

# ACTIVITY REPORT 2011 - 2013

## EIOPA Insurance and Reinsurance Stakeholder Group (IRSG)

EIOPA-IRSG-13-10  
September 2013



## Table of Contents

1. Foreword by the Chair and Vice-Chair .....	3
2. IRSG Members.....	5
3. EIOPA Staff Members.....	6
4. IRSG Establishment in 2011 .....	7
5. Framework .....	7
a. Role and Objectives .....	7
b. Set-up and composition .....	7
c. Tasks.....	7
6. Meetings.....	8
a. IRSG Meetings.....	8
b. Subgroup Meetings.....	9
7. IRSG subgroups on technical issues .....	9
8. Overview of Activities by the Stakeholder Groups .....	11
9. Summaries of IRSG work by Area.....	13
a. Insurance Area .....	13
i. ORSA / Forward Looking Assessment.....	13
ii. Reporting / Submission of Information .....	14
iii. Internal Models .....	15
iv. Governance.....	16
v. Long Term Guarantees (LTG).....	17
vi. Long Term Financing (LTF).....	18
b. Consumer Protection .....	19
i. Variable annuities.....	19
ii. Comparison websites .....	19
iii. Complaints Handling for Insurance Undertakings.....	20
iv. Complaints Handling by Insurance Intermediaries .....	21
v. Packaged Retail Investment Products (PRIPIs).....	22
vi. Consumer trends .....	23
vii. Insurance Mediation Directive II (IMD II) .....	24
viii. Knowledge & Ability of distributors of insurance products.....	26
c. Financial Conglomerates.....	26
10. EIOPA Support.....	28
11. Conclusion/Outlook .....	29

## 1. Foreword by the Chair and Vice-Chair

The EU Regulation [1094/2010](#), which created the European Insurance and Occupational Pensions Authority, EIOPA, requires the establishment of two stakeholder groups aligned with EIOPA's areas of competence: The Insurance and Reinsurance Stakeholder Group (IRSG) and the Occupational Pensions Stakeholder Group (OPSG). These two groups each have 30 members and were established to facilitate EIOPA's regular consultation with its broad range of stakeholders in Europe on issues such as regulatory and implementing technical standards as well as guidelines and recommendations that apply to the insurance and occupational pensions industries.



Michaela Koller, Chair

Members of the stakeholder groups can submit opinions and advice to EIOPA on any issue related to its tasks. Additionally, the stakeholder groups are expected to notify EIOPA of inconsistent application of EU law as well as inconsistent supervisory practices in the different European member states. Members can also provide input to EIOPA's Consumer Protection mandate, particularly relating to Article 9 of the Regulation and the principles of simplicity, fairness and transparency.



Ann Kay Blair, Vice-Chair

This report focuses on the activities of the IRSG. The members of the EIOPA IRSG were appointed by EIOPA's Board of Supervisors in its meeting of 25 February 2011. The Group held its inaugural meeting in March 2011 during which members agreed on the Rules of Procedure that would provide the basis for operating the IRSG and guiding its decision making processes. Equally, members discussed how the IRSG can most effectively carry out its role, delivering advice to EIOPA based on requests received and own work pursued. The Chair and Vice-Chair were elected at the May 2011 meetings.

In 2011, the IRSG was very much in its establishment phase and determining its future role. It decided, therefore, to focus largely on EIOPA's consultations. In 2012 and 2013, the IRSG work plans were still heavily influenced by EIOPA's own work programme, but were also addressing issues that were raised by its members and provided the opportunity for proactive exchanges of views beyond the EIOPA work plan. From 2011 to 2013 the IRSG published 18 opinions and feedback statements on different areas such as Solvency II, financial conglomerates, consumer protection and EIOPA peer reviews. Specific opinions and feedback statements covered Own Risk and Solvency Assessment (ORSA), reporting, long-term guarantees, the EC's Green Paper on long-term investments, governance, internal models, good practices for disclosure and selling of variable annuities,

complaints handling, comparison websites, PRIPs and IMD II as well as consumer trends. There were also discussions on antidiscrimination and alternative dispute resolutions.

During its mandate the IRSG met eleven times; in addition two meetings were organised jointly with the OPSG. Four IRSG meetings took place in 2011, four in 2012, and three in 2013 until the end of the current mandate.

To deal with the impressive work load, seven IRSG subgroups have been established since 2011. Four of those were created in 2011 on consumer protection, anti-discrimination, reporting and ORSA. In 2012 new subgroups were set up to address governance, long-term guarantees and internal models, while the existing subgroups on consumer protection, anti-discrimination and reporting continued to be active. The subgroup on ORSA was reactivated in 2013.

Throughout the mandate, EIOPA provided dedicated technical support to the Stakeholder Group, its Chairperson and Vice-Chairperson and the subgroup leads. EIOPA supported the groups particularly in the organisation of meetings, preparation of meeting agendas, circulation of background materials and minutes, and ensured that adequate compensation has been provided to representatives of selected categories (consumers, trade unions/employee representatives and academics). It is also noteworthy that the EIOPA Chair and the Executive Director attended IRSG meetings on a regular basis. EIOPA staff reported regularly and provided insights and technical explanations. On very technical issues and in response to a request for shorter, simpler summaries, “nutshell notes” were developed to explain a complex issue. In addition to EIOPA management and staff, members of the EIOPA Management Board, as well as Chairs of dedicated EIOPA working Groups, attended IRSG meetings. This offered an excellent opportunity to share information and exchange views.

The EIOPA Chair and EIOPA Executive Director also met regularly with the Consumer Representatives to discuss consumer trends and issues arising nationally. Annual meetings between the Consumer Representatives and the Committee on Financial Innovation and Consumer Protection were also facilitated to ensure a useful exchange of views and priorities. IRSG members also participated in relevant EIOPA conferences such as the Consumer Strategy Days and Annual Conferences. Again, these were useful opportunities to highlight issues and priorities.

EIOPA has also informed IRSG members about its supervisory work as well as provided updates on the peer review processes launched by EIOPA during this mandate.

This activity report provides an overview of the execution of the mandate of the IRSG. It describes the achievements and assesses its impact on the functioning of EIOPA. It concludes with some recommendations for the next IRSG so to enable a successful continuation of the relationship between EIOPA and the stakeholder group.

Michaela Koller

Kay Blair

Chair EIOPA IRSG

Vice-Chair EIOPA IRSG

## 2. IRSG Members

### Insurance and reinsurance undertakings and intermediaries (industry)

Mr. Oliver Bäte	DE	Allianz SE, Member of the Board of Management
Mr. Yanick Bonnet	FR	GEMA, Managing Director life and financial
Mr. Paul Carty	IE	ARB Underwriting, Managing Director; BIPAR Chairman
Mr. Hugh Francis	UK	Aviva Plc., Director of External Reporting Developments
Ms. Pilar Gonzalez de Frutos	ES	UNESPA, President
Mr. Asmo Olavi Kalpala	FI	Tapiola Group, President; AMICE, President
<b>Ms. Michaela Koller, Chairperson</b>	DE	Insurance Europe, Director General
Mr. Jean Christophe Menioux	FR	AXA Group Chief Risk Officer
Mr. Gerard van Olphen (until 01/2013)	NL	EUREKO, Chief Financial Officer
Mr. Claes Thimrén (since 03/2013)	SE	Länsförsäkringar AB, Head of Capital Planning
Mr. Joachim Wenning	DE	Munich Re, Board of Management; German Insurance Association (GDV), member

