IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

Activity Report 2020-2024

July 2024

EIOPA-IRSG-24/21

European Insurance and Occupational Pensions Authority

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PUBLIC

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MESSAGE FROM THE CHAIRS

Over the past four years, insurance regulation in the European Union (EU) has undergone significant evolution. Emphasis has been placed on adapting to emerging risks. This period has seen a review of the Solvency II framework, with a focus on its effectiveness and proportionality. Urgency to address both climate-related and pensions-related protection gaps has become more acute and the clock ticks down in both cases. Sustainability has also become a key consideration, with efforts to integrate environmental, social, and governance (ESG) factors into insurance practices and work on climate risk. The continued rise of digitalisation has prompted regulators to navigate new challenges around data protection, cybersecurity, and algorithmic decision-making. Although it is now starting to feel like a distant memory, the COVID-19 pandemic underscored the importance of resilience and preparedness, leading to temporary relief measures and clarifications on coverage issues. These topics have been the backdrop to the last four years of work on EU insurance regulation, as it grapples with innovation, stability, and to respond to evolving risks.

The wide range of stakeholders at the Insurance and Reinsurance Stakeholder Group (IRSG) – ranging from (re)insurers and intermediaries to trade unions, consumers, professional associations and broader civil society – has been able to bring a wealth of expertise and perspectives to EIOPA's work on insurance supervision and regulation at European level. In its advisory role to EIOPA, the IRSG has managed to make valuable contributions across the key and emerging areas of regulation for the governance of insurance markets in Europe.

Against this background we are pleased to present the activity report of the IRSG for the 2020 – 2024 mandate. It intends to provide a brief overview of over fifty pieces of advice that the IRSG delivered under this mandate. Important work has been done on the prudential front, with numerous opinions dealing with the review of Solvency II. The sustainable finance agenda, digitalization and consumer protection also featured high on our agenda.

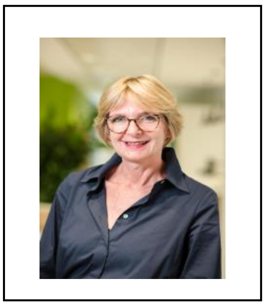
This report also represents the outcome of intense cooperation and dialogue between more than 30 experts and EIOPA representatives. Let us start by first thanking all colleagues of the IRSG for their input and dedication, and especially those who led the work on the advice prepared: Benoît Hugonin, Desislav Danov, Galit Saar, Juan-Ramón Plá, Lauri Saraste, Marcin Kawinski, Nikos Daskalakis, Patricia Plas, Pierpaolo Marano, Tony O'Riordan and Typhaine Beauperin. We would also like to extend special thanks to Hugh Francis for his contribution to the IRSG for many years and our congratulations on his retirement. Our work has also benefited from the engagement of EIOPA representatives and we extend our thanks to both Petra Hielkma and Fausto Parente for their openness and engagement. We would also like to express our gratitude to all EIOPA policy experts who have enriched the discussions of the group. Also, our work would not have been possible without the dedication of Kai Kosik, Florian Ouillades, Marina Azevedo Leitao, Serena Garelli and Federica Mazzoni in supporting the organisation of the IRSG.

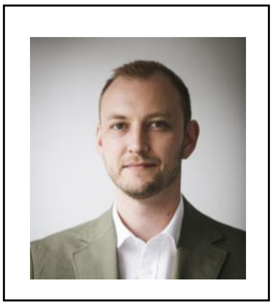
Michaela Koller

Chair of the IRSG 2020 – 2022

Paul Fox

Chair of the IRSG 2022 – 2024





1. ABOUT THE GROUP

ESTABLISHMENT AND OBJECTIVES OF THE IRSG

EIOPA's stakeholder groups were established by Article 37 of the EIOPA Regulation, in order to facilitate EIOPA's consultation with stakeholders throughout Europe.

The Insurance and Reinsurance Stakeholder Group's main responsibilities are:

- advising the European Insurance and Occupational Pensions Authority on the actions it takes concerning:
    - Regulatory Technical Standards (RTS);
    - Implementing Technical Standards (ITS);
    - Guidelines;
    - Recommendations;
    - Peer reviews;
    - Practical instruments and convergence tools to promote consistent supervisory approaches and practices;
    - Assessment of market developments.
- assisting the Authority in assessing the potential impact of, and advising on any issues related to all of the above.

ADVICE

The stakeholder groups, including the IRSG, issue advice to EIOPA on relevant topics. Advice includes own initiatives whereby the group can comment on any issue it deems relevant in relation to the tasks of the Authority.

SELECTION PROCEDURE

Following the ESA Review, Article 37 of the EIOPA Regulation was amended with effect on 1 January 2020. The changes, which relate to the composition, length of mandate, and scope of activities of the Stakeholder Groups, required EIOPA to revise its selection procedure. The current stakeholder group selection procedure can be found here. See also the annex for further information on the legal framework.

2. MEMBERS

Member's name	Nationality	Institution	Representing
Aubry, Mireille	France	COVEA	Industry
Azzopardi, Pauline	Malta	Association for Consumer Rights	Consumers & Users
Beaupérin, Typhaine	Belgium/France	Federation of European Risk Management Associations (FERMA)	Professional associations
Calu, Monica	Romania	Consumers United/Consumatorii Uniti	Consumers & Users
Danov, Desislav	Bulgaria	Fintechguardian	Consumers & Users
Daskalakis, Niko	Greece	GSEVEE (SMEs Confederation in Greece)	SMEs
Donzelmann, Claudia	Germany	Allianz SE	Industry
Fox, Paul	United Kingdom	Finance Watch	Consumers & Users
Francis, Hugh	United Kingdom	Aviva	Industry
Halme, Liisa	Finland	Trade Union Pro	Employees
Hirner, Liane	Austria	Vienna Insurance Group	Industry
Hugonin, Benoit	France	SCOR Group	Industry

Member's name	Nationality	Institution	Representing
Kawinski, Marcin	Poland	Warsaw School of Economics	Academics
Koller, Michaela	Germany	Insurance Europe	Industry
Larnaudie-Eiffel, Xavier	France	CNP Assurances	Industry
Marano, Pierpaolo	Italy	Catholic University of Milan	Academics
Materne, Stefan	Germany	Cologne University of Applied Sciences	Academics
O'Riordan, Anthony	Ireland	Actuarial Association of Europe (AAE)	Professional Associations
Paulauskas, Tomas	Lithuania	Insurance policyholders association (Draudeju asociacija)	Consumers & Users
Plá, Juan-Ramón	Spain	European Federation of Intermediary Associations (BIPAR)	Industry
Plas, Patricia	Belgium	AXA SA	Industry
Prache, Guillaume	France	BETTER FINANCE	Consumers & Users
Rodrigues, Tito	Portugal	DECO Proteste Consumer Association	Consumers & Users
Saar, Galit	Sweden	Länsförsäkringar	Industry
Saraste, Lauri	Finland	Local Tapiola	Industry

Member's name	Nationality	Institution	Representing
Scaroni, Bruno	Italy	Zurich	Industry
Schmalzried, Martin	Czech Republic	COFACE-Families Europe	Consumers & Users
Talonen, Antti	Finland	University of Helsinki	Academics
Van Elsen, Greg	Belgium	The European Consumer Organisation (BEUC)	Consumers & Users
Van Vollenhoven, Gisella	Netherlands	ASR Nederland NV	Industry

3. KEY DISCUSSION AREAS

1. PRUDENTIAL ISSUES

IRSG Advice on Stress Testing [link] - 06/10/2020

The IRSG provided insights on stress testing methodologies, focusing on climate change stress, liquidity stress, and multi-period stress in response to the EIOPA request for advice. The group emphasized the need for collaboration among supervisors, advocating for transitioning from "stress tests" to "climate scenario risk analysis" for climate change assessments. In liquidity stress testing, the group raised the importance of considering diverse business models and avoiding undue emphasis on liquidity risk. For multi-period stress testing, the IRSG cautioned against excessive standardisation, recommending a balanced approach aligned with companies' internal risk management processes. Leveraging existing frameworks for Own Risk and Solvency Assessment (ORSA) while addressing each domain's complexities is key.

Key IRSG positions raised included the following:

- Need for more collaboration among supervisors to ensure consistency in stress testing approaches.
- Recommendation to use the wording 'climate scenario risk analysis' rather than "stress test for climate change assessments.
- Need to better consider diverse business models in liquidity stress tests and avoiding overemphasis on liquidity risk.
- Caution against excessive standardization in multi-period stress testing and advocating for a balanced approach.
- Encourage leveraging existing frameworks for ORSA purposes while addressing the nuances of each stress testing domain.

IRSG Advice on Shared Resilience Solutions [link] - 23/10/2020

In response to a request for advice the IRSG welcomed EIOPA's focus on shared resilience solutions for pandemics, acknowledging the critical gap in insurance coverage highlighted by the current crisis. While applauding the initiative's direction, the IRSG suggested a broader discussion encompassing life and health covers alongside Non-Damage Business Interruption (NDBI), emphasizing the importance of considering diverse catastrophic events.

Key IRSG positions raised included the following:

- Advocating for private-public shared resilience initiatives for pandemics.
- Suggesting a broader discussion encompassing life and health covers alongside NDBI.
- Emphasizing the importance of considering diverse catastrophic events beyond pandemics.
- Addressing capacity issues in covering business interruption costs.
- Clarifying the insurability of pandemic risks and exploring factors influencing it.
- Stressing the significance of government involvement and clear communication in policy coverage.
- Recommending greater data sharing, risk modeling, and the establishment of an EU expert group to address challenges effectively.

IRSG Advice on EIOPA's draft Supervisory Statement on the use of risk mitigation techniques by insurance and reinsurance undertakings [link] - 24/11/2020

In response to EIOPA's request the IRSG provided advice on the draft statement concerning risk mitigation techniques (RMT) in reinsurance under Solvency II. The advice emphasizes the need for proportional supervisory engagement aligned with risk levels and urges coordination among supervisors across jurisdictions. The IRSG advice highlights potential confusion and disproportionate burdens on companies and supervisors. It also discusses limitations of the volume measure approach and stresses the importance of recognizing reinsurance contracts' impact on balance sheet risk. Finally, it underscores the efficacy of intra-group reinsurance for managing entity and group risks within Solvency II.

Key IRSG positions raised included the following:

- Supervisory engagement must be proportionate to the risk taken to avoid delays, costs, and burdens in implementing reinsurance strategies.
- Coordination among supervisors across jurisdictions is necessary to ensure consistent approaches to relevant reinsurance contract structures.
- The volume measure approach has limitations in accurately measuring the impact of reinsurance contracts on risk reduction.
- Reinsurance contracts' impact on balance sheet risk profiles should be recognized, regardless of technical restrictions in best estimates.
- Intra-group reinsurance is an effective means of managing individual entity and group risks within the Solvency II framework.

