

## **Summary of Conclusions**

### **Occupational Pensions Stakeholder Group**

#### **Fifth meeting**

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Date: 07 July 2014

Time: 09:30 – 16:00

Location: EIOPA premises, Frankfurt

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#### **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, Pierpaolo Marano, Hristina Mitreva, Marianne Moscoso-Osterkorn, Ellen Nygren, 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: Peter Braumueller (Management Board), Felix Hufeld (Management Board), Gabriel Bernardino, (Chair), Carlos Montalvo (Executive Director), Patrick Hoedjes (EIOPA Director of Operations), Justin Wray (Head of Policy Unit), Gabriele Arnoldi (External Relations coordinator), Simona Murariu and Konstantinos Karountzos (Experts External Relations team), Lay Peng Lim (Expert Cross-sectoral and consumer protection unit), Sandra Hack (Pensions team coordinator), Carine Pilot-Osborn, Beata Kaminska and Barthold Kuipers (Experts Pensions team), Dora Iltcheva (Peer Review support), Anne Froehling (Financial Stability expert), Katarzyna Wojtkiewicz (G&O team coordinator) .

European Commission: Yann Germaine, Insurance and Pensions Unit, Directorate General Internal Market and Services.

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

OPSG members approved the agenda and the minutes of the 19 May meeting without comments.

### **3. EIOPA and European Commission general update**

#### **Update by EIOPA Chair:**

EIOPA Chairman informed about the following most recent developments:

- Publication on Monday 30.06.2014 of EIOPA Report on issues leading to detriment of occupational pension scheme members and beneficiaries and potential scope of action for EIOPA;
- Receipt of 02.06.2014 COM Call for Advice regarding transferability of supplementary pension rights;

- Upcoming EIOPA Market Development Report for cross-border IORPs (to be published in summer 2014);
- On-going work on EIOPA Consumer trends report (due for publication end 2014).

In detail, EIOPA Chairperson noted the following:

EIOPA Report on issues leading to detriment of occupational pension scheme members and beneficiaries and potential scope of action for EIOPA

The report has been issued in line with its Strategic Goals for pensions and its objective is threefold:

- First, it outlines the EIOPA strategy towards addressing consumer protection issues related to (occupational) pensions (Section 1);
- Secondly, it describes the areas and topics in this field identified in 2013/2014 for future work by EIOPA (Section 2), and
- Finally, it sets the priorities (Section 3).

EIOPA identified the following issues for future analysis:

- Governance issues in the management of occupational pension schemes: Charges; "Value for money"; and Training standards.
- Lack of European convergence: Portability of acquired rights between occupational pension schemes.
- Insufficient/inappropriate disclosure of relevant information to (occupational) pension scheme members: Transparency and availability of relevant information for (occupational) pension scheme members as well as comparability of the information disclosed.

EIOPA Market Development Report for cross-border IORPs

The 2014 market development report is more elaborate than previous versions. Apart from indicating the total number of cross-border IORPs and cross-border IORPs that started or ceased cross-border operations between June 2013 and June 2014, the report will now provide information the total number of IORPs and art. 4 insurance companies (cross-border and non-cross border); assets held by these entities, total number of IORPs that have finalised the notification procedure for operating cross-border; cross-border IORPs that are active (hold cross-border assets) etc.

The Report will be published on EIOPA's website mid-July and made available to OPSG members upon release.

A member also participating in ESMA SG, enquired as to latest developments on ESA and implicitly EIOPA funding. EIOPA Chair underlined that the Authority will continue make all efforts needed to ensure adequate resources are available for delivering on its mandate & work deliverables. The OPSG, as well as the IRSG will be updated regularly as to outcome of EIOPA efforts and decisions of EU political institutions.

**Conclusions:**

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

**Update by COM representative:**

- IORP II Directive: discussions are on-going at the council level and are covering all key topics: cross border issues; strengthening of governance; enhancing transparency;
- Discussions are also being held as to the level of details for the foreseen delegated acts;
- Discussions are also focusing on the use/application of the proportionality principle in respect of the IORP II requirements.

## Conclusions

- Previous OPSG input on the matter is to be taken as a starting point for further work on “proportionality” (note agenda item for October meeting under lead of Chris Verhaegen).