### Consumers

<b>Ms. Ann Kay Blair, Vice-Chairperson</b>	UK	FSA/FCA Consumer Panel, Vice-Chair
Mr. Mads Mølgaard Braüner	DK	Danish Consumer Council, Senior Legal Advisor
Mr. Lars Gatschke	DE	Federation of German Consumer Organisations (vzbv), Deputy of Financial Services Department
Mr. Marcin Kawiński	PL	Warsaw School of Economics, Reader Department Social Insurance; FSUG and FIN-USE member
Ms. Baiba Miltovica	LV	Latvian National Association of Consumer Protection, European Consumer Consultative Group, member

### Users of insurance and reinsurance services

Mr. Thomas Behar	FR	CNP Assurances, Chief Actuary Officer; French Institute of Actuaries, President; Groupe Consultatif Actuariel Europeen, member
Mr. Seamus Creedon	IE	Insurance undertaking non-executive director; Groupe Consultatif Actuariel Europeen, member
Mr. Guenter Droese	DE	Partner in Droese & Partner (GbR); European Captive Insurance and Reinsurance Owner's Association (ECIROA), Chairman
Mr. Francis Frizon	FR	Insurance Mediator, Consultant, Lecturer
Mr. Rob Jones	UK	Standard & Poor's, Managing Director
Mr. Jérôme Lecoq	BE	Deloitte, Partner
Ms. Christianne Verhaegen	BE	Chair of EIOPA OPSG; European federation for Retirement Provision, former Secretary General
Ms. Daniela Weber-Rey (until 05/2013)	DE	Clifford Chance, Partner, Adviser on corporate law and capital law fields

### Employees' Representatives

Ms. Raffaella Infelisi	IT	UILCA Italian Trade Union; CONSAP S.p.a, accountant manager
Mr. Damien Lagaude	FR	CFDT French Trade Union, Federal secretary

### Independent Academics

Ms. Rym Ayadi	TN	Centre for European Policy Studies (CEPS), Senior Research Fellow; Mediterranean Prospects Consortium (MedPro), Director
Mr. Dario Focarelli (until 12/2011)	IT	Università La Sapienza Roma, visiting Professor of Risk Management and Insurance
Mr. Helmut Johannes Gründl	DE	Goethe University Frankfurt, Professor; International Centre for Insurance regulation (ICIR), Managing Director
Ms. Maria Heep-Altiner	DE	University for Applied Science Cologne, responsible for Solvency II; German Actuarial Society (DAV), Board member
Mr. Alexander N. Sadovski	BG	Bulgarian Science Center of the International Eurasian Academy of Sciences, President, Independent Consultant / Researcher
Mr. Pierpaolo Marano (from 01/2012)	IT	Università Cattolica Sacro Cuore Milano, Professor Insurance Law; International Association insurance Law, board member

## 3. EIOPA Staff Members

Ms. Manuela Zweimueller	Coordinator External Relations
Ms. Giulia Conforti	Expert Stakeholder Groups
Ms. Simona Murariu	Expert External Relations
Ms. Johanna Klaas	Stakeholder Groups Specialist

## 4. IRSG Establishment in 2011

On 26 November 2010 EIOPA's predecessor CEIOPS issued a public Call for Expression of Interest and invited interested parties to apply for membership in the Insurance and Reinsurance Stakeholder Groups. Approximately 100 applications from high level experts were received.

In its selection of the members of the IRSG EIOPA aimed for outstanding professional expertise, appropriate geographical and gender balance to achieve the best available representation of stakeholders across the EU.

The members of the IRSG were appointed by EIOPA's Board of Supervisors in its meeting of 25 February 2011. On 8 March 2011 the establishment of the IRSG was officially announced by EIOPA and had the following composition:

- ten industry representatives, five consumers, eight users of insurance and reinsurance services, two representatives of trade unions and five independent academics.

As of May 2011, the IRSG agreed its Rules of Procedure defining its internal organisational and operational rules. In addition the Group elected Michaela Koller (industry representative) as its Chair and Kay Blair (consumer representative) as its Vice-Chair.

## 5. Framework

### a. Role and Objectives

The Insurance and Reinsurance Stakeholder Group (IRSG) is a high level interest group providing advice to EIOPA.

### b. Set-up and composition

The IRSG was established in March 2011 within the institutional framework of EIOPA<sup>1</sup>. Its 30 members are appointed for a term of two and a half years. The composition of the IRSG is based on legal requirements as defined in the EIOPA Regulation. Its members represent different categories of stakeholders across the EU including representatives of the insurance and reinsurance industry, consumers, users of insurance and reinsurance services, trade unions and independent academics. The balanced composition of the stakeholder groups is a solid foundation not only for their cooperation but also for the numerous outputs of their contributions to EIOPA's work.

### c. Tasks

The task of the IRSG is to submit opinions and advice to EIOPA in the insurance and reinsurance field. In particular the Group submits opinions on draft regulatory technical standards, draft implementing technical standards as well as guidelines and recommendations developed by EIOPA in this area. In addition the IRSG may request EIOPA to investigate an alleged breach or non-application of EU law,

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<sup>1</sup> See EIOPA regulation and in particular Art. 37

provide advice to EIOPA on its peer review activities of competent authorities and on its assessment of market developments.

## 6. Meetings

### a. IRSG Meetings

The IRSG holds at least four regular meetings a year. At least once a year a joint meeting with EIOPA Board of Supervisors (BoS) and the Occupational Pensions Stakeholder Groups is convened in order to discuss matters of mutual interest and inform each other of issues discussed. Members of EIOPA Management Board attend Stakeholder Group meetings on a regular basis. During its first term the IRSG met 13 times in total in Frankfurt am Main, mostly at EIOPA premises. The following table provides details of each meeting:

Overview IRSG Meetings 2011-2013			
	Date	Type	Topics
2011	24.03.2011	regular meeting	inaugural meeting
	31.05.2011	regular meeting	approval of IRSG Rules of Procedure and election of Chair/ Vice-Chair
	13.09.2011	regular meeting	Solvency II, Consumer Protection, Equivalence Reports
	19.10.2011	SGs Joint Meeting with BoS	Lisbon Treaty: impact on EU decision-making; CfA: review of the IORP Directive Joint Committee of the ESAs
	12.12.2011	regular meeting	SII Reporting and ORSA, LTGs, Consumer Protection (Guidelines on Complaints Handling); Financial Innovation (Best Practices Report - Selling of Variable Annuities), Workplan 2012
2012	14.03.2012	regular meeting	Solvency II, Financial Stability, Consumer Protection and Financial Innovation
	24.05.2012	regular meeting	Review of FICOD, EIOPA Peer Reviews and Impact Assessment, LTGs, Solvency II Governance and Group Supervision, Approval of IRSG Work Plan 2012-2013
	27.06.2012	regular meeting	Solvency II Finite Reinsurance and SPVs, Solvency II Internal Models and Valuation, Reporting Tools for Undertakings
	18.10.2012	regular meeting	EIOPA LTG Impact Assessment and Stress Test Exercises, Solvency II Proportionality, Action Plan for Colleges and Peer Review
	28.11.2012	SGs Joint Meeting with BoS	reflecting visions on future of EIOPA, IRSG and OPSG summary of activities in 2012 and outlook for work in 2013, break-out sessions on interaction of Stakeholder Groups with EIOPA and Feedback on EIOPA multi-annual work programme 2012-2014
2013	22.02.2013	regular meeting	Consumer Protection, EIOPA Solvency II Interim Measures, Subgroup Work (Anti-Discrimination subgroup, governance subgroup, LTG, Consumer Protection, Valuation)



16.04.2013	regular meeting	EIOPA update on International developments, EC and EIOPA updates on Solvency II, Update on EIOPA Solvency II Interim measures, Input to the EIOPA Committee on Consumer Protection and Financial Innovation (CPFI) on Trends information gathering for the EIOPA Consumer Trends Report, Report on Good Practices for Comparison Websites; IRSG Subgroups work: Consumer Protection, LTG, Governance, Internal Models.
01.07.2013	regular meeting	Discussion on EIOPA Paper on Long Term Guarantees Assessment, IRSG Opinion on IMD II, IRSG Opinion on Complaints Handling for Insurance Intermediaries, IRSG Opinion on Long Term Financing, IRSG Activity Report 2011-2013.