IRSG Advice on Solvency II Review [link] - 30/11/2020

The IRSG prepared own-initiative advice as a follow up to the EIOPA stakeholder event on the Solvency II review, held in October 2020. In the advice the IRSG states that the current capital requirements under Solvency II already offer unprecedented policyholder protection, potentially harming European insurance competitiveness if further increased. It raised issues over the representativeness of the results for European insurers of the Holistic Impact Assessement presented at the stakeholder event. These concerns also extended to potential increased volatility in solvency positions due to EIOPA's proposals. The IRSG indicated that this could lead to procyclical behaviors and hinder long-term economic funding. The IRSG also stressed the importance of risk-based capital requirements and the need to test proposed changes in various economic and financial scenarios, highlighting the importance of evaluating extreme market conditions in particular.

Key IRSG positions raised included the following:

- Minority view concerns were raised on the lack of consumer expert involvement, resource imbalance, and difficulty understanding technical terms in EIOPA documents.
- As a general comment the IRSG questioned the "balanced approach" and highlighted potential harm to European insurance competitiveness due to high capital levels.
- Concerns were raised on potential increased volatility in solvency positions positions in times of turmoil and the need for risk-based capital requirements was raised.
- On interest rate risk the importance of justifying parameters was stressed and disappointment was expressed with the absence of an appropriate floor for the model.
- Improvements on the volatility adjustment were welcomed but concerns were expressed about the risk correction and the liquidity adjuster, as well as the dynamics of the whole balance sheet and ensuring proper assessement of own funds without undue volatility.
- On the dynamic volatility adjustment disappointment was expressed over the lack of analysis from EIOPA under the standard formula.
- On lapse risk the IRSG raised issues with the current calibration.
- The IRSG argued against the need for new macroprudential tools, emphasizing the focus on enhancing long-term guarantee measures to adequately capture insurers' long term resilient risk profile.
- Additional specific comments were made on the need to address various concerns including restrictions on dividends distribution, liquidity risk framework, proportionality measures, and reporting.

IRSG Advice on EIOPA's Statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement [link] - 17/02/2021

In response to a request from EIOPA, IRSG provided advice on the Statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement. The IRSG appreciated EIOPA's efforts to standardize supervisory practices regarding solvency capital requirement (SCR) breaches and called for harmonization across EU member states. The advice raises key points on defining non-compliance with the SCR, the maximum recovery period, remedial actions and the need for proportionality.

Key IRSG positions raised included the following:

- Need to define SCR non-compliance as being when the SCR ratio falls below 100%.
- Proposal to extend the maximum recovery period from nine to twelve months for thorough verification and execution of remedial actions.
- Emphasis on proportionality in addressing SCR breaches based on unique business models and solvency estimate uncertainties.
- Caution against disproportionate focus on specific factors like Covid-19 in supervisory practices, suggesting a broader risk assessment approach.

IRSG Advice on EIOPA's consultation on the Supervisory Statement on ORSA in the context of COVID-19 [link] - 15/03/2021

In response to a request from EIOPA the IRSG responded to the consultation on the Supervisory Statement on ORSA in the context of COVID-19. The IRSG emphasized the importance of flexible, entity-specific risk management under Solvency II, cautioning against rigid standardization. It opposed unnecessary convergence efforts and stresses the adequacy of existing regulation to address COVID-19 impacts. The advice called for a focus on reflecting all risks, including those from COVID-19, within each entity's framework, while cautioning against introducing concepts lacking regulatory foundation.

Key IRSG positions raised included the following:

- Common supervisory approaches are crucial for Solvency II implementation.
- Entity-specific risk management, particularly through tools like the ORSA, is emphasized.
- Identical methodologies should be avoided due to market, product, and insurer diversity.
- Existing requirements are deemed sufficient to address COVID-19 impacts; unnecessary convergence efforts are opposed.
- Flexible scenario analyses within reasonable time horizons are advocated.

- Longer projections are considered less valuable due to increased uncertainty.
- All risks, including those from COVID-19, should be reflected in entity risk frameworks.
- Caution is advised against introducing concepts lacking regulatory foundation, such as "internally set solvency limits."

IRSG Advice on Measures to Improve the Insurability of Business Interruption Risk in Light of Pandemics [link] - 31/03/2021

In response to a request from EIOPA the IRSG worked on advice on measures to improve the insurability of business interruption risk in light of pandemics. The IRSG was supportive of EIOPA's initiative to enhance the insurability of non-damage business interruption risk amidst pandemics. The advice raises the need to tackle the significant protection gap the COVID-19 pandemic highlighted. The IRSG emphasized the need for comprehensive coverage, particularly for SMEs, and suggests avenues for improvement in national initiatives, data modeling, prevention measures, capital markets, and multi-peril pooling.

Key IRSG positions raised included the following:

- On the scope of cover, SMEs and the self-employed require tailored solutions due to heightened vulnerability and financial constraints.
- Collaboration between industry and experts is crucial to address modeling and data limitations, especially for SMEs.
- Effective risk management practices, coupled with clear communication of product features, aid in mitigating the impact of future pandemics.
- Pandemic-related claims present diversification challenges for risk transfer market instruments, highlighting limitations in their effectiveness.
- Implementation hurdles, such as technical complexities, may delay the adoption of multi-peril approaches despite their potential benefits.

IRSG Advice on Legal Entity Identifier (LEI) Guidelines revision [link] - 16/06/2021

IN response to a request from EIOPA the IRSG provided advice on the revisions of Legal Entity Identifier (LEI) Guidelines. The IRSG supported the proposal's alignment with existing reporting and digitalization initiatives, particularly its use of LEIs. However, the advice raised concerns over Guideline 1(a)(ii), questioning if it extended LEI requirements to non-regulated entities under Article 212(1)(c) of the Solvency II directive. The advice also raised the issue ambiguity in wording and proportionality over imposing LEIs on non-financially regulated entities, like small subsidiaries, raise administrative burden concerns without clear objectives.

IRSG Advice on interbank lending rate (IBOR) transitions [link] - 23/07/2021

The IRSG supports EIOPA's transparent approach to the IBOR transition, aiming to minimize undue impact on undertakings. The IRSG endorsed the proposed approach but emphasized the importance of understanding and minimizing its impact, suggesting transitional measures or upward adjustments. Effective ALM facilitation is crucial, warranting consideration in the switch timing. Close cooperation with regulators from other jurisdictions is encouraged to ensure consistency. Avoiding deadline delays and the potential scenario of using government bond rates as benchmarks are crucial to mitigate uncertainties.

Key IRSG positions raised included the following:

- Support for the Immediate Switch Approach, but with caution on timing and provision for revising transition date.
- Agreement with defined liquidity and proximity conditions, including proposed duration.
- Emphasis on avoiding transition delays to prevent uncertainties, particularly concerning government bond rates.
- RFR Methodology Changes should not have an impact on market rates, so there was not a need for mitigation.
- Agreement with allowing CRA to drop based on market pricing and legislation, with no alternative options suggested and not applicable for certain currencies.

IRSG Advice on supervision of run-off undertakings [link]- 17/10/2021

The IRSG put together comprehensive own-initiative advice on the supervision of run-off undertakings. The advice outlined various aspects of the run-off business model in insurance, emphasizing differences from ongoing concern businesses. It addressed supervisory practices, Solvency II, management actions, consumer protection, transfer of reinsurance portfolios, and the role of EIOPA.

Key IRSG positions raised included the following:

- Run-off business models require different types of involvement and actions compared to ongoing concern businesses.
- Operations around run-off portfolios can be less complicated than those for businesses with new operations.

- Clarification and reconsideration are needed regarding the use of supervisory statements for run-off businesses.
- Partial and full run-off require different levels of dialogue and impact the business model differently.
- The decision to enter run-off is made by the company's board, but transparency and open discussion with supervisors are important.
- Run-off management can indirectly benefit customers and requires consideration of potential changes in product terms and conditions.
- Regulation for transfer of reinsurance portfolios under Solvency II is sufficient, though adjustments may be needed for third-country cases.
- Comparing reinsurance recoverables to reinsurer technical provisions may not be practical due to differing risk perspectives and valuation methodologies.
- Solvency II provides a robust framework for reinsurance management, and specific points on reinsurance contract drafting are not deemed necessary.
- Supervisors should avoid influencing contract negotiations and focus on ensuring risk management compliance under Solvency II.
- The information available to ceding companies on reinsurer retrocession arrangements is limited, and existing disclosure requirements under Solvency II are deemed sufficient.

IRSG Advice on revision of Guidelines on the Valuation of Technical Provisions [link] - 12/11/2021

At the request of EIOPA the IRSG provided advice on the revision of the guidelines on the valuation of technical provisions. The advice emphasized the need for a proportionate approach to implementation, highlighting concerns about resource allocation, transitional periods, and the practicality of proposed changes. The IRSG advocated for a nuanced consideration of factors such as expert judgment, investment management expenses, dynamic policyholder behavior modeling, and stochastic valuation, suggesting that requirements should align with material impacts and be proportionate to the context.

Key IRSG positions raised included the following:

- IRSG supports measures for consistent assessment of technical provisions but emphasizes the need for demonstrable benefits before introducing additional requirements.
- A proportionate approach is necessary in assessing the complexity of calculations arising from revised guidelines.
- A transitional period of at least three years is recommended for implementing changes, especially given concurrent efforts on IFRS 17 implementation.

- Proposed changes increasing granularity should consider the materiality and burden on insurance undertakings.
- Internal model guidelines for expert judgments should not be uniformly applied but tailored to material areas.
- Investment management expenses considered in technical provisions should be limited to assets supporting valued liabilities, avoiding double counting and circular references.
- Implementation of dynamic policyholder behavior modeling should only be required if it materially impacts liability estimates and is supported by sufficient data.
- Future management actions should realistically incorporate new business considerations, with flexibility for implementation challenges.
- Stochastic valuation should be required only where it materially impacts liability values or solvency positions, with proportionality considered.
- Implementation of stochastic valuation may require more time than assumed, necessitating appropriate transition allowances.
- The actuarial function's validation of EPIFP (Expected Profit in Future Premiums) should be specific and referenced in regulation.

IRSG Advice on revision of the Guidelines on Contract Boundaries [link] - 12/11/2021

In response to a request from EIOPA the IRSG provided advice on the revision of the guidelines on contract boundaries. The advice raised the need for a proportionate approach, adequate transition periods, and consideration of the practical implications of proposed changes. In the advice the IRSG suggested using qualitative assessments based on stable approaches and references to ORSAs for comprehensive going concern modeling. The advice also addressed concerns regarding the interaction between regulations and guidelines, advocating for a broad definition of financial guarantees and cautioning against overly narrow quantitative assessments that may induce volatility in best estimates.

Key IRSG positions raised included the following:

- Support measures for consistency in assessing contract boundaries.
- Advocate for a proportionate approach and demonstration of material benefits before introducing additional requirements.
- Recommend a transitional period of at least three years for proper implementation of changes.
- Suggest assessments of appropriate contract boundary methodology be made at the start of a contract, not during its duration.