## 4. EIOPA update on Stress Test on Pensions and data collection

Barthold Kuipers, Principal expert on Pensions in his [presentation](#) highlighted approach EIOPA will use for its upcoming Pensions Stress Test:

- **Two stage approach** to running the exercise:
  - ❖ 2014: preparatory work to clarify role of IORPs for financial stability and to develop methodologies and specifications of the stress test.
  - ❖ 2015: undertaking the stress test exercise at EU level, covering both DB, hybrid and DC schemes. It is expected that during exercise both a national but also a common valuation standard will be used.
- **Key rationale** for undertaking a stress test in the pensions sector:
  - ❖ **EIOPA’s regulation requires the Authority to initiate and coordinate Union-wide stress tests** with the aim of ensuring resilience of the sector to adverse market developments (particular market and liquidity risks).
  - ❖ **EIOPA will investigate systemic relevance of IORP’s** as well as the interconnectedness of economies and markets and particularly transmission channels.
  - ❖ Furthermore, EIOPA seeks to enhance stress tests in other sectors while at the same time **disseminating good practices**.
- EIOPA work will also seek to establish whether **IORP’s investment policy counter-cyclical or pro-cyclical during crisis**. For this EIOPA will pursue:
  - ❖ IORP data collection over past ten years incl asset allocations, net buying/selling, funding positions
  - ❖ Survey with background questions as to factors impacting investment behaviour.

## Comments

- Relevance of the IORP Stress Test in context of upcoming IORP II work and its inter-linkage with quantitative impact studies run by EIOPA was questioned. EIOPA noted that the initial QIS done in pensions used 2011 data. The current exercise should show improvements in the financial positions of the IORPs, asset reallocation and improvements in risk profiles. Furthermore, EIOPA concluded after QIS1 that methodologies need to be improved for the purpose of the following exercises.
- Regarding participation targets, EIOPA representative noted that while EIOPA acknowledges the costs and implications and aims to reduce the complexity of the exercise at the same time it seeks a representative coverage at each MS level.
- Following questions re inclusion of DC schemes in the scope of the exercise, EIOPA representative noted it is important to include DCs in a stress test even if for pure DC’s the sponsor risk is not applicable nor are there concerns as to ability to deliver on the promise made. EIOPA is keen to investigate to see what would be the impact of test scenarios on pension rights in 10 to 20 years’ time.

## Conclusions:

- EIOPA underlined the differences between its work on impact assessment (QIS) and the work done in the area of financial stability (stress testing).
- Preparatory work phase of 2014 to also include contacts with IORP representatives, part of the discussions with all relevant stakeholders for developing the framework for the 2015 stress test exercise.

## 5. EIOPA presentation on Decumulation

Beata Kaminska, Expert on Pensions [updated](#) OPSG members on Decumulation phase project which has key drivers:

- Requests made by EIOPA – CEE members expressed at EIOPA OPC level to investigate how the decumulation phase of pension arrangements around the Europe is regulated and organised
- EIOPA's report of 2013 on *Good practices on information provision for DC schemes (Max report)*

As such, EIOPA initiated a fact finding report aimed at exploring the legal requirements, current practices, approaches and options available to members during the decumulation phase in various MS regarding IORPs (both DB and DC on mandatory basis) as well as practices in non-IORPs on voluntary basis.

EIOPA work is currently focusing on the following areas:

- Start of the decumulation phase (circumstances of retirement)
- Information disclosure rules at decumulation
- Options available to members at retirement incl. tax treatment
- Types of annuity offered to members
- Costs and charges levied on pension benefit payments and their disclosure.

The report is scheduled for EIOPA BoS approval in November meeting and will be published soon after.

### Comments:

- A member noted importance of analysing current practices regarding annuities but EIOPA representative noted the current work does not focus on this type of products.
- Following a request for clarification, it was noted that the information used for this project is collected by EIOPA from its member authorities without any involvement of IORP's but noted that OPSG members are welcome to contribute by providing insight into their experience with decumulation phase.
- COM noted that the EIOPA project is similar to work already undertaken at COM Financial Services User Group (FSUG) level and invited further details as to how its findings could be used for the purpose of the IORPII Directive. EIOPA representative clarified that for now the area of transparency appears to benefit most of findings of this project and that there is potential for further uses.

### Conclusions:

- EIOPA work is currently of fact finding nature i.e. mapping of existing national practices in respect of decumulation phase. The work may nevertheless inform future COM work in the area of pensions.

## 6. Revision of the IORP Directive

Benne van Popta presented the draft statement. OPSG members were invited to put forward their comments on the draft proposal in a *tour de table* approach. OPSG members agreed that the group puts forward further input to COM on the review of the IORP Directive

### Comments:

- A member noted that tax regimes are not a practical barrier to operation of cross-border IORP's but rather the fully funded requirements (still in IORPII) and the market itself (which is still very slowly changing to a more EU market rather than MS oriented).
- Another member noted difficulties in the area of social and labour law (SLL) incl. the fact that in some EU countries occupational pensions are the result of negotiations between so-

cial partners only i.e. there is no legislation in place covering them. A later comment underlined the importance of having a good SLL definition.