### b. Subgroup Meetings

In addition to the meetings of the full Group, the IRSG convened various subgroup meetings in order to examine specific technical issues and prepare specific tasks for the entire Group. These meetings were mostly conference calls supplemented by email exchanges.

## 7. IRSG subgroups on technical issues

The subgroups prepared working papers prior to their discussion with the entire group. The activities were coordinated by the subgroup leader.

The IRSG, in order to facilitate the discussions on prioritisation and focus on the main areas of work (Pensions, Solvency II, Consumer Protection & Financial Innovation, Peer Review, Common Supervisory Culture, etc.), formed 7 subgroups during its first term. The subgroups prepared working papers prior to their discussion with the entire group. Each subgroup worked to an agreed mandate, which described the content, allocation of work and the form of expected outcome (Opinion, Feedback Statement, informal input, etc.) and the timeline. The activities were coordinated by the subgroup leader.

The following table provides an overview of the membership of the subgroups:

Name	Consumer Protection	ORSA	Reporting	Governance	Long Term Guarantees	Internal Models
Mr. Oliver Bäte	✓				✓	
Mr. Yanick Bonnet		✓	✓	✓	✓	
Mr. Paul Carty	✓					
Mr. Hugh Francis			✓		Lead	✓
Ms. Pilar Gonzalez de Frutos						
Mr. Asmo Olavi Kalpala						
Ms. Michaela Koller, Chairperson	✓					

Mr. Jean Christophe Menioux		Lead			✓	✓
Name	Consumer Protection	ORSA	Reporting	Governance	Long Term Guarantees	Internal Models
Mr. Claes Thimrén		✓				
Mr. Joachim Wenning						
Ms. Ann Kay Blair, Vice-Chairperson	✓			✓		
Mr. Mads Mølgaard Braüner	✓					
Mr. Lars Gatschke	Lead				✓	
Mr. Marcin Kawiński	✓	✓		✓	✓	
Ms. Baiba Miltovica	✓					
Mr. Thomas Behar	✓	✓	Lead	✓	✓	✓
Mr. Seamus Creedon		✓		Lead	✓	✓
Mr. Guenter Droese	✓		✓	✓		✓
Mr. Francis Frizon	✓					
Mr. Rob Jones			✓	✓		✓
Mr. Jérôme Lecoq						
Ms. Christianne Verhaegen				✓	✓	
Ms. Daniela Weber-Rey		✓		✓		
Ms. Raffaella Infelisi						
Mr. Damien Lagaude	✓	✓		✓		
Ms. Rym Ayadi	✓	✓	✓	✓	✓	✓
Mr. Helmut Johannes Gründl				✓	✓	
Ms. Maria Heep-Altiner		✓	✓	✓		✓
Mr. Alexander N. Sadovski	✓			✓		
Mr. Pierpaolo Marano	✓			✓		Lead

## 8. Overview of Activities by the Stakeholder Groups

In 2012 and 2013 EIOPA Stakeholder Groups submitted their opinions to EIOPA through responding to public consultations, providing informal feedback upon draft/“work in progress” technical standards and guidelines provided by EIOPA, responding to specific requests such as feedback on EIOPA’s Work Programme, Peer Review topics, or, responding upon its own initiative to European Commission papers (Long Term Financing, Pensions, etc.).

In 2012 Stakeholder Groups have strengthened the relationship with EIOPA by further engaging in a close dialogue with their representatives. Due to the heterogeneous nature of its background and professional experience, the IRSG proposed that EIOPA would develop papers for non-experts on several Solvency II areas, where legislation was being developed. As a response, IRSG was provided with a number of “nutshell notes”, covering topics such as an introduction to Solvency II, System of Governance, ORSA, Reporting, Long Term Guarantees, Groups Supervision, Finite Re/SPVs, Internal Models, Valuation and Proportionality. The “nutshell notes” enabled all stakeholder group members to contribute to the debate on the new supervisory framework.

To facilitate exchange on consumer issues with the Authority and across the Union, consumer representatives from both Stakeholder Groups also attend at least once a year dedicated meetings with the EIOPA Consumer Protection and Financial Innovation Committee and with EIOPA Chair and Executive Director as well as engaging consumer representatives in the largest public events organised by EIOPA, i.e. EIOPA Conference and EIOPA Consumer Strategy Day.

Throughout 2011-2013, the IRSG has covered a wide range of topics relevant for EIOPA work in the following areas:

- Solvency II – a standing item on the agendas of the IRSG meeting and as the topic is of the highest relevance for both EIOPA and its stakeholders:
  - IRSG identified key areas on Solvency II on which they wanted to focus on, in view to provide opinions and feedback to EIOPA.
  - IRSG took part in several informal consultations on the “work-in-progress” draft Guidelines developed by EIOPA Solvency II expert groups on a non-public basis.
  - IRSG established dedicated subgroups in line with the priorities of the group (ORSA, Reporting, Governance, Internal Models and Long term guarantees).
  - Preparation of feedback into the EIOPA planned work analysing the impact of Solvency II on product development, including a stock take on products with long term guarantees across Europe.
- Financial Stability – a standing item on the agendas of the IRSG meetings throughout their term as a direct reflection of the close monitoring of EIOPA actions/work on financial stability issues as well as on EIOPA collaboration with the European Systemic Risk Board.
- Consumer Protection – a standing item on the agendas of the IRSG meetings throughout their term:
  - IRSG developed opinions and feedback statements on several consumer protection related topics, including the Good Practices for Disclosure and Selling of Variable Annuities, the Guidelines on Complaints Handling for insurance undertakings, consumer trends, Good Practices for comparison websites and the European

- Commission legislative proposals on Packaged Retail Investment Products (PRIPs) and Insurance Mediation Directive (IMD II).
- IRSG monitored European Commission legislative proposals on IMD II, PRIPs, Alternative Dispute Resolutions and Online Dispute Resolution.
- In the area of anti-discrimination, IRSG was monitoring the implementation of the European Court of Justice (ECJ) ruling on the Test-Achats case.
- International developments - a standing item on the agendas of the IRSG and OPSG meetings throughout their terms was the close monitoring of EIOPA actions/work within the International Association of Insurance Supervisors (IAIS), such as the developments on the Common Framework for the supervision of Internationally Active Insurance Groups (ComFrame), the area of global systemically important insurers (G-SIIs) and the work on Insurance Core Principles (ICPs).

The following table provides an overview of the IRSG's key deliverables by areas of work, in the form of Opinions and Feedback Statements, published in the course of their mandate. The listed documents can be accessed via the Stakeholder Groups section of the EIOPA website, under the [SG Opinion and Feedback section](#).