- Highlight the potential impact of fee structures and propose consideration in guidelines.
- Address the impact of proposed changes on unit-linked products and advise against overly specific quantifications.
- Recommend the removal of certain text regarding supervisory authorities' powers and the need for proportionality.
- Stress the importance of considering various factors affecting contract economics and potential difficulties in data availability.
- Draw attention to issues relating to the interaction between regulations and guidelines, advocating for a broad definition of financial guarantees and caution against overly narrow quantitative assessments.

IRSG Advice on the Supervisory Statement on governance arrangements (triangular business) [link] - 20/12/2022

In response to a request from EIOPA the IRSG provided advice on the Supervisory Statement on governance arrangements. In its advice IRSG emphasized the importance of careful assessment of risks associated with EEA insurance undertakings using branches in third countries. In the advice the group urged EIOPA not to overstate these risks and to ensure that supervisory measures are proportionate and facilitate global competition.

Key IRSG positions raised included the following:

- EIOPA should not exaggerate risks associated with third-country branches and should apply guidelines consistently across all third countries.
- Adequate governance, oversight and control by EEA insurance undertakings can mitigate risks, depending on the third-country jurisdiction.
- Supervisory comments should focus on governance and control arrangements rather than restricting third-country branches.
- The scope of supervisory statements should exclude inherently international activities like reinsurance and commercial business.
- Solvency II allows EEA insurance undertakings to pursue business throughout the EEA without limiting operations to within the EEA.
- Supervisory expectations should align with the rights provided by Solvency II and support global market competition.
- EEA insurance undertakings must maintain effective governance, oversight, and control from their head office, even for activities conducted through third-country branches.

- Encouraging cross-border supervision through cooperation between EU and third-country supervisors is essential for effective governance and oversight.

IRSG response to the Consultation on the technical advice for the review of the IORP II Directive [link] - 27/06/2023

Following a request from EIOPA the IRSG provided advice on the technical advice for the review of the IORP II Directive. The advice outlined the need for a preferred legal framework for additional pension schemes and emphasizes the importance of protecting the interests of pension scheme participants. It proposed changes in terminology, called for increased supervision of pension schemes, and advocated for transparency in reporting and disclosure of costs and charges. The advice also addressed issues related to investments, risk management, and the consideration of environmental, social, and governance (ESG) factors. It highlighted the need for alignment with other financial regulations, the importance of long-term performance assessment, and the provision of clear and comparable information to prospective members.

Key IRSG positions raised included the following:

- Emphasize the need for a preferred legal framework for additional pension schemes to protect the interests of participants.
- Propose changing terminology from "beneficiaries" and "members" to "participants" for clarity and inclusivity.
- Advocate for increased supervision of pension schemes, including those provided by associations created by public authorities, to ensure prudential and conduct of business supervision.
- Support investing outside the EU, with strong equivalence mechanisms to ensure investor protection.
- Recommend granting supervisors the power to require quantitative information from IORPs on a regular basis to increase transparency and facilitate supervisory action.
- Stress the importance of clear, transparent, comprehensive, and comparable information provided to members and prospective members.
- Advocate for alignment with other financial regulations to enhance transparency and comparability.
- Support the disclosure of past performance information to prospective members, covering a backward period of at least ten years, to enable informed decision-making.
- Call for enhanced transparency on costs and charges, with disclosures on all costs incurred by members and beneficiaries, including their impact on final benefits.

- Suggest additional provisions to tackle transition risk and further clarify how ESG factors are taken into account in strategic asset allocation and risk management processes.
- Highlight the importance of diversity and inclusion within professional competencies in pension schemes.

IRSG response to the Consultation on Supervisory Statement on supervision of reinsurance concluded with third country insurance and reinsurance undertakings [link] - 10/10/2023

In response to a request from EIOPA the IRSG provided advice on the supervisory statement on supervision of reinsurance concluded with third country insurance and reinsurance undertakings. The advice acknowledged the goal of ensuring high-quality and consistent supervision of reinsurance by EIOPA. However, it expressed concerns about the lack of clarity in EIOPA's supervisory statement, fearing it may lead to disproportionate burdens on NCAs and (re)insurers. The IRSG highlighted potential adverse effects on third-country reinsurance capacity and the EU's access to global reinsurance markets. The advice stressed the importance of recognizing international agreements like the EU-US Covered Agreement and fostering cooperation with third-country authorities. The IRSG also emphasized the need for clarity, differentiation between jurisdictions, and alignment with existing regulatory frameworks to ensure stable and efficient reinsurance markets.

Key IRSG positions raised included the following:

- Appreciation for EIOPA's objective but concerns about lack of clarity in the supervisory statement.
- Fear of disproportionate burdens on NCAs and (re)insurers due to conservative expectations set by EIOPA.
- Highlighting potential adverse effects on third-country reinsurance capacity and EU's access to global reinsurance markets.
- Emphasis on recognizing international agreements like the EU-US Covered Agreement and fostering cooperation with third-country authorities.
- Stress on the need for clarity, differentiation between jurisdictions, and alignment with existing regulatory frameworks to ensure stable and efficient reinsurance markets.

IRSG input to the Consultation of captive (re)insurance undertakings [link] - 12/01/2024

In response to a request from EIOPA the IRSG provided advice on captive (re)insurance undertakings. In the advice the IRSG emphasized the importance of consistency with existing EU law principles, particularly proportionality. The advice expressed concerns regarding the draft opinion's lack of explicit differentiation between pure captives and captive affiliates, urging EIOPA to revise clauses to consider these distinctions. Additionally, the IRSG suggested amendments to ensure clarity on issues like cash pooling, intercompany loans, and compliance with the Prudent Person Principle, advocating for a proportional approach tailored to the unique characteristics of captives.

Key IRSG positions raised included the following:

- Request clarification and revision of clauses to distinguish between pure captives and captive affiliates.
- Advocate for amendments ensuring clarity on issues like cash pooling, intercompany loans, and compliance with the Prudent Person Principle, tailored to the unique characteristics of captives.
- Support for designating a person within the captive undertaking responsible for outsourced key functions, suggesting specific reference to appointing a member of the Board of Directors.
- Emphasize the need for proportionate supervision and consideration of captives' peculiarities, avoiding a "one size fits all" approach.

2. DIGITALISATION

IRSG Advice on Open Insurance [link] - 27/04/2021

Following a request from EIOPA the IRSG prepared advice on open insurance. The advice looked into the opprotunities open insurance could offer including greater choice and customization for consumers and potential improvements in risk management for corporate buyers. In the advice the IRSG also raised concerns about data privacy, exclusion, and the structural changes within the industry.

Key IRSG positions raised included the following:

- Open Insurance is part of the digitalization trend in insurance and could lead to a significant transformation in the industry.
- Potential opportunities include:
    - More choice and customization for consumers.
    - Enhanced risk knowledge and management for corporate insurance buyers.
    - Increased transparency and dialogue between insurers and policyholders.

- Potential drawbacks include:
    - Raises concerns about data privacy and potential exclusion.
    - Challenges to insurers' business models and their place in the market and society.
- Priority should be given to improving customer experience and ensuring data control.
- Open insurance initiatives can enhance competition and transparency in the industry, benefiting both consumers and insurers.
- Prerequisites for successful implementation include ensuring full respect for data protection and privacy, along with guaranteeing a level playing field among economic actors.
- It is important to conduct thorough impact assessment of benefits and costs of initiatives.
- Ensuring regulatory oversight for new entrants to protect consumers is key.
- Challenges related to data reciprocity and infrastructure investment need to be addressed.

IRSG Advice on blockchain and smart contracts in insurance [link] - 29/07/2021

In response to a request from EIOPA the IRSG provided advice on blockchain and smart contracts in insurance. The advice outlined how insurers across Europe were actively exploring blockchain initiatives to improve customer service and industry operations. The advice raised challenges such as low organizational blockchain knowledge and the need for extensive alignment among involved entities exist. Despite these challenges, the advice also stated that blockchain applications can offer solutions in areas like claims processing, risk pooling, and cross-border transactions. In the advice the IRSG looked at how industry is also exploring areas like crypto asset use cases and identity management. The advice states that regulatory bodies must adapt to the unique nature of blockchain, foster innovation, and ensure legal certainty for insurers.

Key IRSG positions raised included the following:

- Blockchain, despite initial trust issues, presents substantial opportunities for the insurance industry.
- Insurers in Europe are actively developing blockchain initiatives to enhance customer service and operational efficiency.
- Challenges include low organizational blockchain knowledge and the need for alignment among involved entities.
- Blockchain applications can streamline processes such as claims processing, risk pooling, and cross-border transactions.
- Areas of exploration include crypto asset use cases and identity management solutions.

- Regulatory bodies need to adapt regulations to accommodate blockchain technology while ensuring legal certainty for insurers.
- Cooperation between stakeholders is crucial to address standardization and interoperability issues.
- Legislation should strike a balance between innovation and consumer protection, with a focus on harmonization across jurisdictions.
- EIOPA should facilitate the development of industry standards and key oracles to nurture blockchain technology in the insurance sector.

IRSG Advice on the Digital Operational Resilience Act (DORA) [link] - 15/04/2022

The IRSG put together own initiative advice on the European Commission's Digital Operational Resilience Act (D.O.R.A.) proposal. The advice recognized the importance of operating in a secure digital environment. However, it also raised concerns over the cost of transformation, consumer impact, and industry adaptability. In the advice the IRSG raised reservations, stating that proposal lacks differentiation between financial sector entities and legacy systems, leading to challenges in migration and compliance. The advice also called for regulatory tasks to be aligned with existing capabilities, and for flexibility in implementation. The IRSG suggested fine-tuning the proposal to address these concerns and ensure a balanced approach.

Key IRSG positions raised included the following:

- Acknowledges the importance of the D.O.R.A. proposal but raises concerns about its potential side effects.
- Consumer-related issues include concerns about cost distribution and the adequacy of provisions on personal data breach.
- Industry-related issues revolve around the proposal's lack of consideration for legacy systems, migration challenges, and a mixed approach to regulation.
- The proposal mandates technical standards by ESAs, raising concerns about flexibility and adherence to risk profiles.
- Certification of Critical Third Party Technology Providers (CTTP) is encouraged to manage third-party dependencies effectively.
- The regulation lacks sufficient provisions for third-party dependencies and requires a reconsideration of the implementation period.

- Regulator-related issues involve the need for adequate technical expertise and resources for effective implementation.
- Recommendations include fine-tuning the proposal for proportionality, flexibility, and alignment with industry needs.

IRSG own initiative report on the right to be forgotten (RTBF) [link] - 27/06/2023

The IRSG compiled own initiative advice to welcome the European Commission's initiative to develop a code of conduct aimed at ensuring fair access to financial services for cancer survivors. In the advice the IRSG outlined that while a Right to Be Forgotten (RTBF) may offer benefits by allowing cancer survivors with higher mortality or morbidity risk to access insurance on similar terms as the general population presenting a standard risk level, it could also lead to unintended consequences such as increased premiums for most consumers, including some cancer survivors, and adverse selection. The advice put forward alternative solutions, like Sweden's obligation to contract, as key options that should be considered to mitigate these risks.