- With regard to area of information disclosure, an OPSG member noted that it is important to note that the level of disclosure to the member should depend on who is responsible for carrying the investment risk. It is also important to ensure that those responsible for a scheme deliver a decent pension scheme even when the risk is fully on the member side.
- A member noted surprise with the COM Impact Assessment Board not to endorse the IA study for the IORPII Directive and underlined the importance of having key areas of the new Directive in the Level 1 text rather than in Delegated Acts.
- With regard to the PBS, a member noted that COM should avoid overregulating the requirements for its content. Regarding costs same member noted that PBS may not show costs levied on assets which is fact reduce the available capital for pension payments.
- Regarding IORP II proposed information disclosure requirements, a member noted that these provisions are fully in line with requirements in other financial sectors and that it is important to remove pensions from the low ranking it currently has regarding transparency of products.
- Members also commented the IORP Opinion needs to provide for the following:
  - ❖ Proportionality principle and its application in the area of occupational pensions.
  - ❖ Governance incl. requirements for fitness and propriety
  - ❖ Depositaries and their role for occupational pensions
  - ❖ Enhanced reporting requirements that may come as a consequence of increased EU supervisory coordination
  - ❖ Investments incl. in non-listed instruments.

#### **Conclusions:**

- Due to large number and diversity of comments put forward, the draft opinion will go through iteration before it is submitted for OPSG approval.
- Timeline of the process is as follows:
  - ❖ cob Friday 19 July 2014: deadline for OPSG to provide written comments on the draft opinion;
  - ❖ 1st week of August: Benne van Popta to revise draft Opinion based on input received;
  - ❖ 2nd week of August: EIOPA to circulate revised draft Opinion to OPSG for written approval;
  - ❖ End August: OPSG to approve the draft opinion in written procedure (note extended timeline to allow for summer holidays).

## **7. EMIR (European Market Infrastructure Regulation)**

Thomas Keller informed OPSG as to approach taken together with Niels Kortleve, leader of the work stream on EMIR, for finalising the draft OPSG opinion on EMIR. Main messages of the draft joint opinion.

- The OPSG agrees that EMIR may potentially have a severe negative impact on IORPs and insurers, as well as the banks who serve as swap counterparties to both the IORPs and insurers. Both stakeholder groups believe that the practical implications of EMIR implementation will be opposite to the main goal of EMIR.
- In terms of specific comments, the OPSG opinion will note that the current three year exemption period to IORPs from mandatory clearing ending in August 2015 has barely been effective. The intended effect, the creation of a fit for purpose clearing environment for IORPs, is not observed in the markets yet. Neither are alternative measures which would mitigate the impact of central clearing on IORPs introduced.
- The OPSG will ask that the exemption period at least for the margining requirements to be prolonged until an acceptable solution for IORPs has been found especially for the following items: fully segregated accounts, a solution for cash variation margin, and the guaranteed

return of specific collateral posted. An increased willingness and capacity of CCPs to find solutions together with IORPs would speed up the process.

**Comments:**

- Three OPSG members noted that it is needed to request a determined period of time for the duration of exceptions. This request will be mentioned as a minority view in the opinion.

**Conclusions & Action points:**

- OPSG approved the draft EMIR opinion subject to amendments.
- Thomas Keller to revise opinion text as per meeting discussion to reflect minority view.

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

Katarzyna Wojtkiewicz, coordinator of Governance and Organisation, presented the main elements of the draft GL on LEI. The slides are available [here](#).

EIOPA representative noted that the purpose of the current draft Guidelines is to facilitate the use of LEIs as unique identification codes for (re)insurance undertakings as well as for institutions for occupational retirement provision. At the same time, with these Guidelines, EIOPA supports the adoption of the LEI system proposed by the Financial Stability Board and endorsed by the G20. This system aims at achieving a unique, worldwide identification of parties to financial transactions. Furthermore, OPSG members were provided with details as to timeline of EIOPA actions for adopting these Guidelines following close of public consultation period on 29 August 2014.

**Comments:**

Matti Leppälä, OPSG Vice-Chair shared the initial views on the topic noting that while there is overall support for the proposals, there are still some areas to be clarified. The following main points were made:

- EIOPA has issued the Guidelines based on its Regulation as there is no other legal obligation established in EU legislation imposing the Member States the obligation to request their supervised entities to use the LEI. The only provisions available are indirectly through EMIR (through the reporting obligation of OTC derivatives, but which does not specify the need to use a LEI) and Solvency II (only for entities above a certain threshold).
- There is scope for further clarity as to
  - ❖ circumstances when an IORP needs to use a LEI (i.e. when using asset managers to access financial markets)
  - ❖ type/scope of reporting obligations that IORPs will need to observe
- Benefits and costs of IORPs using the LEI:
  - ❖ The LEI will facilitate the gathering of data by the competent authorities.
  - ❖ Supervisory authorities (national and EU) will have a better understanding of the markets, and they will be in a better position to fulfill their supervisory obligations.