Area	Activity	Publication
<b>Insurance and Reinsurance</b>	Opinion on Own Risk and Solvency Assessment	12.03.2012
	Opinion the Proposal for Guidelines on Own Risk and Solvency Assessment	12.07.2012
	Opinion on Reporting Part 1	12.03.2012
	Opinion on Reporting Part 2	12.03.2012
	Opinion the Proposal for Guidelines on Reporting and Disclosure Requirements	12.07.2012
	IRSG Opinion on technical issues related to long-term financing	24.07.2013
	Opinion on SII preparatory measures on Governance	19.06.2013
	Opinion on SII preparatory measures on Forward Looking Assessment (ORSA)	19.06.2013
	Opinion on SII preparatory measures on Submission of Information	19.06.2013
	Opinion on SII preparatory measures on Internal Models	19.06.2013
<b>Financial Conglomerates</b>	Opinion on the Fundamental Review of the Financial Conglomerates Directive	23.07.2012
<b>Consumer Protection</b>	Feedback statement on Report on Good Practices for Disclosure and Selling of Variable Annuities	29.02.2012
	Opinion on Guidelines on Complaints Handling for insurance undertakings	29.02.2012
	Opinion on EIOPA Report on Good Practices for comparison websites	24.04.2013
	Opinion on Guidelines on Complaints Handling for intermediaries	20.08.2013
	Opinion on Insurance Mediation Directive (IMD II)	01.08.2013
	Opinion on Packaged Retail Investment Products (PRIPs)	19.06.2013

	Opinion on EIOPA Questionnaire on Consumer Trends Report	13.05.2013
	Opinion on EIOPA draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products	26.09.2013

## 9. Summaries of IRSG work by Area

### a. Insurance Area

#### i. ORSA / Forward Looking Assessment

EIOPA IRSG has delivered three opinions on the topic. The most recent one is responding to the EIOPA Consultation Paper on the Proposal for Guidelines on Forward Looking assessment of the undertaking's own risks (based on the ORSA principles), which was published in July 2013 and on this summary focuses.

The IRSG noted several points, and notably the difficulty to define a Forward Looking Assessment in ORSA while the regulatory requirements for Pillar 1 are still unclear.

Indeed, two parts of ORSA have a strong connection with Solvency II Pillar 1 that are not yet applicable during the preparatory period:

- assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions
- assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR.

Other comments included:

- The requirement to perform a calculation which is not clearly defined, for an assessment which is not a regulatory basis and that will add to the requirement to compare with an internal model "approvable" by the NCAs;
- The guidelines are too constraining for an interim period, even if an agreement is reached on Pillar 1 by the end of 2013;
- In the context of the LTGA outcome, it is risky to impose compliance with Solvency II for all undertakings without having found an appropriate solution for the long term guarantee business;
- The guidelines are not principles based and consist of very detailed regulations and processes whereas no clear legal basis is available.

In conclusion, the sub working group would have welcomed draft preparatory Guidelines providing incentive to implement, run and report on a true and internally trusted ORSA process, built on the assessment methodology reflecting the current internal management understanding of risk exposure and solvency position.

Similarly, for an undertaking with no internal model, the assessment of whether or how the risk profile of an undertaking compares with the assumptions underlying the standard formula may prove difficult. The EIOPA paper describing the assumptions underlying the standard formula is essential to help there.

Specifically on the explanatory text, the IRSG, in its opinion, pointed out the problematic discrepancies between the draft preparatory guidelines and the explanatory text that lead to uncertainty about what requirements companies need to fulfil. The explanatory text on several occasions provides more detailed, additional requirements in a prescriptive way, rather than providing additional information and examples.

## ii. Reporting / Submission of Information

Measures in relation to the reporting to the supervisor and disclosures to the public are a key component of Pillar 3 of the Solvency II framework. EIOPA IRSG has delivered three related opinions at the request of EIOPA and a pre-opinion.

The first two opinions in November and December 2011 addressed, according to article 37 of the EIOPA regulation, the EIOPA consultation process on the reporting package.

The main comments were that:

- the IRSG considered reporting as a key element of macro-prudential and micro-prudential supervision
- public disclosure should be on an annual basis
- reporting should be proportionate to its aim. Some templates and some requests are overly detailed. The quarterly reporting of the detailed list of assets, the annual detailed list of products and of reinsurance treaties, the ring fenced fund reporting are examples
- the value of information expected to be provided under quarterly reporting is limited and IRSG agreed that the quarterly request should be streamlined
- financial stability statistics reporting should be included as part of the reporting to the supervisor
- the IRSG didn't see the benefit of an external audit and welcomed any initiatives to avoid local requirements
- variation analysis should be produced in a more practical way, such as for MCEV
- loss triangles should be produced according the basis used by undertakings for their own management
- there should be sufficient time between finalising the definition of templates and the first full reporting

Many detailed remarks from IRSG were taken on board by EIOPA, which responded in a full and detailed specific report to IRSG. It showed that this consultation was effective although not all points were implemented.

The pre-opinion and the third opinion covered the CP 13/10 consultation on draft preparatory guidelines. The IRSG expressed its view that the momentum has to be maintained towards Solvency II and agreed that harmonization and principles based guidelines are key for the development of the regulation. However IRSG expressed strong reservations as regards the introduction of quantitative aspects particularly formal pillar 3 regulatory reporting, raising significant concerns in this area. The lack of a pillar 1 definition increased this concern. A minority opinion expressed some support for EIOPA approach to reporting.

The main comments were that:

- because of time constraints, there should be at most one cycle of annual reporting before the official entry into force of Solvency II, with only one quarterly report
- the reporting should be done in a perspective of assessing the preparedness of firms, not driving supervisory actions
- the deadlines should be extended as preparedness is more important
- some measures seemed too burdensome in comparison to the aim of the interim period i.e. double reporting with the standard formula and internal model for an internal model applicant, and ring fenced-fund specific reporting

### iii. Internal Models

At the meeting held on 22 February 2013, IRSG established a subgroup on Internal Models that was commissioned to perform the following tasks:

- To co-ordinate feedback to EIOPA on how to enhance convergence between European supervisors on the timing, amount and format of the supporting documentation.
- To provide high-level indications to EIOPA on aspects such as data quality, standard formula versus internal models, consistency between different insurance lines.
- To deliver the IRSG opinion on EIOPA's public consultation regarding Internal models and submit it for approval to the IRSG members.
- To provide feedback to EIOPA on the focus and objectives of the Centre of Expertise for Internal Models.
- Any other tasks decided upon by IRSG.

The subgroup began its work collecting data on the timing, amount and format of the supporting documentation required by the national supervisors on internal models. Knowledge of these data is useful to fulfil the first of the assigned tasks. However, due to the issuance of draft preparatory

guidelines on Pre-application for Internal Models, the subgroup postponed this task in order to deliver the IRSG opinion on such draft guidelines.

Therefore, the subgroup lead was able to provide only a brief overview of the practices of the national supervisors on internal models at the IRSG meeting held on 16 April 2013.

Subsequently, the subgroup was engaged in the preparation of the opinion on the guidelines issued by EIOPA on Internal Models. The subgroup provided some high-level indications to EIOPA on aspects relating to the internal models. The opinion was approved by the IRSG members on 29 May 2013.

After an introduction that covers the legal basis of such a consultation, the opinion provided general observations covering the following profiles:

- Overall assessment.
- Feedback from National Competent Authorities (NCAs).
- Effectiveness of the Guidelines with respect to the tasks assigned to an Internal model.

Finally, specific observations regarding the EIOPA draft preparatory guidelines on Internal Models were provided. In summary, the opinion observed that:

Draft preparatory Guidelines are appropriate, as a whole, to meet the aim to increase convergence of supervisory practices during the pre-application process in order to achieve a consistent approach with respect to the preparation for Solvency II.

Nevertheless, the IRSG emphasized that the draft preparatory Guidelines did not achieve the aforementioned objective with respect to feedback to insurers from National Competent Authorities.

Moreover, the IRSG delivered several remarks on the effectiveness of the draft preparatory Guidelines with respect to the tasks assigned to an Internal model under Solvency II framework.

#### **iv. Governance**

Measures in relation to the internal governance of insurance undertakings are a key component of Pillar 2 of the Solvency II framework (corresponding to Articles 40 to 49 of 2009/138/EC). The Internal Governance, Supervisory Review and Reporting Committee of EIOPA has been responsible for the iterative development of draft Level 3 guidelines and (in 2013) for draft preparatory measures. The IRSG supported this process by convening its own governance working group which has engaged actively in the drafting process. Themes in the dialogue with EIOPA have included:

- The importance of consistency with similarly-purposed guidance from the International Association of Insurance Supervisors and also with similarly-purposed guidelines addressed to the banking sector.



