA how it would process the comments received.

EIOPA clarified that the workshop on 1st set Guidelines to be held after IRSG meeting was not an IRSG event but an industry event. A separate debrief on these guidelines would be organised for IRSG members in response to the IRSG request for workshops on Guidelines. EIOPA also mentioned that there was a delay in the draft Guidelines on ORSA and Governance and that there would be an additional Implementing Technical Standard (ITS) on recovery period following European Commission's call for advice.

Some IRSG members voiced some concern over whether IRSG input would be taken on board by EIOPA and lead to changes to draft Guidelines. EIOPA responded that feedback is always provided to stakeholders and that IRSG is given priority. Further, EIOPA reminded that in every final report there is a resolution template where concise answers are provided to every comment received by stakeholders during the public consultation period. In any case, EIOPA stated that it would like to have concrete examples and called IRSG members to advise on areas where more can be done.

Action: Comments / suggestions from IRSG members on how to improve EIOPA transparency should be sent first to Chair and vice-Chair to coordinate and communicate appropriately.

3. European Commission (EC) and EIOPA general update

EC update by Steve Ryan (via telco):

- Hearing of Commissioner Hill took place on 1 October in the ECON Committee of the European Parliament (EP); questions on insurance were raised.
- On **Insurance Distribution Directive** (IDD, instead of IMD)
 - After EP elections, EP Rapporteur the same but still not sure whether the EP proposal would remain.
 - Council WG meeting on 15 September. Text was still subject to change.
 - Key issues: i) advice: 2-tier system, every insurance product tested by customer needs. Some Member States (MS) prefer personalised advice; ii) freedom of services and establishment provisions: for EC, there should be a level-playing field between direct selling of insurance products and by intermediaries. There should be high degree of alignment with MiFIDII on investment products; iii) sanctions: different regimes between investment and non-investment insurance products.
- On **Solvency II Delegated Act (DA)**
 - Package of 3 DA (2 concern the banking sector – liquidity ratio and leverage), final adoption by mid next week, text has been translated.
 - High quality securitisations: aim to adopt a look-through approach so that risk calibration would not be worse than it would have with underlying assets.
 - Proportionality measures for SMEs (e.g. use or non-use of IFRS)
 - EP had already told the EC that it would need more than 3 months for scrutiny but not sure whether they would need all the second 3-month period.
- On **Insurance Resolution**
 - EC work (impact assessment) on non-bank resolution; central counterparties (CCPs) and insurance sector are also included. EIOPA had been requested to carry out a similar exercise, looking at insurance (near) failures and NSAs responses (resolution tools used)
- On **IORP II**
 - The last Council meeting took place on 23 September. All MS engaged in a constructive way. EC would have liked a call for advice on what the Risk Evaluation for Pensions (REP) should contain, but the Council prefers to negotiate it on its own.
 - Cross-border transfer of assets: MS prefer double authorisation from NSAs (of both sending and receiving MS), while EC single (of receiving). EC has suggested that NSA decision should be under legal review, otherwise such transfer would be easy to block.
 - EC to decide on the format of the pension benefit statement.
- **Comments and Q&A**
 - In response to a member's question, the EC mentioned that the Solvency II DA is directly applicable. The deadline for transposition of Solvency II to national law is 31 March 2015.
 - A member commented that transposition of Solvency II could go too far and could prove too demanding for SMEs.
Action: Should IRSG members have some indication that MS have gone too far with SII transposition (ie "gold-plated"), IRSG should pass this information to EC.

