EIOPA Insurance and Reinsurance Stakeholder Group (IRSG)

ACTIVITY REPORT FOR THE PERIOD

SEPTEMBER 2013 TO MARCH 2016

June 2016

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1. Message from the Chair


Karel Van Hulle, Chair

This report describes the activities of the second stakeholder group created on the basis of the EIOPA Regulation.

I had the privilege of serving as the Chair of this stakeholder group after Kay Blair had to step down for health reasons. Kay was an active supporter of consumer issues and constantly reminded us that there would be no insurance without consumers willing to buy insurance. On my personal behalf and on behalf of all members of the IRSG, I would like to thank Kay for her commitment and wish her all the best for a good recovery.

The IRSG has been very active during its mandate, responding to numerous consultations launched by EIOPA, particularly on issues concerning Solvency II, in addition to market conduct issues and own initiative work. I would like to thank all members of the IRSG for their active contribution and especially those members who volunteered to lead the drafting of particular IRSG advice or opinions. My thanks also go to the leaders of the subgroups, Seamus Creedon, Marie Dequae, Alexandru Ciuncan and Ioannis Papanikolaou for coordinating the work of their subgroup and for respecting the sometimes tight deadlines.

A word of thanks also to Olav Jones, Vice-Chair, whose contributions were invaluable and to the EIOPA leadership and staff for their hospitality and their commitment to ensure a smooth running of the meetings.

The IRSG can be satisfied with the quality and quantity of its work, and we saw a number of examples during our mandate where EIOPA took on board our recommendations. However, the impact and visibility of our work can and should be increased. We have included some recommendations in this report on how to achieve this in the years to come, and I hope these will be picked up as part of the ongoing European System of Financial Supervision (ESFS) review.

This stakeholder group has helped to deliver Solvency II, a project that fundamentally changes insurance regulation within the EAA. One of the key challenges for the next stakeholder group will be to assist EIOPA in ensuring that this regulatory change will ultimately deliver the intended benefits and avoid unintended consequences in the interest of all stakeholders.

Karel Van Hulle
Chair of the IRSG

2. The IRSG

The Insurance and Reinsurance Stakeholder Group (IRSG) is part of EIOPA's institutional framework.

Its core role is to help facilitate consultation with stakeholders in areas relevant to the tasks of EIOPA relating to insurance and reinsurance.

It does this primarily by providing opinions and advice, at EIOPA's request, on issues relating to insurance and reinsurance and by responding to consultations with particular focus on regulatory technical standards, implementing technical standards, guidelines and recommendations. The IRSG may also provide opinions on its own initiative and may submit a request to EIOPA to investigate an alleged breach or non-application of Union law by a competent authority.

a. Operation of the IRSG

The IRSG is established and operates according to the rules set by the EIOPA Regulation[1].

It consists of 30 members, appointed by EIOPA's Board of Supervisors on the basis of applications received following a Call for Expression of Interest. Members serve in a personal capacity for a term of two and a half years and can serve a maximum of two successive terms. In selecting members, the Board of Supervisors is required, to the extent possible, to ensure an appropriate geographical and gender balance and representation of stakeholders across the Union. The IRSG therefore includes representatives of the insurance and reinsurance industry, consumer representatives, users of insurance and reinsurance services, trade unions and independent academics. Achieving a balanced composition of the IRSG is crucial for ensuring a high quality contribution to the work of EIOPA.

The IRSG holds at least four regular meetings a year with an additional annual joint meeting with the Occupational Pensions Stakeholder Group (OPSG). A yearly work plan linked with EIOPA's work programme is adopted each year by the Group.

As far as possible, the Group adopts its opinions or reports by consensus. Decisions can be made either during the meeting or by written procedure. In the event that a consensus has not been reached, decisions are put to a vote and subject to a quorum of two-thirds of the members being reached, a simple majority is required in order for the opinion or report to be adopted. In cases of dissent, if supported by 3 or more members, a minority opinion is noted in the meeting conclusions and in the relevant opinions.

The IRSG establishes subgroups to examine specific technical issues. Each subgroup reports to the IRSG and is led by a member who coordinates its activities. IRSG members may also invite/hear external experts to attend the meetings of these subgroups.

The IRSG adopts Rules of Procedure[2] governing its activities at the start of each term and can amend them to take into account possible developments in the role, tasks and organisation of the Authority and the Group.