- Implementation of guidelines in relation to fitness and propriety in a manner which is both practically feasible and assures broad consistency across countries.
- Including management of conflicts of interest as integral element to sound governance.
- Proportionality in the application of governance guidelines to smaller undertakings, including captives.

In spring 2012 EIOPA shared the first draft Guidelines on the System of Governance with members of the IRSG in their personal capacity. The subgroup Governance discussed those draft Guidelines and gave informal feedback by mid-2012.

An on-going constructive dialogue continues between the IRSG subgroup and the corresponding EIOPA staff member, responsible for those topics, which lead to a substantially positive opinion by the IRSG on the consultation on draft preparatory measures (EIOPA 13-008).

## **v. Long Term Guarantees (LTG)**

At the 14 March 2012 meeting, the IRSG decided to launch a specific subgroup to give consideration to Long Term Guarantees. The Stakeholder Group considered a greater awareness and understanding of the nature of provisions of Long Term Guarantee products across the respective European jurisdictions would facilitate a more informed discussion of the impact of regulatory developments on such products. This issue had also been raised in previous discussions within the context of the Solvency II developments. Therefore the objective was to develop an understanding of the current nature of long term guarantees across the respective European jurisdictions including the underlying socio/economic/political rationale across markets which give rise to such products. There was no specific consultation on which a response was being sought but the objective was to provide relevant background information to the IRSG by collating information on the extant nature of long term guarantees across Europe, identify developments which may be impact such products and provide input to the EIOPA work on this issue.

The work was undertaken through a questionnaire developed by the subgroup and approved by the IRSG which was completed with the assistance of national insurance associations across Europe in conjunction with Insurance Europe supplemented by comments provided by AMICE and subgroup members. The questionnaire covered eleven countries in total (UK, Sweden, Poland, Czech Republic, Slovenia, Belgium, Spain, Finland, Italy, France and Germany) and provided information on the nature, type and relative importance of such products, both historically and currently in addition to providing relevant background information of the rationale and socio-economic importance of such products within the respective markets.

The final results of the questionnaire were presented at the IRSG meeting on 1 July 2013, the key findings were as follows:

- Long Term products play a very important role in each country (both existing and new business)

- A diverse picture emerges – there are a range of long term products (from savings to annuities)
- There are dynamic changes in long term products over time (product/consumer preferences change)
- The consumer desire for guarantees is a common theme (nature and quantum may change)
- A range of political/social/fiscal reasons underlie these products with strong links to national pension provision (Pillar 1/Pillar 2/Pillar 3), tax incentives, consumer preferences and government policy

In the subsequent IRSG discussions the importance of the socio-political background, particularly pension provision in local markets was observed and it was also noted that consumer appetite for such products changes over time and that the appetite for long term guarantees tends to increase in uncertain times when it is most challenging for such products to be manufactured. It was considered that the work and questionnaire response provides relevant and helpful background information to both the IRSG and EIOPA.

## vi. Long Term Financing (LTF)

The stakeholder group has taken an active interest in the issues raised by the European Commission green paper on long-term Investment in Europe and specifically in the dialogue between the Commission and EIOPA in relation to these matters. A draft own initiative opinion was considered by the stakeholder group at its meeting on 1 July 2013 and approved thereafter.

The IRSG acknowledged long-term financing to be an issue which is macro-economically important in current economic and financial circumstances. It affirms the desirability of insurers and pension funds being in a position to consider non-traditional long-term assets in the context of asset-liability management (ALM) mainly on their economic merits. Accounting and regulation should be neutral in their impact on investment decisions.

The IRSG was of the opinion that the value of liquidity options (mandated by certain national laws) in insurer liabilities may be subject to question because of the destabilising effects on ALM and this issue should be further explored by EIOPA and/or its members. This exploration should consider whether requirements for clearer and more succinct information on charges and on intended investment policy may be preferable from a consumer protection viewpoint to mandatory switching rights.

The IRSG suggested that EIOPA explore whether flows of long-term funds for investment might be marginally encouraged without detriment to consumer security by extending ‘dampening’ within the Solvency II SCR standard formula from equity risk only to a wider range of risk factors bearing on long-duration liabilities. Similarly the calibration of any ‘volatility balancing’ adjustment to own funds may have regard to the impact on appetite for long-term investments. The IRSG also recommended that EIOPA should keep the elements of standard formula capital requirements related to specialised long-term asset classes under continuing active review.

Finally the IRSG noted without any recommendation that the move to a market-consistent paradigm as reflected in Solvency II and IFRS 4 can (unless implemented with great care and making use of counter-cyclical tools such as volatility balancers and dampeners) have a negative effect on availability of long-term financing. This will need continuing careful attention.

## **b. Consumer Protection**

### **i. Variable annuities**

Variable annuities (VAs) are unit-linked life insurance contracts with investment guarantees which, in exchange for single or regular premiums, allow the policyholder to benefit from the upside of the unit but be partially or totally protected when the unit loses value.

In giving its feedback, the IRSG called for more clarity around the definition of variable annuities which it felt was still too wide and could lead to confusion. While welcoming the role that good practice could play in raising standards, particularly where helpful case studies might be employed, some members felt more thought needed to be given to the legal implications and impact of good practice. The group also queried how the supervision, policing and enforcement of certain rules would be undertaken in practice. Likewise, the group sought more clarity on how this initiative coincided with the EU Commission's work on PRIIPS and IMD and how work would be aligned to avoid duplicate or contradictory requirements. Simplicity and clarity were deemed desirable, both from an industry and consumer perspective. The definition of advice was also highlighted. IRSG thought that the nature of advice differed throughout the EU and that greater clarity was required around the definition, given European anomalies, and to ensure a common understanding.

The group was divided around the necessity of providing advice when selling variable annuities, with consumer and trade union representatives arguing that advice should be mandatory, given the complexity of the product, the potential downside and level of risk involved. They also called for the nature of advice and remuneration of advisers be made explicit. Some industry representatives argued that advice should not be mandatory, that this was too prescriptive and that this may impede innovation within the market and consumer choice. Consumers do not always need or request advice. Therefore, some members argued it was important to ensure that the non-advised sale of insurance products in certain situations remained possible, such as when requested by the customer or where there is a low risk to the consumer.

### **ii. Comparison websites**

IRSG agreed that comparison websites had proliferated in recent years as online technologies have developed and consumers have sought fast, easy access to comparative information about financial products.

While popular with consumers because of their ease of access and ability to compare some aspects such as price, the IRSG also believed there were issues which needed to be addressed, including the focus on price to the possible detriment of quality and cover. Other concerns focused on the

transparency of information, the challenges in comparing like-for-like products, and the management of conflicts of interest.

There were perceived issues around effective governance and consumers' understanding of how these sites are funded and make their money.

IRSG also thought there was an issue around access, given that not all consumers have ready access to the web or prefer not to use it. Compensation and redress aspects also require more consideration.

In summary, the IRSG agreed that these sites should not be viewed as a substitute for proper advice delivered by a suitably qualified intermediary or an insurance expert. IRSG also called for EIOPA to conduct robust consumer testing and research to gain more evidence and not to pre-empt IMD II and what it might decree.

### iii. Complaints Handling for Insurance Undertakings

In January 2012, the IRSG provided advice to EIOPA proposal for Guidelines regarding Complaints Handling for Insurance Undertakings.

The IRSG noted in its advice that effective complaints handling is critical for consumers and should be regarded as a high priority at a senior level within companies, with ultimate ownership for the process at board level. It is also critical that firms make it easy for customers to complain. Transparency plays an important role for competent authority and market participants.