EIOPA update by Director of Regulations

- **Solvency II implementation**
 - Convergence through Guidelines and monitoring of practical implementation through development of tools (e.g. peer reviews as of 2017, centre of competence for internal models).
- **EIOPA Work Programme 2015**
 - Approved on 30 September by BoS, to be circulated to IRSG.
- **Budget**
 - Frozen, hearing of EIOPA Chair at EP ECON Committee; ECON supportive of EIOPA proposals (18-20 additional temporary agents, 101 in total).
- **KIDs for PRIIPS**
 - Discussion paper to be published for consultation end November; complex because of variety of products; there will be consumer testing and a consultative expert group will be set up.
- **Risk free rate (RFR) project**
 - Treatment of volatility adjustment (VA) and matching adjustment (MA); some MS (e.g. NL, DK, FI) have published VA
 - Workshop on 10 November, IRSG members welcome to attend; a meeting took place with industry representatives end July, another one to take place end October; a meeting would be also scheduled with academics.
 - The vice-Chair expressed his appreciation that particular concern on calculation had been resolved.
- **International developments**
 - IAIS work is on track with regard to the Basic Capital Requirements (BCR) and the Global Systemically Important Insurers (G-SII) designation work-streams; telco with Financial Stability Board (FSB) with focus on methodology for designation of G-SIIs. IAIS will get back to FSB in October with responses to questions raised; IAIS annual conference in Amsterdam in October; public event on EU-US project with focus on group supervision will take place on 25 October.
 - A member commented that the overall calibration was still missing in the BCR and that there was a problem with the methodology. EIOPA informed the IRSG that there would be discussions in the FSB on 7 October.

4. IRSG – Approval of IRSG Work Plan 2014- mid-2015

- **Main points of discussion**
 - Chair mentioned that it would be helpful to highlight what has been delivered. To the question whether it would be possible for IRSG to have the consultation documents before they are published, EIOPA responded to make efforts that IRSG received the documents when they would be submitted to BoS for approval.
- **Action:** IRSG Work Plan was approved. Subgroup leaders to take note of their deliverables and their timing.

5. IRSG – Review of the European Supervisory Authorities (ESAs)

Katja Wuertz from EIOPA presented the main elements of the ESAs' Review Report. The IRSG Chair presented IRSG-related issues of the report.

- **Main points of discussion**
 - The Chair raised the need for change of EIOPA agenda where technical issues prevail. EIOPA mentioned that insurance is the least regulated and harmonised area and there is a huge task for EIOPA to do more on consumer protection. In this respect, a lot of resources have been allocated within EIOPA.

- A member recognised that big amount of work is to be done regarding harmonisation at national level. Another member recognised that markets are also fragmented by products and that there should be more interaction with OPSG.
- EIOPA should focus on specific issues where market is not functioning well (e.g. cross-border issues, motor insurance).
- It is important to see how NSAs functioned before and after EIOPA increased its powers. In this respect, another member stressed the need for more clarity regarding the role of EIOPA and that of the NSAs.
- Careful of making changes in ESAs before spending sufficient time to examine how the current system is working.
- As regards IRSG, perhaps self-assessment of its effectiveness. The Chair and vice-Chair should work on this idea.
- EIOPA stressed the need to strengthen NSAs for better consumer protection and EIOPA in particular for ensuring harmonisation.

6. EIOPA – Presentation of Solvency II 2nd set of ITS and 2nd set of Guidelines

Pamela Schuermans and Ana Teresa Moutinho from EIOPA presented a preview of the upcoming consultation papers.

▪ Main points of discussion

- Public consultation from 1 December – 20 February 2015. End November the draft consultation paper could be shared with IRSG. The 2nd set of ITS and GL is expected to be approved by BoS in June 2015.
- Regarding reporting package, most changes come from inconsistencies and from Omnibus II.
- Question was raised over derivative reporting. It was explained that there is no new reporting being developed but rather there are now 2 overlapping reporting processes (SII + EMIR) , and EIOPA is seeking to avoid inconsistencies between templates so SII will be consistent with the new EMIR reporting.
- Templates not included in the preparatory package were not deleted – confusion had been created in this respect.
- Overlap with ECB add-on: ECB can already request insurance data, EIOPA only after 1 January 2016; agreement that content is aligned.
- GL on external audit: applicable only when SII public disclosure is in place; public consultation to take place end 2015.
- No GL on capital add-ons, only ITS with forms and procedures on how the NSA shall notify the undertaking.
- GL on extension of recovery period: 7 years, according to Omnibus II, but it is an exemption; “careful use” to be considered by IRSG; the length of period a company is not committed to reach capital requirements is also at the interest of the company’s policy holders.
- 2 types of long-term issues: temporary exposure (e.g. flood) and longer exposure/recovery period (e.g. low yield environment).
- The Chair expressed some concern on delay of ORSA Guidelines.
- The vice-Chair mentioned that it would be good to plan workshops in advance.