Key IRSG positions raised included the following:

- Supports the EC's effort to address fair access to financial services for cancer survivors through a code of conduct.
- An impact assessment should be carried out to assess properly the impact of an RTBF on consumers, including cancer survivors, premiums level and product availability.
- A RTBF could help cancer survivors access insurance but may result in higher premiums for most consumers to cross-subsidize.
- Implementation of a RTBF must include safeguards to prevent concentration of cancer survivors in certain insurers, which could distort the market.
- Ensuring insurers access to consumers' past medical condition for non-pricing purposes may limit undesired consequences while protecting consumers against non-disclosure of material facts risks.
- Alternative solutions, such as Sweden's obligation to contract, should be explored to ensure fair treatment of all consumers.
- Policy options include RTBF with or without access to data, or establishing an obligation to contract with individual risk assessments.
- Each option has benefits and costs regarding premiums, access to insurance, and fairness in treatment of consumers.

IRSG general remarks on the Digitalisation Market Monitoring Survey [link] - 12/07/2023

At the request of EIOPA the IRSG provided advice on the Digitalisation Market Monitoring Survey. In the advice the IRSG looked at how digitalization is transforming the insurance industry, primarily led by insurers but increasingly experienced by intermediaries and customers. The advice indicated that this transformational process, though fragmented, needs close monitoring. It also stated that there may be a need for limited regulation, in areas like cloud computing and AI-driven processes. In the advice the IRSG called for regulators to avoid over-regulation and standardized approaches, pointing to the work done on guidelines for cloud computing and data protection. The advice stated the potential importance of machine learning and AI-driven processes for insurance distribution, but highlighted the risk of over-individualization and overlapping regulations. The advice stated that challenges persist for those with low digital skills, highlighting the importance of the sustainability of the supervision of digital insurance.

Key IRSG positions raised included the following:

- Close monitoring is required, but regulations should be limited and cautious, focusing on areas like cloud computing and AI-driven processes.
- Regulators should avoid over-regulation and standardized approaches, instead fostering innovation and proportionate solutions.
- Guidelines for cloud computing and data protection are necessary, ensuring consumer protection and room for business innovation.
- Machine learning and AI-driven processes are crucial for insurance distribution but pose risks of over-individualization and overlapping regulations.
- Digitalization currently poses minimal consumer issues but challenges persist for those with low digital skills.
- Sustainability of digital insurance should be a critical focus for supervision.

IRSG input to the Joint Consultation on the first batch of DORA policy products [link] - 11/09/2023

At the request of EIOPA and in collaboration with the ESMA SMSG and EBA BSG, the IRSG provided joint advice on the first batch of DORA policy products.

Advice on DORA RTS policy contractual arrangements

The stakeholder groups welcomed the approach of setting overall principles with specific sectoral specifications only where necessary. The advice emphasized the importance of simplicity and effectiveness in implementation. The stakeholder groups appreciated the collaboration among the three ESAs to ensure efficient delivery of regulations. However, they raised concerns regarding the consideration of existing guidelines, the clarity of certain articles, and the need for alignment with international initiatives.

Key joint positions raised included the following:

- Overall principles with sectoral specifications only where necessary simplify implementation and enhance effectiveness.
- Collaboration among ESAs is crucial for efficient regulation delivery and resource optimization.
- Consideration should be given to existing guidelines and expectations, such as those regarding resolvability and operational continuity.
- Clarifications are needed regarding the interpretation of terms like "data" and "data processing," as well as the interplay with existing regulations.
- Standardization and alignment of regulatory requirements across different regulations and jurisdictions are recommended.
- Clarity is needed on governance arrangements, including the skills and expertise required, reporting lines, and accountability.
- Consideration should be given to the practical implications of subcontracting services and the inclusion of subcontractors in regulations.
- Certifications should ideally be provided by accredited bodies, with supervisory authorities playing a role in accreditation.
- Clarity is needed on the application and testing of exit plans, distinguishing them from business continuity planning.

Advice on DORA RTS ICT risk management

The stakeholder groups emphasized the need for proportionality, collaboration among the ESAs, and consideration of customer impact. Specific points included synchronization of clocks, vulnerability scans frequency, cloud computing measures, network security, ICT project management, incident detection and response, and ICT business continuity management. Additional concerns involve climate change impacts, the role of public authorities, and specific requirements for trading venues, CCPs, and CSDs.

Key joint positions raised included the following:

- Consideration of proportionality and collaboration among ESAs is crucial for effective regulation.
- Synchronization of clocks and vulnerability scans should consider sector-specific needs and risk profiles.
- Clarification is needed regarding requirements for cloud computing, network security, and incident detection and response.
- ICT project management policies should cover all stages of system development and testing.
- Reporting on ICT projects should convey business impacts and risks to non-specialists.
- Business continuity policies should prioritize customer impact and consider climate change effects.
- Specific provisions are necessary for CCPs, CSDs, and trading venues to ensure market stability.
- Reviews of ICT risk management frameworks should include lessons learned from past incidents.
- Simplified ICT risk management frameworks should be tailored and include recovery time limits for critical systems.

Advice on criteria for the classification of ICT related incidents

The stakeholder groups raised the importance of robust ICT systems security and resilience, acknowledging variations in risk profiles across different sectors within the industry. Incidents reported to ENISA under the NISD framework show an increase, particularly in the banking sector, with system failures being the most prevalent cause. The advice highlighted the need for the ESAs to align criteria for incident reporting with DORA, avoiding double reporting. The advice covered various aspects of incident classification criteria under DORA, including thresholds, definitions, and practical considerations.

Key joint positions raised included the following:

- Importance of ICT systems security and resilience in the financial services industry.
- Recognition of varying risk profiles among different sectors within the industry.
- Increase in reported incidents, especially in the banking sector, highlighting system failures as the primary cause.

- Need for alignment between NISD and DORA frameworks to avoid double reporting.
- Agreement with the overall approach for major incident classification under DORA, emphasizing the need for pragmatic distinctions and binary criteria.
- Call for clarity and specificity in defining thresholds and criteria for incident reporting.
- Concerns about ambiguous definitions and discretionary latitude in the proposed RTS.
- Emphasis on the significance of factors such as reputational impact, duration of service downtime, and economic impact in incident classification.
- Suggestions for refining criteria related to data losses and critical services affected.
- Challenges in identifying and reporting recurring incidents with the same root cause.
- Importance of close cooperation and timely reporting of cyber threats while safeguarding sensitive information.

Advice on DORA ITS register of information

The stakeholder groups acknowledged the potential for harmonized registers to monitor ICT third-party risk in the financial sector but emphasized the need for coherence among legal frameworks to prevent double reporting. Additionally, the groups raised concerns about the proportionality of data points required and advocate for a risk-based approach. The groups questioned the consultation paper's acknowledgment of proportionality due to the extensive data requirements. Operational obstacles regarding Legal Entity Identifiers (LEI) and the identification of material subcontractors were also highlighted. In the advice the stakeholder groups also expressed concerns over the clarity of responsibilities for maintaining and updating registers and suggested extending the implementation timeline. They provided feedback on specific elements of the templates, such as the inclusion of financial indicators and the taxonomy for ICT services.

Key joint positions raised included the following:

- Harmonized registers for ICT services should support monitoring of ICT third-party risk in the financial sector.
- Coherence among legal frameworks is crucial to avoid double reporting and overlaps.
- Proportionality in data requirements should consider risk-based factors beyond the number of ICT TPPs.
- Challenges exist regarding obtaining Legal Entity Identifiers (LEI) for third-party ICT service providers.
- Definition of material subcontractors should be refined to align with a risk-based approach.

- Longer transition periods for implementation and alignment with existing regulatory requirements are recommended.
- Clarity is needed regarding responsibilities for maintaining and updating registers.
- Templates should be structured to minimize complexity and allow for efficient reporting.
- Additional information may be necessary for effective risk assessment, such as incident history and GDPR compliance.
- The taxonomy for ICT services should be flexible and aligned with existing regulations.
- The relevance of certain information, such as financial indicators, for the register's purpose should be reconsidered.

IRSG Input to DORA public consultation on the second batch of policy products [link] - 12/03/2024

At the request of EIOPA and in collaboration with the ESMA SMSG and EBA BSG, the IRSG provided joint advice on the second batch of DORA policy products.

Advice on RTS on subcontracting of ICT services

The Stakeholder Groups highlighted several policy issues and suggested that while the approach generally aims for supply-chain transparency and accountability, it may pose practical challenges and necessitate further adjustments. The Groups appreciated the general appropriateness of the RTS but highlighted areas needing further consideration to balance practicality, proportionality, and effective risk management.

Key joint positions raised included the following:

- The RTS could complicate risk management for financial entities (FEs) and may divert resources from managing significant supply chain risks. There is a need for transitional provisions to adapt to these changes.
- The application of proportionality is unclear, with some members suggesting a materiality threshold to identify and monitor critical risks effectively, while others emphasize a holistic approach to prevent single points of failure.
- Some members believe monitoring the entire subcontracting chain is disproportionate and recommend a focus on material risks. Others argue that FEs should conduct due diligence on their supply chains.

- The requirement for FEs to ensure certain contractual clauses in TPP-subcontractor agreements may conflict with confidentiality and practical feasibility. It is suggested that TPPs, not FEs, should manage subcontractor oversight.
- Risk Assessment Requirements: Article 3's risk assessment expectations for FEs may be challenging, especially for smaller entities, due to their limited influence over large TPPs.
- Further clarity is needed on the proportionality principle and transitional arrangements for existing contracts. Immediate full compliance may have unintended consequences.
- Requirements for continuous ICT services may be unrealistic. Emphasis should be on TPPs' ability to withstand or recover from disruptions.
- Some members suggested limiting Article 4's scope to ICT services supporting material parts of critical functions to avoid burdensome requirements for minor services.
- Article 5's expectations for FEs to review TPP-subcontractor contracts may not be feasible. Monitoring should focus on essential key performance indicators for critical functions.

Advice on RTS on threat-led penetration testing

The advice focuses on specific areas where the Stakeholder Groups felt they could offer meaningful input. While the Groups generally agreed with the proposed approach, they had several observations and recommendations to improve the draft RTS, to ensure that they are practical, flexible, and aligned with the real-world capabilities and needs of financial entities.

Key joint positions raised included the following:

- TIBER-EU has not yet provided comprehensive guidance for combined TLPTs with financial entities (FEs) and ICT third-party providers (TPPs), or pooled tests with multiple FEs or TPPs. These tests involve significant complexity and risks, and further guidance is needed before implementation.
- The RTS introduces mandatory 'purple teaming,' which is optional under TIBER-EU and not required by DORA Level 1. The Groups suggest making purple teaming optional, especially if no significant vulnerabilities are found during initial tests.
- The Groups support more flexibility in the RTS to accommodate the diverse capabilities of financial entities. Concerns include the potential for practical challenges due to the number of institutions required to conduct tests and the frequency of these tests.
- The Groups agree with the criteria for identifying FEs for TLPT, based on sectoral legislation. However, some members believe that payment institution thresholds are too low and that insurance criteria lack clarity.