The IRSG suggested bringing the following statements to the attention of the Joint Committee:

- It is important to also take into account and at least refer to the two new Directives on ADRs and a Regulation on ODR adopted in 2012.
- An alignment seems necessary, so as to avoid double/contradicting regulation with existing or planned regulation (IMD/ PRIPS).
- It must be also ensured that other financial service providers (e.g. banks) have similar standards. Therefore the IRSG suggested that the topic be brought forward to the Joint Committee.

Specific observations regarding EIOPA's draft guidelines were:

- There is a necessity to clarify the terms "complaints" and "claims" and to pay attention not to exclude any expression of dissatisfaction in the context of a claims handling procedure.
- A complainant is presumed to be eligible to have a complaint heard related to an insurance product or service provided by an insurance undertaking. The definition of the complainant must include persons, asking for the coverage of risk but declined by the insurer, e.g. based on bad health in disability insurance (by respecting the freedom of contract).

- The "complaints management policy" should include a direct report to the Board or a specific person responsible for establishing and implementing such a policy and reporting on it to the Board on a regular basis. The IRSG suggested that all affected staff should be trained and experienced regarding the policy and the process.
- After a final decision the undertaking should inform the consumer/third party accurately and efficiently about the possibility to start an ADR and support this procedure by disclosing the necessary details (if this information has not been given; e.g. reference to an Ombudsman).

#### **iv. Complaints Handling by Insurance Intermediaries**

In May 2013, the group gave its opinion on EIOPA's public consultation on the Proposal for Guidelines on Complaints- Handling by Insurance Intermediaries and draft report on Best Practices by insurance intermediaries in handling complaints issued on 27 March 2013.

Effective complaints handling is critical for consumers. While the Group generally agreed with EIOPA that the guidelines on complaints handling by insurance intermediaries will facilitate more comprehensive protection given the similar EIOPA guidelines issued for insurers in 2012, the Group members believed that the complaints handled by intermediaries have different consequences for consumers.

The group noted in its opinion that most of the existing national requirements for the complaints handling are aligned with the EIOPA proposed guidelines.

With respect to the scope of the guidelines, the group agreed that it should cover and promote internal complaints-handling procedures by insurance intermediaries, since these procedures are more efficient and often produce better outcomes for consumers. It is essential that each intermediary firm has the ability to deal with a complaint before it is referred to ADR. This is an important principle that reflects current practice.

The Group generally supported the guidelines proposed by EIOPA and agreed that:

- It was important to take into consideration that the Insurance Mediation Directive (IMD), which articles 10 and 11 refer to, is currently being revised.
- It was essential that the EIOPA proposed Guidelines take into consideration the diverse nature and size of the insurance intermediary market in the EU as well as the nature and number of complaints to intermediaries, in order not to create disproportionate and unnecessary administrative burdens and costs.
- The cost of the introduction of a secure electronic online register should be further assessed, particularly for smaller intermediaries as it was thought that it would not be in proportion with the benefits of introducing such a system.

## v. Packaged Retail Investment Products (PRIPs)

On 25 July 2013, the IRSG published its position paper on the proposed Packaged Retail Investment Products (PRIPs) Regulation and the European Parliament's discussions in this respect.

The IRSG supported the EC initiative to improve consumer information. It recognised that combining simplicity and transparency in a standard document applying to all financial sectors is very challenging but feasible. It found that adequate product information and comparability, allowing consumers to "shop around", is best achieved by developing a single document for all PRIPs.

The IRSG also considered that pre-contractual material should be streamlined providing better, more relevant information to investors, not simply more information. Furthermore, the Regulation should focus on its aim, standardised pre-contractual product information, without including personalised information or straying into other areas of consumer protection such as sales, product development and product intervention rules. The IRSG noted that transparency rules on sales costs, for example, are already included in the Insurance Mediation Directive recast (IMD II) and the Market in Financial Instruments Directive (MiFID 2).

The IRSG mainly focused on insurance specific issues and further noted that:

- The Regulation should only apply to PRIPs. Widening the scope would render it even more difficult to develop a precise, yet short, document as non-packaged, non-investment products require different disclosures. All life insurance products where the investment risk is not borne by the policyholder should be excluded given they do not have the characteristics of a PRIP and do not expose the policyholder to negative investment fluctuations. This exemption covers products with a minimum guarantee and/or profit sharing. Furthermore, pensions are also not comparable to other PRIPs. Therefore, all pension products should similarly be exempted. A separate examination on how consumer information can be improved for pensions would however be worthwhile.
- Consumers should be informed about essential characteristics of insurance products, e.g. whether a PRIP offers insurance benefits and the difference between premium and investment costs. Without such insurance specific information, consumers are not adequately informed and cannot compare products.
- PRIPs mostly offer a choice of underlying assets making it extremely challenging to provide certain information, e.g. on risk, before the consumer has chosen the underlying funds. A two-tier approach distinguishing between product and fund level within the key information document could address this issue.
- Consumers should not be overloaded with duplicative information. Product manufacturers should therefore be able to provide all equivalent Solvency II disclosures through the PRIPs document instead of having to provide equivalent information twice in different formats thereby confusing consumers.
- Consumers should not be misled by performance and risk indicators. They should be well-informed that past performance may not be a guide to future returns. Similarly, future

scenarios are only projections and may be even more misleading. Additionally, developing a common risk indicator will be extremely challenging and particular attention should be paid to it at level two.

- The key information document should be subjected to rigorous consumer testing; therefore the level one text should offer sufficient clarity but not be overly prescriptive in the details.

## vi. Consumer trends

The opinion on Consumer Trends was issued by IRSG on 29 April 2013. The opinion was based on anecdotal comments and individual feedback from various members of the IRSG's Consumer Protection subgroup. It has not been backed up by research but is designed to provide a snapshot view of emerging risks and issues. The following issues have been observed by individual members and relate to the general outlook of consumer trends across European countries:

**The hollowing out of insurance products** at policy renewal: Cover may be reduced at renewal and the consumer may be unaware of this. Much of this is driven by the focus on price to the detriment of quality and appropriate cover.

**Access and affordability.** Given current economic pressures, the consumer may be tempted not to insure for basic protection, which may be to their considerable detriment. For example, flood insurance with premiums set to rise and access to many denied.

**Tying, bundling and inappropriate sales incentives.** While many insurance products are grouped together in various formats, and while bundling works in many cases, the consumer often finds he/she is buying products which are inappropriate or which do not deliver when a claim is made. Also multiple insurance/cover is mainly due to add-ons and tying/bundling. It can occur in practice that consumers have multiple insurance cover for the same risk.

**Comparison websites,** their growing popularity and whether the focus on price can be to the detriment of quality and cover: the increased use of the internet by consumers in 2012 was evident. The general trend is to research online and to purchase offline. The internet is used also for the conclusion of insurance contracts on online platforms for direct sale, but in most countries it tends only to be a source of information for the consumer. Customers increasingly use the internet to gather information, to shop around and select products, but the contract is concluded conventionally via insurance intermediaries or directly with providers, including their websites.

In terms of **new products** generally, there may be a need for basic protection products which carry some kind of quality assurance, which deliver value for money and in which the consumer can trust. Financial innovation, if pursued, has to be in the consumer's interest and capable of delivering good consumer outcomes. Because in financial markets innovation is developing faster than the appropriate regulation framework, further legislation and regulation may be required to address emerging insurance risks and issues. Likewise further work could be undertaken to assess the effect of different insurance product characteristics, distribution channels, processes etc. Earlier regulatory

intervention should be considered to tackle issues before they emerge causing widespread consumer detriment.

During the previous years, the IRSG noted an increase of **mandatory professional indemnity** insurance cover, however this trend differs between countries.