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[1] See in particular, Article 37 of Regulation (EU) N° 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision N° 716/2009/EC and repealing Commission Decision 2009/79/EC, OJ L 331, 15.12.2010, p. 48

[2] See https://eiopa.europa.eu/Publications/Administrative/EIOPA-16-383%20EIOPA%20Stakeholder%20Groups%20Rules%20of%20Procedure.pdf

b. Reporting and Transparency

EIOPA publishes the opinions, feedback statements, reports and advice of the Group and the results of its consultations and provides access to IRSG documents on its website, including information on meeting agendas, meeting conclusions and action points, as well as meeting presentations. EIOPA's website also provides biographies of all members of the IRSG along with their email addresses.

EIOPA provides feedback on each of the Group's opinions and indicates whether it has taken the Group's advice into account, giving reasons for EIOPA's position, in EIOPA's published comments and resolution templates.

This Activity Report contains an executive summary of the opinions and reports, listing the main conclusions and recommendations, and is part of the IRSG's reporting and transparency requirements.

Interested parties can send correspondence to the Group, addressed to EIOPA, for the attention of the Chairperson or to Group members at the e-mail addresses provided.

c. EIOPA's role in supporting IRSG activities

EIOPA provides support for the activities of the IRSG. The Chairperson attends regularly at least the start of the IRSG meetings, and is usually joined by a member of EIOPA's Management Board. EIOPA's Executive Director also attends the meetings along with relevant staff experts who report on specific topics and/or are available to answer questions from members of the IRSG.

EIOPA provides general administration support including organisation of meeting facilities, and teleconferences, setting up of the sub-groups, preparation of meeting agendas, circulation of background materials and minutes, monitoring progress to ensure timely delivery of IRSG output and payment of expenses.

In addition to this, there are a number of regular EIOPA events to which IRSG members are invited in order to facilitate further interaction and understanding of EIOPAs intended activities and approaches. This includes the annual EIOPA Consumer Day and EIOPA Conference as well as ad hoc technical workshops, for example on risk free rate methodology, or stress testing.

d. Interaction with the OPSG

At least once a year a joint meeting with EIOPA's Board of Supervisors (BoS) and the Occupational Pensions Stakeholder Group (OPSG) is convened in order to discuss matters of mutual interest and inform each other of issues discussed.

In addition to this, the IRSG and OPSG may decide by mutual agreement to share views or provide joint opinions on consultations or own initiative work. During this mandate, regular contact took place between both Stakeholder Groups and the Chair of the IRSG was invited to present the views of the IRSG on the review of the ESFS at a meeting of the OPSG.

3. Membership and organisation of this IRSG

a. IRSG Membership

Overview of the membership of EIOPA's Insurance and Reinsurance Stakeholder Group (April 2016)

IRSG Subgroups; Lead; TO=Topic Owner			Country
No	Category	Name	
1.	**Industry**	Mr Avesani, Renzo	IT
2.		Mr Bonnet, Yannick	FR
3.		Mr Carty, Paul	IE
4.		Ms Del valle, Maria Aranzazu	ES
5.		Mr Eklund, Jari	FI
6.		**Mr Jones, Olav, Vice-Chairman**	**UK**
7.		Mr Koning, Edgar	NL
8.		Mr Simhandl, Martin	AT
9.		Mr Thimrén, Claes	SE
10.		Mr Wemmer, Dieter	DE
11.	**Professional Associations**	Mr Creedon, Seamus	IE
12.		Ms Dequae, Marie	BE
13.		Mr Ellenbürger, Frank	DE
14.		Ms Olesen, Annette	DK
15.		Mr Watson, Rick	UK
16.	**SME**	Mr Thomas Keller	DE
17.	**User**	Mr Frizon, Francis	FR
18.	**Consumers**	Mr Berthon, Jean	FR
19.		Mr Herrero, Fernando*	ES
20.		Mr Ciuncan, Alexandru	RO
21.		Ms Baiba Miltovica	LV
22.		Ms Strucl, Mojca	SI
23.		Ms Więcko-Tułowiecka, Małgorzata	PL
24.	**Employees**	Ms Cosma, Andreea	RO
25.		Mr Lagaude, Damien	FR
26.	**Academics**	Ms Maria Heep-Altiner	DE
27.		Mr Marcin Kawiński	PL
28.		Mr Papanikolaou, Ioannis	GR
29.		Mr Savelli, Nino	IT
30.		**Mr Van Hulle, Karel, Chairman**	**BE**

* Mr Herrero was appointed in January 2015, following the departure in December 2014 of Ms Kay Blair, former IRSG Chair, both consumer representatives.