- The mandatory 12-week minimum for active red teaming tests is considered too rigid by some members, who suggest more flexible timelines based on practical experience.
- The Groups appreciated the alignment with the TIBER-EU framework but recommend incorporating aspects of TIBER-EU as guidance rather than mandatory obligations to reflect proportionality and a risk-based approach.
- The requirement for FEs to provide extensive lists of critical functions and explanations could be streamlined for efficiency.
- Some members find certain controls for internal testers too prescriptive, suggesting removal of redundant requirements.
- The involvement of multiple TLPT authorities could complicate testing. Procedural safeguards are needed to ensure smooth coordination.
- The Groups recommend expanding the criteria for mutual recognition beyond just critical functions, internal testers, and pooled tests to include common ICT systems and actual operational defensive teams.

Advice on RTS on major incident reporting

The Stakeholder Groups appreciated the alignment of the draft RTS with existing frameworks but had several suggestions and concerns regarding implementation timelines, feasibility for different sectors, proportionality, third-party dependencies, and the need for clear definitions and practical adjustments.

Key joint positions raised included the following:

- The Groups supported the alignment of RTS and ITS with sectoral legal instruments like the EBA Guidelines and ENISA Guidelines.
- Continuity with existing reporting frameworks is essential to reduce costs and leverage current investments in infrastructure and skills.
- Th Groups largely agreed with harmonised reporting timelines but note potential challenges for sectors like insurance with stricter deadlines.
- Revisions to the proposed timelines were suggested for initial, intermediate, and final reports to be more feasible for the insurance sector.
- Importance of maintaining proportionality was hightlighted, to avoid overloading smaller entities with limited capacities.

- Support was expressed for provisions that exempt smaller entities from certain reporting obligations under specific conditions.
- The Groups highlighted the dependency on TPPs for timely incident detection and reporting. The groups suggested additional transparency on the effectiveness of TPP arrangements in the incident reporting framework.
- The Groups agreed with aligning the DORA reporting framework with NIS2, but noted the need for financial-sector-specific adjustments.
- The Groups called for clearer justification for the extended deadline for the final report submission.
- The Groups suggested adding optional data fields for better assessment of outsourcing arrangements.
- The burden of collecting certain data points at the initial notification stage was noted by the Groups.
- Proposed amendments for intermediate and final reports to ensure accurate and feasible information collection were suggested.
- Support was expressed for the possibility of consolidated reporting by parent companies for incidents affecting multiple entities within a group.
- The Groups suggested allowing submission of reports in any official EU language, including English, to prevent delays caused by translation.

3. CONSUMER PROTECTION

IRSG advice on value for money risk in the European unit-linked market [link] - 23/07/2021

Following a request from EIOPA the IRSG prepared advice on value for money risk in the European unit-linked market. The advice highlighted the need for continuous monitoring due to past misselling episodes, evolving regulations, and changing consumer needs. Despite differing opinions in the groups there was consensus on the importance of ensuring value for money for consumers.

Key IRSG positions raised included the following:

- On cost attribution and evaluation, there is a need for a holistic "package view" for assessment rather than isolating individual components. Assigning costs to specific benefits can be subjective, potentially impairing comparability.

- Additional costs from active investment management must be justified by delivering better value for investors. High costs could erode the real value of contracts for policyholders, necessitating transparency and disclosure.
- Each product feature in should deliver value for money, tailored to the target market's needs and objectives. Strengthening the principle of value for money involves providing clear information and ensuring suitability for consumers.
- Distribution costs in may pose risks of poor value for money, necessitating transparency and regulatory oversight. Compliance with regulatory frameworks like the IDD is crucial for consumer protection and fair practices.
- Achieving early break-even points is desirable, but future yield unpredictability poses challenges. Compliance with regulatory frameworks like the IDD is essential to ensure consumer protection and fair practices.
- The complexity of products requires careful consideration, with varying levels of financial literacy among consumers. Clear information and unbiased financial advice are crucial for consumer understanding and decision-making.

IRSG Advice on Bancassurance [link] - 20/12/2021

In response to a request from EIOPA the IRSG prepared advice on bancassurance. The advice focused on the role of bancassurance in offering credit protection insurance (CPI) and payment protection insurance (PPI) alongside mortgage-related products. The advice points out that CPI/PPI provide crucial benefits by safeguarding consumers against unexpected events such as death, unemployment, or incapacity to work, thus preserving their assets and living standards. In the advice the IRSG outlines advantages, but also raised concerns regarding consumer choice, potential conflicts of interest, and mis-selling risks in the bancassurance model. The advice pointed to the fact that the Insurance Distribution Directive (IDD) provides a robust regulatory framework aimed at ensuring consumer protection, including demands and needs tests, rules on distributor conduct, and measures to manage conflicts of interest. The IRSG indicated that the focus of work here should be on effectively implementing and enforcing existing rules rather than introducing new ones at the EU level.

Key IRSG positions raised included the following:

- Bancassurance offers a convenient one-stop-shop for consumers seeking mortgage-related products and credit protection insurance (CPI) or payment protection insurance (PPI).

- CPI/PPI play a crucial role in protecting consumers against financial hardships caused by unexpected events, contributing to financial stability.
- Concerns exist regarding consumer choice and potential mis-selling risks in the bancassurance model, including conflicts of interest and aggressive sales techniques.
- The Insurance Distribution Directive (IDD) provides a robust regulatory framework with strict rules aimed at ensuring consumer protection, including demands and needs tests and measures to manage conflicts of interest.
- Emphasis should be placed on implementing and enforcing existing rules to ensure fair competition between all distribution channels rather than introducing new regulations at the EU level.
- It is premature to assess the full impact of the IDD, given its recent implementation and the disruptive effects of the pandemic.

IRSG Advice to the Joint Committee of the European Supervisory Authorities regarding the PRIIPs Regulation [link] - 05/01/2022

In response to a request from EIOPA the IRSG provided advice on the PRIIPs regulation. The advice highlighted various perspectives on improving consumer understanding, enhancing disclosure methodologies, and addressing inconsistencies in cost information. The advice covered important points on performance scenarios, investment option disclosures, approaches to cost disclosure, and considerations for different investment profiles.

Key IRSG positions raised included the following:

- Suggest to eliminate intermediate time periods to better align with the long-term nature of IBIPs, prominently display insurance cover, guarantees, and capital protection mechanisms.
- Replace performance scenarios with disclosures of past performance against market index benchmarks.
- Concerns about the interaction between main products and underlying options, and the potential for misleading consumers.
- Caution against perceiving commonly selected options as recommendations, and the importance of maintaining flexibility in disclosures.
- Proposals to simplify information in PRIIPs KIDs, particularly regarding cost disclosures and sustainability aspects, noting inconsistencies between PRIIPs, MiFID II, and IDD disclosures, particularly concerning ex-ante cost disclosure.

IRSG Advice on retail investor protection [link] - 25/02/2022

In response to a request from EIOPA the IRSG provided views on the European Commission's consultation paper on retail investor protection. The advice expressed concerns about short timelines, advocating for financial education integration, and cautioning against proposals that could impact SMEs disproportionately. In the advice the IRSG emphasized the need for impact assessments and clarity on the roles of different regulatory frameworks. The advice also highlighted the importance of consumer testing, stakeholder consultation, and the promotion of digital approaches while avoiding duplicative disclosures.

Key IRSG positions raised included the following:

- Concern over short consultation timelines and the need to avoid setting precedents for future consultations.
- Emphasis on integrating financial education into mandatory schooling curricula.
- Caution against proposals that could disproportionately impact SMEs in the insurance market.
- Need for more study and impact assessment on proposals affecting intermediation.
- Focus on addressing issues higher up in the product manufacturing area, prioritizing sustainability and digital market adaptation.
- Recognition of the need for regulatory evolution but concern over the burden and complexity of changing rules.
- Support for simplifying disclosures to reduce information overload for consumers.
- Acknowledgment of the importance of national requirements alongside EU disclosures, particularly in tailoring to specific markets.
- Proposal for a dynamic and non-linear approach to studying duplicative disclosures.
- Support for promoting cross-referencing through hyperlinks and a layered approach to consumer disclosures.
- Need for maintaining a technology-neutral regulatory framework to ensure fairness and avoid complexity.
- Caution against excessive regulation that may hinder consumer access to advice and products.

- Call for alignment and harmonization between IDD and MiFID II requirements to ensure consistent consumer protection.
- Emphasis on the need for further analysis and impact assessment before implementing major market innovations.
- Focus on ensuring consumer understanding of product explanations and descriptions, particularly regarding complexity and risk.
- Recognition of the importance of financial guidance and affordability in ensuring access to advice for all consumers.
- Need for clear and simplified PRIIPs KID structures to enhance consumer understanding.
- Caution against indirect regulatory measures that burden intermediaries and limit consumer access to certain products.

IRSG Advice on the Supervisory Statement on differential pricing [link] - 15/12/2022

In response to a request from EIOPA the IRSG provided advice on the Supervisory Statement on differential pricing. In the advice the IRSG discusses differential pricing practices in the personal lines segments of the European insurance market, focusing on the treatment of retail consumers. The IRSG highlighted key issues and recommendations regarding differential pricing, data usage, and regulatory measures to ensure fairness and competition without unintended negative consequences.

Key IRSG positions raised included the following:

- Insurers are making progress in developing frameworks to assess product fairness, which may limit the expansion of differential pricing.
- Differential pricing often results in higher costs for vulnerable customers who do not shop around, emphasizing the need for fair treatment and financial inclusion.
- Accurate risk assessment relies on data usage, with concerns over legislative proposals restricting necessary data, potentially contradicting regulations like Solvency II.
- Recommendations should consider commercial lines business to avoid unintended negative consequences in non-retail sectors.
- Support for EIOPA's commitment not to interfere with manufacturers' pricing, while cautioning against measures that reduce competition or standardize offerings.

- Effective communication and consumer education are crucial as many customers are unaware of the impacts of differential pricing.
- Ongoing reviews of pricing differentials and product fairness are necessary, with monitoring by National Competent Authorities.
- Maintain effective governance and review measures, ensuring transparency and fairness in pricing without stifling competition or imposing undue regulatory burdens.

IRSG Advice on the Methodology to Assess Value for Money in the Unit-linked Market [link] - 10/01/2023

The IRSG compiled own initiative advice the Methodology to Assess Value for Money (VfM) in the Unit-linked Market. In the advice the IRSG emphasizing the importance of meeting consumers' needs. The IRSG acknowledged the variety of features and benefits that unit-linked and hybrid products offer. The Group believes in a flexible and holistic approach to VfM assessment and appreciated EIOPA's layered methodology. The IRSG also highlighted several concerns and recommendations for improvement.