“**Telematics**” is a promising way to offer risk based solutions to customers. For risks like road assistance, however guarantee concepts will remain, as they are part of the brand development of the manufacturer. A potential long-term trend will provide for a greater focus on insurance of the driver in contrast to a defined vehicle.

## vii. Insurance Mediation Directive II (IMD II)

The tasks assigned to the subgroup on consumer protection included the preparation of a draft opinion on the potential impact of IMD II on consumers. The subgroup also commissioned a member of the subgroup to prepare a discussion paper.

A first draft of this paper was submitted at the IRSG meeting on 16 April 2013, while an updated version was presented at the meeting on 1 July 2013. Several stakeholders have also contributed with their opinions during the approval process. Overall, the text adopted is balanced reflecting the different views. It takes into consideration the following: Scope of the IMD II, Transparency, Conflict of interest/Remuneration, Cross-selling practices, PRIPs and Cross-border operations.

The main contents can be summarised as follows:

- IMD II is focused on the distribution of products and, therefore, loss adjusters, professional managers of claims and the expert appraisals of claims should be outside its scope.
- The rules should be balanced and tailored to the different distribution channels including direct writers and providers whose main professional activity is not the sale of insurance products, and care should be taken to avoid creating loopholes and affect the level playing field.
- The introduction of general duties of intermediaries and insurance undertakings to their customers also take into account the existence of consolidated concepts into many national laws (e.g. good faith, fairness), which are different in common law countries than in civil law.
- Coordination between these duties and the EU rules directly aimed at protecting consumers should be assessed, e.g. the rules on unfair commercial practices laid down in Directive 2005/29/EC.
- Although IMD II will still be a minimum harmonisation directive, harmonised rules that increase the transparency provided by intermediaries and direct insurers to their customers by compensating the policyholder’s knowledge deficit by means of advice and information, should be introduced.



- Such harmonised rules should cover the knowledge of the professional and personal qualifications of the intermediary, the legal relationship with the insurer, the type of remuneration the intermediary would receive, potential conflicts of interest and the basis on which advice and information were provided.
- A set of rules consistent with the three possible relationships between insurance intermediaries and their customers was supported.
- These rules must be proportionate to the customer's expectations regarding the intermediary. At the pre-contractual stage, a mandatory disclosure of the nature (commission, fee, salary) and source (insurance undertaking, policyholder, other intermediary) of the remuneration strikes an appropriate balance in terms of providing relevant, useful information to the consumer that will be beneficial in their decision-making.
- Consistent with its minimum harmonisation approach, IMD II should allow Member States to maintain or adopt additional rules on conflicts of interest and remuneration where it is appropriate to their markets.
- In any case, persons and entities within the scope of the IMD II should give the customer relevant information about the insurance product in a comprehensible form to allow the customer to make an informed decision. Where advice is provided, the seller must actively inquire into the needs of its customer, while taking into account the complexity of the insurance product and the type of consumer.
- Tying and bundling practices need to be addressed consistently across the different financial services legislation at EU level and, therefore, the IMD II should be aligned to the text of MiFID II.
- IMD II is the appropriate instrument to cover non-product related information, while the PRIIPs regulation is the appropriate instrument for products disclosure.
- The introduction of a centralised registration system at EIOPA containing records of insurance and reinsurance intermediaries, which have notified their intention to carry on cross-border business, was supported to achieve the objective of consumer protection. The consumer would be able to check the status of an intermediary, i.e. in which capacity it is acting as well as where it is registered.
- Potentially more cross-border operations require harmonised rules for the settlement of cross-border disputes as well as clear pre-contractual information to the consumers on the access to such procedures, in line with the recently agreed ADR directive.

### viii. Knowledge & Ability of distributors of insurance products

During the meeting on 1 July 2013, the IRSG decided to provide its opinion on the Consultation Paper on the EIOPA Draft Report on Good Supervisory Practices regarding Knowledge and Ability Requirements for Distributors of Insurance Products, which was published on 27 June 2013. Subsequently, the sub group on consumer protection was mandated to draft this opinion, which was approved by the IRSG in September 2013.

The key findings are summarised as follows.

- Good Practices addressed to national supervisors on knowledge and ability may not achieve the aim of a convergence in the practices of the national supervisory authorities. In IMD I, the rules which they must enforce, differ at national level.
- Such a study could be supported as preparatory work for IMD II, in view of the powers that the IMD II proposal delegates to the Commission.
- However, the IRSG was cautious in assuming that references to IMD II by EIOPA were effective, given the current state of the preparatory work on this project.
- The IRSG also highlighted the potential conflict between the outcome of promoting supervisory convergence of industry training before IMD II has been finalized and the power to set knowledge and ability standards that the European Commission may acquire under IMD II.
- The IRSG believed that the proposal to apply the professional requirements to the staff of insurance undertakings would meet the need for a proportionate, risk-based approach avoiding creating an unnecessary administrative burden.
- The IRSG supported amendments to adapt the knowledge and ability to the complexity of the products as well as to the relationship established between distributor and customer.
- The IRSG invited EIOPA to consider the introduction of good practices on professional background, which may be required by the national supervisory authorities to the instructors who are able to provide continuous professional development to distributors.
- The IRSG supported professional requirements that were outcome-oriented rather than defining input requirements such as a given amount of training.
- The IRSG believed that the specification of minimum professional requirements should be determined at national level.

### c. Financial Conglomerates

In August 2012, the IRSG issued an opinion on the EBA, EIOPA and ESMA's Joint Consultation Paper (JC CP 2012 01) on its proposed response to the European Commission Call for Advice on the Fundamental Review of the Financial Conglomerates Directive (FICOD).

The IRSG's recommendations were aimed at contributing to the effective and efficient regulatory and supervisory framework for financial conglomerates. To reach this economically optimal level it is important that the structures, inter-dependencies and responsibilities within the financial conglomerates are transparent. In turn, the benefits for the society should outweigh the additional regulatory and supervisory burdens and duplications. Unnecessary compliance activities should be prevented as much as possible.

Based on this reasoning the IRSG suggested that the ESAs should address the following summarised recommendations in their Joint Consultation Paper:

- In order that the perimeter of supervision overlaps with the scope of transmission of financial risks, legislators should (i) identify the perimeter of financial risks and (ii) align the regulatory scope with that perimeter;
- The structures of financial conglomerates should be transparent, reflecting the strategic orientations and not aimed at masking risks. The effectiveness of the proposed tools should be assessed from the point of their relative costs and advantages;
- The identification of the ultimate responsible entity should enable the supervisors to (i) identify the parameters of financial risks; (ii) have direct access the board and senior management responsible for the entire conglomerate; and (iii) apply corrective actions in a timely and effective manner;
- The ultimate responsible entity should be responsible for understanding, defining and adequately monitoring the strategy and risk profile of the financial conglomerate;
- Group-wide enforcement efforts should enable supervisors to consistently address group-wide risks, giving adequate incentives for the conglomerate as a whole to orient its risk strategies coherently and consistently across borders and its subsidiaries. In turn, sector-specific enforcement should aim to prevent excessive individual risks.
- Supervisors have a set of measures that are applicable at group-level. For that purpose, a minimum set of applicable enforcement instruments should be developed, distinguishing between the two levels of supervision. The set of tools applicable to (regulated) financial conglomerates should be harmonized to the greatest extent possible and should not make certain tools more attractive than others;
- The ESA's should assess the adequacy of the frameworks already in operation or under development before developing new guidelines, to avoid duplication and unnecessary reporting burden.

## 10. EIOPA Support

Technical support to the IRSG, its Chair and Vice-Chair and its subgroup leaders is provided by EIOPA.