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b. IRSG subgroups

In order to facilitate agreed priorities, the work of the IRSG was organised into the subgroups shown below. These subgroups prepared working papers prior to their discussion with the entire group. Each subgroup worked to an agreed mandate, which described the content, allocation of work and the form of expected outcome (Opinion, Feedback Statement, informal input, etc.) and the timeline. Overall activities were coordinated by the subgroup leader but collecting input from members and drafting of particular pieces of work was usually taken on by a member of the subgroup. A table in Appendix 1 provides an overview of the membership of the subgroups.

Draft regulation subgroups		
Solvency II, Pillar 1 *Led by **Seamus Creedon***	**Solvency II, Pillars 2 and 3** *Led by **Marie Dequae***	**Market Conduct** *Led by **Alexandru Ciuncan***
Comments on: – Delegated acts – Technical Standards – Guidelines	Comments on: – Delegated acts – Technical Standards – Guidelines	Comments on: – IMD2 – PRIPs – Other specific market conduct/consumer protection issues

Own initiative work subgroups	
Other regulatory Issues *Led by **Annette Olesen***	**Strategic Areas** *Led by **Ioannis Papanikolaou***
Comments on: – IAIS global capital standards (BCR, HLA, ICS) –	Comments on: – Guaranteed savings products – Long term investment – Pensions (PPP) – Catastrophic/extreme events

4. Overview of Activities

During this term, the IRSG met 13 times, including the 3 joint meetings with the OPSG and the EIOPA Board of Supervisors (BoS). A list of meetings with links to associated agendas and documents can be found on EIOPA's website[3]. In addition to the meetings of the full group, the IRSG convened various subgroup calls in order to examine specific technical issues and prepare specific tasks for the entire group.

Given the role of IRSG to help facilitate EIOPA's consultation with stakeholders and the very significant number and size of consultations during the term of the IRSG, most of the work undertaken related to EIOPA's own work programme, but there were also a number of own initiative workstreams.

From 2013 to 2016 the IRSG published 40 opinions and papers. A high level overview of key work undertaken is provided below and a full list of these can be found in Appendix 3 along with executive summaries.

Response to public consultations and requests for input from EIOPA

- **Solvency II, Pillars 1, 2 and 3:** As part of the implementation of the Solvency II framework and to help achieve harmonisation across Europe, EIOPA issued a series of important public consultations on draft Regulatory Technical Standards (RTS), Implementing Technical Standards (ITS) and guidelines in 2014. The IRSG was extensively involved in responding to these consultations over the course of its mandate.
- **Infrastructure investments:** One of the initiatives launched in 2014 by the newly established European Commission, chaired by Jean-Claude Juncker, was the announcement of an investment plan aimed at driving growth in the European economy, which included the removal of regulatory barriers that might be holding back private investment. As part of this initiative, the European Commission asked EIOPA's advice on how to define infrastructure as an asset class and how to define the calibration for this new asset class under Solvency II. The IRSG responded to the related consultation issued by EIOPA on the identification and calibration of infrastructure investment risk categories in Solvency II.
- **European Market Infrastructure Regulation (EMIR):** This initiative was launched as a result of a G-20 agreement following the financial crisis. As well as introducing further reporting and collateral requirements, the aim is to move over-the-counter (OTC) derivatives to being centrally cleared through a central counterparty (CCP). The IRSG responded to two consultation papers issued by the Joint Committee of the ESAs on a draft RTS on risk-mitigation techniques for OTC derivatives not cleared by a CCP under the EMIR regulation. Given the importance of derivatives to the insurance and pension industry for risk mitigation, the IRSG responded jointly with the OPSG to the first consultation paper on the topic in July 2014.
- **Financial Conglomerates:** In October 2014, the IRSG responded to a public consultation issued by the Joint Committee of the ESAs on its RTS on risk concentration and intra-group transactions under the Financial Conglomerates Directive (FICOD).
- **ESFS Review:** Following the publication of the European Commission's European System of Financial Supervision (ESFS) review in August 2014, the IRSG held internal discussions and exchanged views on how to make the IRSG effective as a challenging body and improving contacts

[33] https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/insurance-reinsurance-sg/insurance-and-reinsurance-sg-meetings-and-minutes

with stakeholders including the EU institutions. **Its position was coordinated with that of the OPSG.**