Key IRSG positions raised included the following:

- Unit-linked and hybrid products offer diverse features, requiring a flexible Product Oversight and Governance (POG) process. The existing Insurance Distribution Directive (IDD) provides rules, but there are inconsistencies between IDD rules and supervisory practices that need addressing.
- National Competent Authorities (NCAs) have tools to monitor the market and enforce rules, protecting consumer interests without excessive bureaucracy. Sufficient information for general VfM assessment exists, and additional data should only be required for specific questions.
- EIOPA's layered approach, assessing both quantitative and qualitative elements, is appreciated for its flexibility and granularity. Including non-monetary elements, such as sustainability features, in the VfM assessment is welcomed but should be balanced.
- Surveys show European consumers prioritize security over performance, highlighting the importance of financial guarantees and risk mitigation in VfM assessments. The methodology should consider financial guarantees, life risk coverage, and risk mitigation techniques valued by consumers.

- VfM assessment should focus on the recommended holding period but also consider earlier durations for a holistic value picture. Valuing advisory and assistance services in VfM assessments is crucial, ensuring fairness across different remuneration models.
- More work is needed to ensure a consistent regulatory framework and supervision across the EU for unit-linked products. National reporting should enable performance and cost comparisons, distinguishing different types of coverage and costs.
- VfM assessments should consider the broad range of factors impacting long-term product value. Insights from other jurisdictions, like the UK's Consumer Duty framework, may refine EIOPA's methodology. Practical experience should guide adjustments to the methodology for effective application across the EU.

IRSG response to the Consultation on the Methodology on Value for Money Benchmarks [link] - 15/03/2024

In response to a request from EIOPA the IRSG provided advice on the consultation on the methodology on value for money benchmarks. The IRSG expressed support for refining supervisory tools while cautioning against their integration into POG to prevent unintended restrictions for insurers, aligning with EIOPA's goal of intrinsic VfM regardless of market comparisons.

Key IRSG positions raised included the following:

- VfM assessments should consider all features and benefits of insurance products, respecting market diversity and manufacturers' pricing autonomy.
- Unit-linked and hybrid products benefit from robust regulatory oversight, granting authorities intervention powers as needed, as outlined by EIOPA's recent guidance.
- Debate on Benchmark Disclosure: Members are divided on whether VfM benchmarks should be published. Some argue against disclosure to avoid misleading consumers and promoting a "race to the bottom" on product features. Some are in favour for benchmarks to be published especially due to lack of comparison tools in certain Member States.
- Some members support using relevant capital market benchmarks chosen by providers over peer group benchmarks, and actual historical data rather than PRIIPs KIDs projections. Other members believe that existing information like the KID and Solvency II elements are enough to perform a first market screening and spot potential anomalies that require further investigations.
- There's concern that current benchmarking efforts might overly prioritize costs, potentially reducing product quality and variety, contrary to consumer interests and CMU objectives.

- Members prefer a method that accurately reflects the adaptability and variety of MOPs, suggesting a clustering approach by unit rather than by contract.
- Clear separation between supervisory outlier identification and internal product design under Product Oversight and Governance (POG) is needed to maintain flexibility and focus on consumer needs.

IRSG input for the the EIOPA Consumer Trends Reports

IRSG input for the 2021 EIOPA Consumer Trends Report [link] - 13/01/2022

IRSG input for the 2022 EIOPA Consumer Trends Report [link] - 20/05/2022

IRSG input for the 2024 EIOPA Consumer Trends Report EIOPA [link] - 26/07/2023

In reponse to requests from EIOPA, the IRSG gathered input from its members to feed the Consumer Trends Reports. The feedback compiled different experiences and situations, views and examples from across the membership of the IRSG and the countries represented.

4. SUSTAINABILITY/ CLIMATE RISK

IRSG Advice on product disclosure templates under the Sustainable Finance Disclosure Regulation [link] - 15/10/2020

In response to a request from EIOPA the IRSG provided advice on product disclosure templates under the Sustainable Finance Disclosure Regulation (SFDR). The advice raised concerns about the complexity and standardization of the proposed templates under the SFDR. Some members of the group advocated for a more flexible approach to implementation, others stressed the need for standardized, consumer-friendly disclosures. The advice outlined reservations over the usefulness of certain elements in facilitating comparison across products. The advice sets out suggestions including streamlining the templates, adapting explanatory notes, and ensuring clarity and simplicity. Flexibility in delivery methods and the use of digital tools were also recommended.

Key IRSG positions raised included the following:

- Full support for EU sustainability objectives and ESAs' efforts on disclosures for sustainability-related products.
- Emphasis on reflecting market reality, ensuring workability across product types, and delivering clear information to customers.

- Need for a flexible approach to implementation to allow for innovation and smooth phasing in, particularly concerning complex products.
- Concerns about the complexity and standardization of the proposed templates under SFDR.
- Suggestions for streamlining templates, adapting explanatory notes, and ensuring clarity and simplicity for consumers.
- Recommendations for flexibility in delivery methods and the use of digital tools to enhance accessibility.
- Caution against information overload and the use of jargon, with a focus on key elements for informed decision-making.
- Emphasis on testing proposed templates with more complex products and ensuring consumer understanding through easy-to-understand language and intuitive design.

IRSG Advice on supervision of the use of climate change risk scenarios in ORSA [link] - 04/01/2021

In response to a request from EIOPA the IRSG provided advice on supervision of the use of climate change risk scenarios in ORSA. In the advice the IRSG emphasized the importance of managing climate risks alongside other fundamental risks, while calling for a forward-looking approach. The advice suggests that climate risk assessments ORSAs should encourage discussion and learning between insurers and supervisors. The IRSG recommended using simple and relevant scenarios for climate risk assessment, aligning them with a company's strategic planning horizon. The advice cautions against overly regulating climate scenarios.

Key IRSG positions raised included the following:

- Support for EIOPA's consultation on addressing climate change risks in the insurance sector.
- Emphasis on managing climate risks alongside other fundamental risks.
- Need for a forward-looking approach to climate risk management.
- Recommendation for using simple and relevant scenarios in ORSAs to foster discussion and learning.
- Caution against overregulating climate scenario generation and recognition of the non-linear nature of climate-related outcomes.
- Assertion that ORSA should remain an internal company analysis without separate regulatory treatment for climate scenarios.

- Clarification that ORSA outcomes should not impact capital requirements.
- Emphasis on proportionality and good governance in ORSA processes.
- Affirmation that climate-related disclosure is addressed elsewhere and not within the scope of ORSA.

IRSG Advice on non-life underwriting and pricing in light of climate change [link] - 02/03/2021

In response to a request from EIOPA the IRSG provided advice on non-life underwriting and pricing in light of climate change. In the advice the IRSG outline that while the sector is not directly exposed to climate change like individuals or businesses, insurers can adapt to increasing risks by adjusting premiums and policy terms. The advice highlighted the crucial role of prevention and adaptation. The advice also outlined the challenges of long-term impacts of climate change, uncertainty in quantifying risks, and the role of public-private partnerships. It stressed the need for risk-based pricing and underwriting, highlighting insurers' contribution to climate change adaptation through claims handling and risk prevention measures..

Key IRSG positions raised included the following:

- Risk-based underwriting allows insurers to adjust risk exposure through premiums, deductibles, and policy terms.
- Insurers can adapt to increasing climate risks by adjusting premiums and policy terms, potentially exiting high-risk lines of business or geographies.
- Prevention and adaptation, primarily through public policies, are crucial for addressing climate risks in insurance.
- Long-term impacts of climate change are uncertain, requiring adaptation strategies and flexible risk management.
- Public-private partnerships are essential for addressing systemic risks and enhancing insurance availability and affordability.
- Risk prevention and adaptation are integral parts of non-life underwriting, with insurers contributing through claims handling and risk mitigation measures.
- Multi-year insurance contracts may not be suitable for addressing climate risks due to market dynamics and consumer preferences.
- Insurers play a role in incentivizing climate adaptation through communication, risk awareness, and promoting resilient behavior.

- Insurers support the EU's Green Deal agenda and emphasize the role of governments in setting regulatory measures and incentives for climate adaptation and mitigation.
- The concept of "impact underwriting" is questioned, with emphasis on promoting sustainable underwriting practices aligned with ESG goals.
- Insurers acknowledge limitations in directly addressing climate mitigation but emphasize their role in promoting resilience and responsible behavior among policyholders.

IRSG Advice on Methodology on potential inclusion of climate change in the nat cat standard formula [link] - 02/03/2021

In response to a request from EIOPA the IRSG provided advice on methodology on potential inclusion of climate change in the nat cat standard formula. In the advice the IRSG supported EIOPA's efforts to evaluate climate change's impact on natural catastrophe risk. The advice stressed clear peril definitions, secondary peril monitoring, and recalibration of risk assessment methods. The advice also outlined that transparency and stakeholder involvement are key in the process, along with consideration of adaptation and prevention measures when assessing weather-related risks.

Key IRSG positions raised included the following:

- Support for EIOPA's assessment of climate change impact on natural catastrophe risk.
- Need for explicit definitions of perils and monitoring of secondary perils and specific risks.
- Calibration of the standard formula should reflect material risks faced by European insurers.
- Regular assessments of natural catastrophe parameters to capture climate change impacts.
- Recalibration process should be transparent, standardized, and involve stakeholders.
- Need for forward-looking climate change scenarios in catastrophe models.
- Opposition to adding loading factors for climate change parameters due to complexity and potential double counting.
- Consideration of adaptation and prevention measures in assessing weather-related risks, while differentiating their impacts.

IRSG Advice on Taxonomy-related sustainability disclosures [link] - 17/05/2021

In response to a request from EIOPA the IRSG provided advice on taxonomy-related sustainability disclosures. The advice acknowledged the ESAs efforts to enhance transparency and consistency in disclosures for sustainability-related products. However, in the advice the IRSG emphasized the need for consumer-friendly, comparable disclosures aligned with the Taxonomy Regulation (TR) objectives. Whilst the advice supported the integration of taxonomy-related disclosures into the SFDR, the IRSG urged caution regarding excessive complexity and timing challenges. It advocated for clear guidance, minimal changes, and consideration of practical implementation issues.

Key IRSG positions raised included the following:

- Emphasize the importance of consumer-friendly, comparable disclosures aligned with TR objectives.
- Caution against excessive complexity and timing challenges in integrating taxonomy-related disclosures into SFDR.
- Need for clear guidance, minimal changes, and consideration of practical implementation issues.
- Need for more guidance on taxonomy indicators and consideration of existing ESG data issues.
- Concerns about overwhelming retail customers with detailed disclosures; emphasize simplicity and ease of navigation.
- Request for flexibility in reporting requirements, particularly concerning minimum share information.
- Clarification needed on definitions and formulations for better investor understanding.
- Call for realistic and timely implementation of proposed requirements, considering market realities and data availability.

IRSG Advice on reporting disclosure [link] - 17/10/2021

In response to a request from EIOPA the IRSG provided advice on reporting disclosure. The advice welcomed EIOPA's efforts to reduce reporting costs and focus on emergent risks but expressed concerns about the structure and scope of proposed changes, advocating for alignment with finalized legislation, proportionate reporting, consistency across national supervisors, and simplification of reporting templates.