7. EIOPA – Presentation on Call for Advice from the Commission on product intervention powers under the PRIIPs Regulation

David Cowan and Jan-Ole Wagner from EIOPA presented the topic.

▪ Main points of discussion

- A member stated that pension products should be included. Another member mentioned that the degree of innovation cannot be criterion for intervention but rather scrutiny. A member asked whether intervention would take place only after EIOPA’s own evaluation

or a third party (e.g. consumer association) could intervene. The vice-Chair expressed the view that reporting processes would increase disproportionately.

- EIOPA assured that intervention is a last resort measure following warnings and market monitoring (in PRIIPs). EIOPA does not wish to establish itself as (pre) approval of products authority. In addition, EIOPA reminded that its decisions can be challenged before the Board of Appeal. If a consumer association brings a case, it would be within the market monitoring procedure.

8. ESAs Joint Committee (JC) public consultation on draft Regulatory Technical Standards (RTS) on risk concentration and intra-group transactions within financial conglomerates

Marcus Hein and Kai Kosik from EIOPA presented the main elements of the consultation paper. The vice-Chair presented the key messages from the ad hoc group on this public consultation.

▪ Main points of discussion

- Public consultation runs until 24 October.
 - 2 issues: i) thresholds: no particular reference to involvement of undertakings. However, undertakings will be consulted so that an appropriate threshold will be set after checking the risk of each undertaking individually; ii) level of reporting: it could be made more clear in the draft RTS. The vice-Chair and topic owner's aim is to give specific drafting suggestions.
- **Action:** IRSG members to provide their input as soon as possible; the draft response to be shared on 13 October, followed by 5-day comment period and 2-day written approval procedure.

9. IRSG – Presentations on examples of good practice in terms of consumer protection

Alexandru Ciuncan and Kay Blair provided two presentations, on remuneration disclosure and on good examples of consumer protection, respectively.

▪ Main points of discussion

- Members recognised that disclosure is a challenging task and that partial disclosure could lead to misleading information. They also recognised that education is fundamental to be addressed. Members also noted that mis-selling of products is often a result of commission by the intermediary. A member expressed the view that individual consumers and SMEs are not interested to get into detail what they pay as insurance premiums, but larger companies are, since premiums are taxed. There should be the choice for larger firms to work with fees rather than commissions. Another member stressed the importance and attention that needs to be given to behavioural economics.
 - Possible to carry out financial health check.
 - Advice gap could be caused by consumer protection campaign (e.g. Retail Distribution Review – RDR - programme): people were paying a high commission that not all could / wanted to pay.
 - Need for both simple products and simple legislation. Good industry practice with good products; perhaps, good practice could be introduced to EIOPA consumer trends report.
 - On consumer testing, EIOPA wants to see the tangible benefits of the product to consumers. On financial literacy, EIOPA recognises the problem and would happily assist but it still exploring how this can be achieved in concrete terms. As regards positive trends, EIOPA has struggled to find them and, instead, has worked on supervisory practices.
- **Action:** Proposals for future IRSG agenda items: fair deals in internet environment (internet sales); social networks (comment system, advertisements) and consumer protection.

10. AOB

- IRSG members need to inform EIOPA as soon as practically possible when they change their professional activities; EIOPA assessment to follow, based on Art. 37(2) of EIOPA Regulation.
- Joint IRSG/OPSG/EIOPA BoS meeting on 26 November 2014. It will begin at 11:00 and it will be followed by dinner.
- IRSG meetings for 2015:
 - 10 February 2015
 - 28 April 2015
 - 10 June 2015
 - 28 October 2015
 - 1 December 2015 (Joint IRSG/OPSG meeting with BoS)