- **Pan-European Personal Pension Product (PEPP):** In the context of the new European Commission's goal to spur growth and investment in the EU economy, it is envisaged that the establishment of a single market for personal pension products would encourage capital to be allocated towards long-term investments. EIOPA launched a consultation on the creation of a PEPP in July 2015, which the IRSG responded to in October 2015.
- **Market conduct**: Market conduct was a standing item on the agenda of the IRSG meetings throughout its term. The IRSG developed opinions, feedback statements and responses to consultations on several market conduct/consumer protection related topics, including Key Information Documents (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs), cross-selling practices, conflicts of interest in sales of insurance based investment products, product oversight and governance, product intervention powers, KID for non-life (motor) insurance products, in addition to EIOPA's questionnaires on consumer trends and mobile phone insurance.

Own initiative work

- **International developments**: As part of the development of a global capital standard and in order to address systemic risk, the International Association of Insurance Supervisors (IAIS) issued three important consultations during 2014 and 2015, which the IRSG responded to. These consultations related to the Basic Capital Requirement (BCR) for calculating the capital add-ons for global systemically important insurers (G-SIIs), Higher Loss Absorbency (HLA) for G-SIIs and the Insurance Capital Standard (ICS) applicable to internationally active insurance groups (IAIGs).
- **Feedback statements and papers** were produced by individual members on the following issues:
    - Savings, investment products and Guaranteed Savings Products (GSP). Their boundaries, regulations and communication to the public
    - Compulsory vs Optional Disaster Insurance
    - Cyber risk
    - Catastrophe models and Solvency II: Transparency, evaluation, credibility

5. Conclusions and recommendations

The following conclusions and recommendations are drawn from a joint document developed with the OPSG on the Report from the Commission of 8 August 2014 to the European Parliament and the Council on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS).

a. Conclusions

The IRSG recognises the work and key role of EIOPA in providing technical advice to the Commission and ensuring supervisory convergence and harmonisation across the EU.

The IRSG serves an important role for EIOPA by providing input on consultations and own initiative work based on the collective views of its wide-ranging members. Where necessary the Stakeholder Groups (SGs) should also challenge EIOPA to ensure the best outcomes for all interested parties. Effective SGs will help and encourage EIOPA to make careful, well informed decisions which are connected to the realities of the users and providers of insurance and pensions.

The IRSG has undertaken considerable work and provided valuable, broad-based and relevant input to EIOPA on a range of insurance and pensions issues by way of consultation responses and own initiative statements.

The impact of the IRSG is difficult to measure. On detailed points, ad hoc analysis of the feedback statements provided by EIOPA after each consultation indicates that EIOPA has taken on board the IRSG's detailed comments on a range of points. However, there is a feeling that when the IRSG expresses strong disagreement with, or concern about, an EIOPA proposal, that while the concern is listened to, the ability to impact EIOPA's direction is limited. This is further strengthened by the fact that there seems to be little awareness of the IRSG's role and its opinions outside of EIOPA.

b. Recommendations to further enhance the visibility and impact of the SGs

Some of these can be implemented by the SGs themselves and will be put forward for consideration by the new SGs starting their term in April 2016. Other suggestions require support from EIOPA's Board of Supervisors (BoS), the European Parliament, the Council or the Commission.

1) Direct exchanges between the SGs and the EIOPA BoS

For example, the BoS could invite representatives from a SG to provide views on a topic to be discussed. This would be especially of value if a decision were to be made where the SG has strong concerns or a view that differs from the proposals made by EIOPA. The SG could also request to attend BoS meetings where issues of particular importance would be discussed. To facilitate this:

- The SGs should be made aware of relevant BoS agenda points well in advance
- The BoS should be advised clearly of the SGs views
- A decision should be made ahead of each BoS meeting if the SG should be invited or to accept a request by the SG to attend

2) Involvement of the SG in parliamentary hearings with the Chair of EIOPA

It would be useful for the SGs to be present and to contribute when the Chair of EIOPA is reporting to ECON, to give their perspective on the issues being discussed. The SGs could also share their opinions and end of term report with the European Parliament.

3) Greater involvement and interaction with the European Commission

It would be useful for a representative from the EC to attend SG meetings on a regular basis in order to be aware of the discussions and views. The SGs could also share their opinions and end of term report with the EC. It would be useful for the SGs to also seek at least an annual meeting with the EC to discuss the role and functioning of EIOPA. It would also be helpful for the EC to confirm that it has considered the SGs' opinions when it takes advice from EIOPA and to have a discussion with the SGs where the SG's opinions differ from EIOPA's advice.