Key IRSG positions raised included the following:

- Support for reducing reporting costs and focusing on emergent risks.
- Need for better risk-based and proportionate reporting requirements.

- Alignment of new reporting requirements with finalized legislation.
- Concerns about unstructured consultation and lack of comprehensive documentation.
- Recommendation for proportionate, specific, and materially pertinent reporting.
- Opposition to subjective judgment-dependent reporting.
- Request for consistency in reporting standards across national supervisors.
- Limitations on reporting requirements for NFRD subjects.
- Suggestions for simplifying and aligning cyber risk reporting templates.
- Opposition to additional reporting obligations for financial stability and intragroup transactions.
- Need for clarity, proportionality, and practicality in regulatory reporting.

IRSG Advice on guidance on running climate change materiality assessment and using climate change scenarios in ORSA [link] - 14/02/2022

In response to a request from EIOPA the IRSG provided advice on climate scenarios in ORSA. The advice acknowledges EIOPA's openness to various approaches, but also outlined the need for clearer emphasis on the non-binding nature of the guidance. It highlighted concerns regarding the ORSA's suitability as the primary tool for climate scenario analysis. The advice called for maintaining the ORSA's original purpose, preserving flexibility in scenario definition, aligning time horizons with business planning, and promoting diversity in risk modeling. In the advice the IRSG stressed the importance of proportionate and meaningful guidance from EIOPA, particularly for Small and Medium-sized Enterprises (SMEs), and cautioned against overly complex requirements that may hinder practical implementation.

Key IRSG positions raised included the following:

- Emphasize the non-binding nature of the guidance to avoid ambiguity.
- Need for maintaining the ORSA's role as an actionable tool aligned with business strategy and risk appetite.
- Importance of preserving flexibility in scenario definition and aligning time horizons with business planning.
- Promotion of diversity in risk modeling to enhance resilience.
- Concerns regarding the ORSA's suitability as the primary tool for climate scenario analysis.

- Caution against overly complex requirements that may hinder practical implementation, particularly for SMEs.
- Need for emphasis on proportionate and meaningful guidance from EIOPA.
- Opposition to spurious accuracy in scenarios and the requirement for two long-term climate scenarios.
- Consideration of existing enterprise risk management frameworks in assessing climate risks.
- Recognition of the challenges in working with climate scenarios and the need for meaningful and operational risk management tools like ORSAs.

IRSG advice on IDD sustainability guidelines [link] - 01/06/2022

In response to a request from EIOPA the IRSG provided advice on IDD sustainability guidelines. The advice highlighted challenges in implementing new requirements, particularly concerning data access and legislative timelines. In the advice the IRSG raised the need for a pragmatic approach to sustainability preferences assessment, stressing the need for consistency with ESMA's approach and suggesting a phased implementation period for stakeholders to adapt. The advice expressed concerns about the level of detail and potential burdensomeness of the proposed guidelines, suggesting the need for clarity, flexibility, and simplicity to avoid overwhelming consumers and intermediaries.

Key IRSG positions raised included the following:

- Appreciation for the opportunity to comment on EIOPA's draft guidelines and recognition of implementation challenges.
- Need for a pragmatic approach to sustainability preferences assessment and consistency with ESMA's approach.
- Proposal for a phased implementation period to allow stakeholders to adapt to the new requirements.
- Recommendation to test advisory processes with customers and collect feedback to address significant issues.
- Concerns about the level of detail and potential burdensomeness of the proposed guidelines.
- Emphasis on clarity, flexibility, and simplicity to avoid overwhelming consumers and intermediaries.

- Call for ensuring adequate training and development for financial industry employees to address increased regulatory requirements and sustainability considerations.
- Recognition of challenges linked to data availability and incoherent legislative timelines.

IRSG Advice on Taxonomy Disclosures (treatment of nuclear and fossil gas - as part of SFDR) [link] - 13/07/2022

In response to a request from EIOPA the IRSG provided advice on Taxonomy Disclosures (treatment of nuclear and fossil gas) as part of the SFDR. In the advice the IRSG provided insights on the complexity and length of precontractual and periodic information regarding taxonomy-aligned nuclear and gas investments, particularly emphasizing the need for clarity and conciseness.

Key IRSG positions raised included the following:

- Previous consumer testing in Poland and the Netherlands highlighted challenges with the complexity and lengthiness of precontractual and periodic disclosures.
- Studies indicate better consumer comprehension with visual and cohesive information rather than fragmented data.
- The IRSG favored Option 2 for disclosing taxonomy-aligned nuclear and gas investments, advocating for clear, unbiased presentation without excessive detail.
- Charts should be placed prominently near initial tables indicating sustainability characteristics, disclosing the percentage of taxonomy alignment upfront.
- Clarification is needed regarding the treatment of sovereign exposures in disclosures, particularly their inclusion in numerator and denominator calculations.
- The IRSG questioned the necessity of specifying minimum percentages for fossil gas and nuclear energy investments, suggesting it may contradict the intended flexibility of fund managers.
- Jargon like CapEx and OpEx in periodic templates should be avoided to enhance clarity for consumers.

IRSG Advice on EIOPA's technical advice on greenwashing [link] - 13/03/2023

In response to a request from EIOPA the IRSG provided advice on EIOPA's technical advice on greenwashing. In the advice the IRSG looks at the fact that "greenwashing" lacks a consistent definition across jurisdictions, but generally involves misrepresenting sustainability practices. The advice called for improving existing ESG legislation is crucial, rather than focusing solely on defining greenwashing. The advice outlines how insurers aim to prevent greenwashing through robust processes and controls, compliance with regulations, and participation in voluntary initiatives like the Net-Zero Insurance Alliance. In the advice the IRSG raised challenges including the lack of reliable ESG data and regulatory inconsistencies. Regulatory clarity, standardized data, and consumer education are proposed solutions.

Key IRSG positions raised included the following:

- Greenwashing involves intentionally or negligently misrepresenting sustainability practices or product features, leading to non-compliance with regulatory requirements.
- Emphasis should be on describing conduct or circumstances of concern and improving existing ESG legislation rather than creating a strict definition of greenwashing.
- Lack of clarity in sustainable finance frameworks and inconsistencies in definitions contribute to unintentional flawed information.
- Insurers aim to prevent greenwashing through robust processes and controls, compliance with SFDR and CSRD, and voluntary initiatives like the Net-Zero Insurance Alliance.
- Challenges include the lack of reliable ESG data, regulatory inconsistencies, and difficulties in SFDR compliance.
- Regulatory clarity, standardized data, and consumer education are proposed solutions to address greenwashing risks.
- Insurers should establish commitments in line with science-based methodology and interpret SFDR regulations conservatively until further clarification is provided.
- Supervisors should focus on proper enforcement of the framework and work towards more regulatory clarity and guidance, especially on SFDR.
- Public education on sustainability factors in financial products and the use of digital solutions to simplify disclosures are needed.
- Supervisors should ensure that ESG data sources are easily available, regulated, and standardized to mitigate greenwashing risks.

IRSG input to the Consultation on Staff Paper on measures to address demand-side aspects of the NatCat protection [link] - 16/10/2023

In response to a request from EIOPA the IRSG provided input for the consultation on the staff paper on measures to address demand-side aspects of the NatCat protection.

Key IRSG positions raised included the following:

- Natcat insurance costs vary by region and may become a widespread issue. Increasing premiums due to climate change impacts in high-risk areas could make coverage less affordable, particularly for households and SMEs.
- Campaigns and financial education are essential to raise awareness about risk exposure and the need for Natcat insurance. Sharing historical loss data can highlight the importance of coverage.
- Fair pricing of risks and clear communication about the cost of inaction are vital. Providing average claim values and simplifying information can improve understanding.
- Natcat insurance should meet specific consumer needs based on market dynamics and risks. Simplified pricing and loss quantification can help consumers make informed decisions.
- Authorities and legislators should streamline purchasing processes and regulations to facilitate easier access to Natcat insurance. Digitalisation can enhance transaction speed and efficiency.
- Insurers should provide advice on risk mitigation and adaptation measures, particularly for SMEs, to add value to coverage and encourage proactive risk management.
- Efficient claims handling and transparent communication about state intervention during Natcat events can build trust and improve customer experience.
- Exploring market-led innovations like insurance-linked securities (ILS), Catastrophe Bonds (CatBonds), and parametric cover could offer additional measures to enhance Natcat insurance.
- Standard risk definitions and default coverage based on geolocation can help, but mandatory insurance should be approached cautiously to avoid disincentivising risk management.
- Given the diverse market conditions in the EU, a one-size-fits-all approach should be avoided. Policies should reflect true risk diversification and ensure premiums are aligned with the risks being underwritten.

Input to the Consultation on the Opinion on sustainability claims and greenwashing in the insurance and pensions sectors [link] - 12/03/2024

In response to a request from EIOPA the IRSG provided advice on the opinion on sustainability claims and greenwashing in the insurance and pensions sectors. In the advice the IRSG looked into the definition of "sustainability claims," emphasizing the importance of consistency in regulatory language to combat greenwashing. The advice stressed the need for alignment with existing regulations and guidelines, including SFDR, IDD, MiFID II, UCITS, CSRD, and the Unfair Commercial Practices Directive. The advice underscored the challenges posed by misleading sustainability claims and the significance of clear definitions to guide stakeholders.

Key IRSG positions raised included the following:

- The definition of "misleading" sustainability claims should align with existing regulations and cover various issues like selective disclosure, empty claims, lack of clarity, inconsistency, and unsubstantiated claims.
- Greenwashing should be limited to misleading sustainability claims and not extended to processes or fields associated with sustainability.
- Independent surveys highlight investors' expectations regarding real-world impact from finance products labeled as "green" or "sustainable" and the challenges in detecting impact-washing without external support.
- Need to align with existing EU rules and guidelines, considering forthcoming legislative proposals on greenwashing.
- Need to tailor sustainability claims and their substantiation to the target audience and aligning with reporting requirements such as SFDR rules.
- Education initiatives on sustainable finance regulation for retail customers should be encouraged, along with guidance from EIOPA explaining principles and good practices.
- Ensuring consistency with other legislation such as SFDR, POG, UCPD, and forthcoming directives is crucial for a coherent approach to combat greenwashing.

IRSG's input Consultation on the Prudential Treatment of Sustainability Risks [link] - 22/03/2024

In response to a request from EIOPA the IRSG provided input for the consultation on the prudential treatment of sustainability risks. The IRSG raised concerns over the proposals, stating that the proposed changes to capital requirements for fossils fuels need to be better founded. The Group emphasized the need to maintain a risk-based approach while integrating existing market information and methodologies.

