

Interview with Patrick Hoedjes, EIOPA's Head of Oversight and Supervisory Convergence Department conducted by Aggelos Andreou for Insurance ERM

In your 2017 oversight report you tracked down all the supervisory activities you had done that year. How does EIOPA evaluate itself in terms of efficiency of its actions?

We are not only looking to the activities per se, but also what did it bring to the European consumer. If you look at it from European perspective, the more a company is performing cross-border business at the European level, the more involved and closer we get to the work of the national supervisory authority. In the use of our supervisory tools, it depends on what kind of practices we see. In some cases, we are much closer and more intrusive with the work of the national supervisory authority, because the risks are imminent and the cross-border element is significant. In other instances, we have more of an advisory and a supporting role.

Was there any action or plan that didn't work? How are you going to handle this in the future? Which was particularly hard to accomplish in the context of convergence and how are you going to tackle this?

There are examples where things don't work out fully in the way that we would like to see it. And there are different reasons for that, such as due to limited resources. However, the most important one is the limitations of EIOPA's regulatory framework that currently simply stops us from fully delivering our potential. These limitations are currently under the scrutiny of the legislators. There is an ongoing assessment of our regulation to see if amendments are needed.

One example is the authorization, which is the fit and proper assessments. In Europe we have a system where there is freedom to provide services. That means that if you establish yourself as an insurer in one of the member states, you're free to provide those services to customers throughout the Union. There are respective rules within Solvency II. There are also guidelines from EIOPA to the national supervisors, explaining how to make an assessment of the fitness and propriety of individuals who want to start an insurance company.

However, there is a lot of room for supervisory judgement. What we see in practice is that even with our interventions as EIOPA at the European level we have seen in the past year where a home supervisor and host supervisors do not agree on fitness and propriety of individuals trying to run an insurance company. That means that the individual from country A that is not deemed as fit and proper in his country, goes to country B, does

the application there, is deemed fit and can start a business in country B with the sole purpose of doing services in country A.

At this moment, we don't have the right tools in place when we see such a situation to intervene and put pressure on supervisor of country B. This is a clear limitation of EIOPA's current regulatory framework. From a consumer perspective, you can't explain to citizens of country A when problems arise that there was no possibility from a European point of view to intervene earlier.

Another limitation is our work in the field of internal models. Not all members agree with our role here. For some members we have full access to their information, but others keep arguing that EIOPA doesn't have the mandate to do so.

As a result, there are more sophisticated markets where there is a good balance among the different internal models, but in other markets the knowledge is not so well developed, and we have limited tools to secure a level playing field. Moreover, it's not only the level playing field between the internal model firms, but also the level playing field between internal model firms and standard formula firms, where we have concerns that the current framework is not providing sufficient safeguards for European consumers.

In light of the Commission's proposal to hand over enhanced powers to you, do you implement, or willing to implement, this enhanced status in the convergence effort?

The Commission's proposal is currently being discussed at the political level. When these proposals were presented in September last year we expressed our support, and that we stand ready take a stronger role on supervisory convergence.

In our daily practice, we see that there are still significant holes in the regulatory framework in terms of protection of the European consumer. Therefore, we strongly feel that work has to be done on the regulatory level. It cannot only be done by the national supervisory authorities and by EIOPA itself. Some of the issues need to be addressed by regulatory amendments.

What is the main challenge for EIOPA on achieving a regulatory convergence across 27 national competent authorities?

For us the main challenge is to understand the specificities of national markets, for instance the impact of national law on how risks of certain products materialise. Sometimes the same products with the same characteristics may act in different ways due to national law, which makes

it a challenge to understand. We need to understand these differences because otherwise we won't be able to add value to the work of the national supervisors. We can't use a one-size-fit-all approach to all our member states in terms of risks that we see in the market.

Last year we launched nine cooperation platforms, a new tool developed by EIOPA to increase cross-border cooperation between supervisors. With these platforms we can step up and act timelier and much more decisively and make sure that European consumers are better protected. But, these tools also have some limitations. It all depends on the willingness of the national supervisory authorities to cooperate with us. In some of those nine platform we had to make substantial efforts to convince the home supervisor of its importance and countless times we had to explain our role in this.

I understand that the data from Solvency II reporting will define the common risks for the national markets. But how would that help in promoting a common regulatory culture? What if the significance of each risk varies among countries?

Solvency II reporting is one of the tools. However, there are also our bilateral engagements, where we visit national supervisory authorities to understand the culture of the authority, to get to know the specific national challenges and their priorities. We need to make sure that we understand the individual risk profile. Because we receive all the data, we are able to provide the national supervisory authorities with harmonized reports that show their national data in a European context. This adds value at the national level because the national supervisory authorities get now a rich set of information about national firms and seeing the data in a European context, they can learn from other countries.

Also, let's consider that in Europe there's a company performing a certain type of business, which we know that their model is rotten and not suitable for individual consumers. The national authority with the assistance of EIOPA takes a proper action to make sure that the situation is remedied so that it is no longer a threat. In my view, European consumers expect that we should not stop there. That's why it is important to deeply analyse and look through the data to see if there are indicators that lead to the same business models elsewhere in Europe and lead to other potential risks. It's all about preventive analysis.

You talk a lot about proportionality in the context of convergence, and not full harmonisation. How would this proportionality be applied and in which areas do you think it's vital not to be considered?

Proportionality for us is linked to risk-based supervision. It means that your actions need to be proportionate to the risks that are inflicted. It's about the risks that institutions carry with them. It's not only about big and small firms, but also on the specific risks they carry. For instance in practice a relatively small firm with a lot of cross-border business could get a lot of attention from our side, because we see that there are significant risks to European consumers.

We also look for instance at how supervisors apply scrutiny on key functions in bigger firms compared to smaller or medium-sized firms. We expect to see there a different type of approaches, because risks of combination of key functions in a big company are more significant than in a smaller company.

What do you think is the biggest risk for the insurance landscape in Europe right now?

What I am often wondering if at a policy level there's a sufficient understanding of the different nature of the risks in the insurance sector compared to the banking sector. We have some unique risks, specifically cross-border risks that are not so present in the banking sector.

There are particular business models operating on a cross-border scale on very specific insurance products, sometimes for niche type of products, Consumers simply look at the provider with the lowest premiums. They don't have as much brand loyalty as they have in the banking sector.

Because of that, some entrepreneurs see our sector as an easy way to get funding. They see premiums as an easy way to get money to support investments or other activities and they don't have the interest of the consumer at the core of their business.

From this type of businesses, the European insurance market is exposed to vulnerabilities also due to weaknesses in the regulatory framework, which make it possible.

The internal market is a great good for European consumers. It offers them more choice, better pricing and more value for money in the end. We at EIOPA are strongly committed to preserve the trust in the functioning of the internal market and to protect the interests of European policyholders.

How and if does EIOPA expect Brexit to affect the convergence plan?

As you can see from our recently published supervisory convergence plan for 2018 and 2019 EIOPA defined three high-level areas, namely the implementation of the common supervisory culture and new supervisory tools, risks to the internal market and the level playing field, which may lead to supervisory arbitrage and supervision of emerging risks. Within the supervision of emerging risks, monitoring the consequences of Brexit in insurance and pension markets and ensure consistency in supervisory approaches by the EU-27 national supervisory authorities is one of the key activities.