**Conclusions:**

- OPSG agreed an input will be provided to the LEI consultation process by 29 august 2014.
- Timeline of the process is as follows:
  - ❖ 23 July 2014: deadline for Matti to circulate a 1st draft opinion for OPSG written comments;
  - ❖ 20 August: deadline for OPSG written comments;
  - ❖ 25 August: deadline for Matti to revise draft opinion with input received & for document to be circulated to OPSG for written approval;

- ❖ 29 August: delivery deadline for OPSG input to EIOPA consultation. (note extended timeline to allow for summer holidays).

## 9. EIOPA presentation on peer reviews

Dora Iltcheva, expert on Impact Assessment provided an overview of peer review on supervisory practices for Supervisory practices for IORPs (based on article 12 of the IORP Directive).

OPSG provided input focused on the statement of investment practices and noted some of the difficulties encountered in practice re SIPPs (Strategy on Investment Policy Principles). The following items were proposed to be included in the scope of EIOPA peer reviews:

**OPSG members proposed the following items** to be included in the peer review: How the SIPP changes with respect to risk management? Dynamic aspects with respect to the SIPPs.

- What is the evaluation process in the life of the SIPP? (by the IORP and by the supervisors)
- What is the behaviour of the supervisory authorities with respect to SIPPs?
- How the IORPs use the SIPPs?
- What is the balance between the investment principles and a detailed implementation?
- What is the difference between investments based on the SIPP and tactical activities by the IORP?

### Conclusions:

- OPSG will be updated on developments in EIOPA Peer Review work on supervisory practices.

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

OPSG Subgroup leads updated as to their on-going projects as follows:

- On the **Subgroup on Solvency issues**: aside from the finalisation of the WG mandate, the subgroup work is dependent on EIOPA work on solvency matters expected to become available in autumn 2014 and possibly available for discussion at the October meeting.
- On the **Subgroup on Occupational DC – investment choices**: Charlotta Carlberg delivered a [short presentation](#) on the work pursued by the WS: it was agreed to have the final draft resubmitted for the July meeting.
- On the **workstream on Personal Pensions**: Michaela Koller informed as to outcome of workstream discussions as to type/focus of input to be provided to EIOPA on the matter of personal pensions. OPSG was informed that over summer the workstream will monitor any relevant developments and depending on EIOPA receiving a new COM CfA on personal pensions will report to the October meeting.
- Regarding **Subgroup on Consumer issues**, Ruth Goldman briefly informed members as to key consumer trends identified in the area of occupational pensions (part of input provided in early summer to EIOPA-CPFI work). This includes but is not limited to lack of transparency (re costs, charges, performance, projections, commissions, etc), poor consumer service record, use of misleading information, poor governance.

### Conclusions /Action points:

- Cost and charges for occupational pensions schemes - deferred to October meeting ;
- Personal Pensions –EIOPA to circulate to WS the 2014 EIOPA Advice as well as links to Public Event held on 15 April in Bratislava.

## **11. Refinement of OPSG subgroup mandates:**

Subgroup leaders presented the three mandates submitted for OPSG approval:

- Philip Shier for Solvency issues noting limited change to draft already presented in May meeting
- Matti Lepalla for Occupational DC noting candidates are invited for leading the costs and charges work. Candidatures for leading the work on cost&charges were invited.
- Consumer Protection issues – the draft mandate reflects a busy agenda. Further refinements will be needed in meeting follow-up.

### **Conclusions:**

- OPSG approved the proposed mandates;
- Mr. Klaus Struwe will lead the work on costs & charges for the Occupational DC workstream;
- Further volunteers in terms of workstreams of these 3 subgroups to be sent via email by 15 July 2014;
- EIOPA will re-circulate revised mandates by 18 July 2014. OPSG members were reminded by EIOPA on the confidentiality rules: documents labelled as “confidential” need to be restricted to members of the OPSG.

## **12. OPSG Work Plan 2014-2015**

The OPSG Chair presented the work plan for the OPSG activities in 2014-2015. The need to ensure consistency between OPSG sub-groups mandates and its workplan was noted.

### **Conclusions:**

- OPSG agreed on the proposed workplan subject to minor amendments made in the meeting;
- EIOPA to provide the consistency check between sub-group mandates & the workplan;
- A final revised version of the document to be shared with the OPSG at same time with revised mandates.

## **13. AOB**

Discussion of topics for the 15th October meeting. OPSG agreed the following items to be covered:

- Proportionality in the context of the IORPII Directive – under lead of Chris Verhaegen
- COM Calls for Advice (transferability of pension rights & personal pensions, if available)
- As relevant, ESFS review aspects relevant for EIOPA and its stakeholder groups.

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