4) Selective use of press releases

To increase visibility of the SGs, the SGs will explore the option of issuing a press release when submitting their advice, where this is considered to be of interest to an external audience.

5) Encourage direct input from external parties

Efforts should be taken to give more publicity to the SG email address and for external parties to be encouraged to communicate concerns and issues directly to the SG.

6) Improve the ability to assess the impact of the SG

To help assessment of impact, EIOPA should provide an extract from its feedback statements allowing the response to SGs' comments and proposed changes to be easy to assess. Other ways to assess impact and effectiveness should be considered.

Appendix 1: Members Involvement in Subgroups

Participation in Subgroups

Name	Solvency II – Pillar 1	Solvency II – Pillars 2 & 3	Market Conduct	Other Regulatory Issues/ Ad hoc topics	Strategic Areas
Mr Avesani		✓			
Mr Bonnet		✓			
Mr Carty			TO (IDD)		✓
Ms Del valle			TO (PRIIPs)		
Mr Eklund	✓	✓			✓
Mr Jones (Vice-Chairman)	✓	✓	✓	✓	✓
Mr Koning	✓				**TO** (PPP)
Mr Simhandl	✓	✓			
Mr Thimrén	✓	✓			
Mr Wemmer	✓		✓		
Mr Creedon	**Lead**			**TO** (RFR)	✓
Ms Dequae		**Lead**	✓		**TO** (Cyber)
Mr Ellenbürger		✓		✓	
Ms Olesen		✓		**Lead**	**TO** (IAIS)
Mr Watson	✓			✓	**TO** (OTC)
Mr Thomas	✓	✓			**TO** (Infrastructure)
Mr Frizon			✓		✓
Mr Berthon			**TO** (PRIIPs)		✓
Mr Herrero*			✓		✓
Mr Ciuncan			**Lead**	✓	✓
Ms Baiba		✓	✓		
Ms Strucl			✓		✓
Ms Więcko-Tułowiecka			✓	✓	✓
Ms Cosma			✓	✓	✓
Mr Lagaude		✓	✓		✓
Ms Heep-Altiner	✓				
Mr Kawiński	✓	✓	✓		**TO** (Guarentees)
Mr Papanikolaou					**Lead**; **TO** (CatR)
Mr Savelli	✓			✓	
Mr Van Hulle, (Chairman)	✓	✓			

Topic Owners (**TO**) and those leading each subgroup (**Lead**) are indicated where applicable
*Mr Herrero was appointed January 2015, following the departure in December 2014 of Ms Kay Blair, former IRSG Chair, both consumers representatives.

Appendix 2: Overview of IRSG opinions

The table below provides a complete overview of the opinions and papers produced by this IRSG. The full documents can be accessed from the Stakeholder Groups section of the EIOPA website, under the section Opinion & Feedback from the EIOPA Stakeholder Groups.

For each consultation paper the IRSG subgroup leads were asked to produce key messages highlighting important issues in the general comments section of the response template. These key messages sections have been used as the basis for the summaries provided after the table.

Area	Activity	Publication
Solvency II Pillar I	IRSG Opinion on draft Implementing Technical Standards (ITS) for approval processes	30-06-14
	IRSG Comments on Consultation Paper with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items	30-06-14
	IRSG Comments on Consultation Paper on draft ITS on internal models approval processes	30-06-14
	IRSG Comments on Consultation Paper on draft ITS on the process to reach a joint decision for group internal models	30-06-14
	IRSG Comments on Consultation Paper on draft ITS on the procedures to be followed for the approval of the application of a matching adjustment	30-06-14
	IRSG Comments on Consultation Paper on draft ITS on special purpose vehicles	30-06-14
	IRSG Comments on Consultation Paper on draft ITS with regard to the Supervisory Approval Procedure to use Undertaking-Specific Parameters	30-06-14
	IRSG Comments on draft Guidelines on the operational functioning of colleges *(also involved Pillar II & III group)*	30-06-14
	IRSG response to the draft set 1 of Solvency II Guidelines	29-08-14
	IRSG opinion on draft set of Solvency II Guidelines on Pillar 1 and internal models	29-08-14
	IRSG response to the proposal for Guidelines on the use of the Legal Entity Identifier	29-08-14
	IRSG response to public consultation on technical documentation on the relevant Risk Free Interest Rates Term Structures	21-11-14
	IRSG responses to the draft set 2 of Solvency II ITS and GL *(also involved Pillar II & III group)*	02-03-15
	IRSG executive summary on EIOPA non-public consultation on risk-free rate methodology and related issues	21-07-15
	IRSG response to EIOPA questionnaire equity dampener	01-04-16