The Authority publishes the opinions, feedback statements, reports and the advice of the Group and the results of its consultations. It gives a high degree of visibility to the work of the members of the IRSG in carrying out their tasks. EIOPA provides interested third parties access to documents on its website, which includes information on meeting agendas, meeting conclusions and action points, as well as meeting presentations. Furthermore, EIOPA's website depicts the biographies of all Stakeholder Groups members, fully respecting the EU data protection framework.

Throughout its first term EIOPA supported the IRSG in the organisation of meeting facilities, preparation of meeting agendas, circulation of background materials and minutes and ensured that adequate compensation has been provided to representatives of selected categories (consumers, trade unions/employee representatives and academics).

Equally, the set-up of subgroups according to the IRSG Rules of Procedure was facilitated. EIOPA also ensured coordination for the preparation and timely delivery of IRSG output documents by organising meetings and teleconferences, collating comments, providing appropriate templates, overseeing the voting procedure and finally publishing the Group's opinions and feedback statements.

In 2012 and 2013, following the resignation of two member of the IRSG, replacements had to be found. This included the call for expression of interest, the selection procedure and its documentation as well as the final appointment by the Board of Supervisors. In June 2012, Prof. Pierpaolo Marano (IT) was appointed in the category of academics and in April 2013 Mr. Claes Thimrén (SE) was appointed as representative of mutual and cooperatives insurance undertakings.

During the joint Stakeholder Groups and Board of Supervisors meeting held in November 2012, the Stakeholder Groups provided positive feedback to EIOPA with regards to the involvement of the IRSG and OPSG in EIOPA work. This focused on how their input is being dealt with and the interaction with Senior Management from EIOPA, with the Working Group Chairs/Vice Chairs, with experts and with the European Commission. The Stakeholder Groups appreciated the technical support provided by EIOPA.

## 11. Conclusion/Outlook

The IRSG is aware that the European Commission will publish a report about the functioning of the European supervisory authorities still in 2013.

The IRSG has established an intense dialogue with EIOPA and provided valuable stakeholder input in the past two and a half years. It considers itself as an integral part of governance of EIOPA in that it provides feedback from a broad variety of stakeholders relevant to EIOPA. This feedback should allow EIOPA to reflect on and, ideally, consider stakeholder input when developing its (technical) advice.

Although it may be too soon to assess the full impact and efficiency of its proceedings, IRSG members decided to undertake a self-assessment and, on that basis, develop recommendations that might be helpful for the next IRSG.

The following areas were analysed in the self-assessment: work process, access to information, support in developing opinions and statements, influence and impact of the stakeholder group, and overall functioning of the IRSG.

In general the comments and the feedback on the different sections of the survey were quite positive. Views differed somewhat within categories but it is encouraging that there was not one particular category that only expressed criticism or satisfaction. There were nevertheless some concerns expressed, but also ideas presented on how to improve the overall functioning of the group.

### **Work Process:**

Following a challenging start-up phase, the work process was positively assessed overall. One problem mentioned was that the documents were sometimes too long and while they were of high quality they were frequently submitted rather late, i.e. shortly before meetings. Furthermore it was hard for some members to follow all of the work process, as many diverse topics had to be discussed in rapid succession. The subgroups were appreciated by many members, as many thought that plenaries did not leave sufficient room for detailed exchanges. It was felt that subgroups were an indispensable part of stakeholder group engagement and, ultimately, the tool that effectively facilitated the contribution of members and thus the development of IRSG opinions and feedback statements. Some members felt that the mandate was too short, as the IRSG started to work most effectively when it approached the end of its mandate.

The introduction of “nutshell notes” was particularly appreciated by consumer representatives who were sometimes daunted by the technical nature of some papers. This was considered essential given Article 9 and EIOPA’s consumer protection agenda, ensuring that the consumer implications of developments/papers were articulated.

The *recommendation* for the work process overall is to further prioritise the work of the stakeholder group and to develop shorter notes, ideally with the questions on which EIOPA would require feedback. Such an approach could then potentially allow more time to be spent on discussing, debating and decision making during meetings. Equally the subgroup approach should be

maintained, as it is conducive to efficiently producing output. A rolling agenda with timelines and anticipated deliverables would also be helpful to ensure workstreams and IRSG input are coordinated to best effect. The “nutshell notes” should also be continued as it is vital that concise summaries and consumer protection implications are articulated and noted, particularly where some members lack the levels of technical knowledge needed to delve into the detail of some papers.

**Access to Information:**

This section was rated largely positively. Many IRSG members highlighted the openness to share information and the high level of transparency of discussions in the meeting. EIOPA’s willingness to provide explanations was positively commented upon, as well as the insight provided into the internal decision-making process. Positive feedback was also received on the opportunity to engage with members of the EIOPA Board of Supervisors, EIOPA working group chairs and EIOPA management and staff.

It is therefore *recommended* to maintain this approach for the second mandate of the IRSG.

**Support in developing opinions and statements:**

While participation in the stakeholder groups is on a personal basis, it has become clear that the resource levels and, as a result, the technical knowledge and input is imbalanced between participants. Whilst recognising EIOPA’s resource constraints, consumer representatives have suggested that the level of technical and administrative support provided by EIOPA to consumer, trade union and some user representatives should be improved. Where consumer representatives are being encouraged to work outside the regular meetings, more attention needs to be given to the need for remuneration to cover this. It would also be helpful if expenses could be paid in a timelier manner.

It is therefore *recommended* that this (perceived) disadvantage between IRSG members should be addressed through additional support to consumer and trade union groups either by EIOPA or other EU institutions. Making additional resource available clearly has cost implications which need to be addressed at an EU level.

It is further recommended that EIOPA considers the resource constraints particularly on consumer representatives and identify practical incentives that could facilitate greater involvement and effectiveness.

A more practical problem that has been identified was that not all members of the subgroups were contributing to the group work with the same level of commitment.

It is therefore *recommended* that EIOPA could be tasked to undertake an objective mid-term analysis to encourage “non-active” IRSG members to contribute more.

Another issue raised was that IRSG members felt their involvement at times came too late, i.e. in a majority of cases at the same time as formal consultations were organised with all stakeholders.

It is *recommended* that EIOPA identifies topics which would lend themselves to a “blue-sky thinking approach”, where the stakeholder groups could be invited to present ideas to EIOPA at an early stage of the process and that the stakeholder groups planning cycle takes account of anticipated deliverables and key milestones/timelines.

**Influence and Impact:**

It was often commented by members that it is too early to evaluate the real influence of the IRSG. It was felt that it would be important for IRSG members to receive feedback on the impact of the IRSG work in the EIOPA decision-making process.

It is therefore *recommended* that a regular reporting item on the IRSG agenda be introduced during which the EIOPA management can explain follow-up on the various IRSG opinions/statements.

It is further *recommended* that the mandate for members should be extended beyond the two and a half year timeframe to enable more effective input and that reappointment of members also takes account of their input and effectiveness.

It was also felt that the EIOPA website should be used more efficiently to provide transparency on the work and contribution of the stakeholder groups. Currently an (in-depth) search is required to find the section dedicated to the stakeholder groups on the EIOPA website.

It is therefore *recommended* to introduce an IRSG/OPSG button on the homepage that provides a direct link to the stakeholder group sections and facilitates transparency of the processes.

**Overall Functioning of the IRSG:**

It should be recognised that different IRSG participants rarely shared the same opinions or concerns regarding a certain topic which made working on compromises indispensable. However, given the diversity of the group, the positions it takes are robust and should be taken seriously.

Working in the IRSG has been a memorable experience for all its members. The effectiveness of the group has developed considerably over time and its members believe that its input has been valued and provided key insights.

As chair and vice-chair of the first IRSG, we would like to thank all our colleagues for their views and opinions and also EIOPA for the support and openness they have brought to our group. We wish our successors all the best for the second mandate.