Key IRSG positions raised included the following:

- The proposals rely on unreliable forward-looking estimates, small sample sizes, and inconsistent sector characteristics, making a uniform approach inappropriate.
- The unclear relationship between credit and transition risks, and the inconsistency of applying a different shock to Pillar 1, are problematic.
- Financial markets already integrate sustainability factors into prices, and a global sector-differentiated approach could undermine the current methodology.
- Fossil fuel companies may perform well due to strategic plans and intertwined renewable investments, and a methodology directing firms away from these investments may be unjustified.
- The proposals could lead to double-counting effects already reflected in market prices, complicating the Standard Formula.
- ESG factors are integrated into credit assessments by rating agencies, and working with these agencies may be more rational than altering Solvency II methodologies.
- Current scrutiny through Pillar 2 and various reporting requirements provides a more targeted risk assessment method than a differentiated Pillar 1 shock.
- Introducing a dedicated factor for a low percentage of "brown portfolios" would unnecessarily increase complexity and operational burden for companies.
- The insistence on higher volatility of spread shocks for fossil fuel bonds lacks scientific objectivity, given insufficient data.
- Continuous analysis, particularly on natural catastrophe risk outcomes, is valuable, but there is currently no justification for distinct treatment of social risks.

5. PROPORTIONALITY

IRSG input on proportionality and the ACP [link] – 09/2023

The IRSG prepared own initiave input to contirubte to the work of the EIOPA Advisory Committee on Proportionality (ACP). The input expressed support for the ACP and its efforts to address the increasing complexity in financial and insurance sector regulation. The IRSG highlighted the importance of the principle of proportionality in EU law, emphasizing its application to various aspects of regulation. The IRSG suggested areas of focus for the ACP, including the Insurance and Reinsurance Directive (IRRD), Solvency II, sustainability, artificial intelligence (AI), and the Insurance Distribution Directive (IDD), among others.

Key IRSG positions raised included the following:

- Proportionality is considered a fundamental principle in EU law, ensuring that Union actions do not exceed what is necessary to achieve treaty objectives.
- The ACP should consider various aspects of proportionality, including the nature, scale, and complexity of risks, business models, and practices within the financial and insurance sectors.
- Suggestions for ACP focus areas include IRRD, Solvency II, sustainability, AI, IDD, open finance and open insurance, and reporting.
- The ACP's work could benefit from lessons learned from the banking sector's application of proportionality, as outlined in publications such as the EBA Banking Stakeholder Group report and the EBA discussion paper on proportionality assessment methodology.

4. OTHER WORK CONDUCTED

IRSG response to the European Commission's targeted consultation on the Supervisory Convergence and the Single Rulebook [link] - 21/05/2021

In response to a request from EIOPA the IRSG provided advice on the European Commission's targeted consultation on supervisory convergence and the single rulebook. The advice looked at the need to establish clear guidelines for supervisory convergence tools, ensuring legal certainty and transparency across the European insurance market. In the advice the IRSG called for respecting subsidiarity and the independence of national supervisory authorities (NSAs), but also for efforts to focus on efficient resource allocation and the consistent application of existing powers. The advice stated that transparency, targeted consultations, and a clear delineation of EIOPA's role are vital for effective supervision and policymaking.

Key IRSG positions raised included the following:

- Establish clear guidelines for supervisory convergence tools in the EIOPA Regulation to ensure legal clarity.
- Specify non-binding supervisory tools like opinions and supervisory statements, exclusively addressed to NCAs.
- Promote transparent responses from NCAs to EIOPA's supervisory tools, fostering consistent practices.
- Preserve the independence of NSAs to address national aspects while ensuring compliance with EU legislation.
- Optimize the use of existing powers and resources to prevent unfair competition and maintain market integrity.
- Ensure consistent supervisory practices across the EU to promote fair competition and market integrity.
- Tailor convergence efforts to the diversity of business models and risk profiles, avoiding undue standardization.
- Enhance transparency in NCA supervision and EIOPA's actions to foster trust and accountability.

- Conduct targeted and balanced consultations to ensure effective policymaking without undue burden.
- Focus EIOPA's role on supervisory convergence, consistent application of EU rules, and dialogue among NCAs.
- Ensure EIOPA's actions reflect the specificities of the insurance sector, promoting a level playing field.
- Foster transparent collaboration between ESRB and EIOPA, considering the unique features of the insurance sector.
- Clarify the mandate for issuing guidelines to prevent them from becoming quasi-legislation.
- Base supervisory actions on a clear regulatory framework to maintain consistency and effectiveness.
- Harmonize Level 2 regulations to ensure a level playing field across the EU.
- Prioritize supervisory convergence to maintain consistent application of regulations.

IRSG advice on Professional indemnity insurance [link] - 11/07/2022

In response to a request from EIOPA the IRSG provided advice on professional indemnity insurance. In the advice the IRSG indicates that most EU member countries are not facing significant issues with Professional Indemnity Insurance (PII) availability or cost, but more research is needed. However, the Group hightlighed that Ireland and Lithuania, particularly Ireland, report significant difficulties in obtaining or maintaining PII cover due to reduced availability and increased costs.

Key IRSG positions raised included the following:

- Most EU countries do not currently experience significant problems with PII availability or costs.
- Ireland and Lithuania face material difficulties in obtaining PII cover, potentially due to reduced availability and higher costs.
- COVID-19-related claims have impacted PII availability and cost, compounded by hard market conditions affecting other insurance lines.
- Many PII policies now include broad exclusions for pandemics or transmissible diseases, reducing protection for intermediaries.

- Impact of PII Limits Increase: Increasing PII limits may not affect availability or cost in most countries but could worsen the situation in countries already experiencing issues, potentially driving smaller intermediaries out of the market.
- PII limits often exceed those mandated by the Insurance Distribution Directive (IDD) to account for specific country needs and potential claim levels.
- In Austria, Belgium, France, Germany, Ireland, Italy, Lithuania, Netherlands, and Spain, most claims are below current PII limits, with peak claims occurring rarely.

IRSG Position Paper on SMEs Access to Insurance – The Information Gap and a Way Forward [link] - 19/07/2022

The IRSG compiled an own initiave position paper on SMEs access to insurance. The paper addressed the substantial lack of information on SMEs access to insurance within the EU. It emphasized the importance of SMEs in the European economy and highlights the existing data gaps in comparison to available data on SMEs' access to finance and investment. The paper called for the creation of a pan-European database to monitor SMEs' access to insurance, stressing the potential benefits for both SMEs and the insurance industry.

Key IRSG positions raised included the following:

- The complexity of the insurance world contributes to the lack of data, but cross-country differences should not hinder pan-European data collection efforts.
- The absence of data on SMEs' access to insurance leads to significant information gaps, hindering assessments of SMEs' overall risk landscape.
- Stakeholders recognize the importance of creating a pan-European database on SMEs' access to insurance to address existing gaps and support financial stability.
- Access to insurance can mitigate risks for SMEs, making them more resilient and financially sound, and contribute to the creation of new products and tailored regulations.
- Methodological know-how from existing surveys can inform the design of a similar survey for SMEs' access to insurance, fitting into EU initiatives for SMEs and sustainable finance.

5. CONCLUSIONS

The IRSG plays an important role in fostering constructive cooperation with a diverse range of relevant stakeholders and EIOPA in a structured approach. An early and due involvement of the IRSG is therefore important to ensure a balanced approach. Against this background, the following key areas and principles are an important prerequisite to ensure the appropriate and smooth functioning of the group:

- Efficient work processes:
  - Preparation of meetings
  - Background documents and up-to-date work plan
  - Follow-up and minutes
- Timely access to information:
  - Meeting documents
  - Explanation provided
  - Transparency of internal decision making processes
- Support in developing opinions/statements:
  - Technical support
  - Administrative support
  - Deadlines for reaction
  - Timing of consultation
- Consideration of advice/Impact:
  - Feedback on opinions received
  - Impact measured by other means

ANNEX

LEGAL FRAMEWORK

Article 37 of the EIOPA regulation states that The IRSG - "(…) *IRSG shall be composed of 30 members, 13 members representing in balanced proportions insurance and reinsurance undertakings and insurance intermediaries operating in the Union and three of whom shall represent cooperative and mutual insurers or reinsurers, 13 members their employees' representatives, as well as consumers, users of insurance and reinsurance services, representatives of SMEs and representatives of relevant professional associations and four of its members shall be independent top-ranking academics. .*" (Art. 37 (2))

GENERAL CONSIDERATIONS

Members of the Stakeholder Groups represent different interests in accordance with the requirements of Article 37 of the EIOPA Regulation. To guarantee unbiased judgement, each member of the stakeholder group must only represent one interest (stakeholder category) and not be in a situation of conflict of interest with another category in the Stakeholder Group.

EIOPA will consider the final composition of the Stakeholder Groups in relation to the applications received. In addition, the EIOPA Regulation Article 37(4) refers to three criteria: "*In making its decision, the Board of Supervisors shall, to the extent possible, ensure an appropriate reflection of diversity of the insurance, reinsurance and occupational pensions sectors, geographical and gender balance and representation of stakeholders across the Union.*"

The requirement of "representation of stakeholders across the Union" in Article 37 is specified as follows: EIOPA will aim at ensuring a wide representation of differing regulatory approaches and market structures and an adequate representation of stakeholders in the (re)insurance or pensions sector across the Union. An over-representation of regions or areas or certain categories of stakeholders representing only particular regions, areas or cultures should be avoided. The intention is to ensure that different regulatory and supervisory systems and policies, types of businesses including cross-border activities, and market structures are taken into account in order for the Stakeholder Groups to provide EIOPA with the best advice and opinion possible.

DESCRIPTION OF IRSG MEMBER CATEGORIES

When selecting the members in the different categories as described in Article 37(2), EIOPA will consider the following descriptions:

a. Insurance and reinsurance undertakings and insurance intermediaries ("industry"): includes individuals representing insurance and reinsurance undertakings and intermediaries operating in the Union, representatives of cooperative and mutual insurers or reinsurers, as well as representatives of associations acting on behalf of such undertakings, intermediaries, cooperatives or mutuals;

b. Employees: includes individuals, representatives of associations, bodies, or others who represent the interests of employees and trade unions in the (re)insurance sector and who may be paid by their employer.

c. Consumers and users of insurance and reinsurance services: includes representatives of consumer associations or any individual with a proven expertise record in the area of consumer protection in financial services. Users include individuals and/or associations delivering services and advice to consumers/policyholders, including other retail users of financial institutions.

d. Small and medium-sized enterprises (SMEs) : includes individuals employed by a SME relevant to the insurance and reinsurance sector (with focus on client/buyer-side SMEs), or associations that defend the interests of SMEs.

e. Relevant professional associations: includes representatives of associations of professionals that are relevant to the sector of (re)insurance: including but not limited to actuaries, lawyers, accountants, auditors and others. Representatives of (re)insurance and intermediaries (industry) associations fall under the industry category, see above a).

f. Independent top-ranking academics: includes individuals preferably with a Ph.D. in finance, economics, law or other field relevant to (re)insurance, or equivalent qualifications and a solid academic experience in a university or institute of higher education (e.g. professorship). They should have strong publication record in the field of finance, economics, law, preferably with a focus on insurance or reinsurance and participate in international conferences and workshops.