Solvency II Pillar II & III	CP-14-062 Advice to EC on recovery plan response	02-03-15
	IRSG response to Public Consultation Audit Guidelines (CP 16-002)	01-04-16
Market Conduct	Consumer trends annual report based on collection of trends both at national and EU level	14-05-14
	Call for Advice from the Commission (mandate published in May 2014) on Delegated Acts relating to conflicts of interest in direct and intermediated sales of insurance-based investment products (PRIPs) – amendment of IMD1 through MIFID II	22-07-14
	IRSG response to consultation paper on conflicts of interest in direct and intermediated sales of insurance-based investment products	01-12-14
	IRSG feedback statement on issues document on KID for non-life (motor) insurance products	10-12-14
	IRSG response to consultation paper on the proposal for Guidelines on product oversight & governance (POG) arrangements by insurance undertakings	23-01-15
	IRSG opinion on Joint Discussion paper on Key Information Document (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs)	17-02-15
	IRSG response to EIOPA Consultation Paper on Product Intervention Powers under the Regulation on Key Information Documents for Packaged Retail and Insurance-Based Investment Products (PRIIPs)	27-02-15
	IRSG opinion on JC draft Guidelines for cross-selling practices	20-03-15
	IRSG feedback statement to EIOPA questionnaire on the consumer trends report	30-04-15
	EIOPA request for input to the IRSG Subgroup on Market Conduct on Mobile Phone Insurance	30-05-15
	IRSG executive summary of comments to the Joint Committee of the European Supervisory Authorities´ Technical Discussion Paper on KID for PRIIPs.	30-07-15
	IRSG response to the EBA, EIOPA, and ESMAs consultation paper on the PRIIPs Key Information Documents	01-02-16
	IRSG response to Consultation Paper on POG Guidelines for insurance undertakings and insurance distributors	01-02-16
	Online survey in preparation of the Call for Advice from the European Commission on the delegated acts under the Insurance Distribution Directive	01-02-16
	IRSG Response to the Joint Discussion Paper on automation in financial advice (JC/2015/080)	04-03-16
Other Regulatory Issues	*Own Initative* - Basic Capital Requirements (BCR) for Global Systemically Important Insurers developed by	08-08-14

	the International Association of Insurance Supervisors (IAIS)	
	IRSG response to Joint Committee consultation paper on draft RTS on risk concentration and intra-group transactions under Article 21a (1a) of the Financial Conglomerates Directive (FICOD)	24-10-14
	Own Initative - Response to IAIS Insurance Capital Standards (ICS)	16-02-15
	Own Initative - IAIS Higher Loss Absorbency capacity for G-SIIs	21-08-15
Strategic Areas	JC/CP/2014/03 EMIR (European Market Infrastructure Regulation): Implementing Technical Standard on Risk-mitigating techniques for OTC derivative contracts not cleared by CCP	14-07-14
	IRSG Response to EIOPA Discussion Paper on Infrastructure Investments by Insurers	25-04-15
	IRSG Response to JC 2nd Consultation Paper on draft RTS on Risk-Mitigation Techniques for OTC-Derivative Contracts Not Cleared by a CCP under Article 11(15) of Regulation (EU) No 648/2012	10-07-15
	IRSG Response to EIOPA Call for Advice on Infrastructure Investments	09-08-15
	IRSG Response to the Consultation Paper on the creation of a standardised Pan-European Personal Pension product (PEPP)	05-10-15
	Feedback on compulsory vs optional disaster insurance	01-04-16
	IRSG own initiative paper - Catastrophe Risk	01-04-16
	IRSG Discussion paper - Guaranties in life insurance products	01-04-16
	IRSG own initiative paper - Cyber Risk	01-04-16
	IRSG response to CP on infrastructure corporates (EIOPA-CP-16-005)	16-05-16

Appendix 3: Summaries of IRSG positions

IRSGI Pillar 1 papers

Opinions on Solvency II RTS, ITS and Guidelines

Published on 30 June 2014, 29 August 2014, and on 2 March 2015

Prior to the application of Solvency II from 1 January 2016 onwards, EIOPA issued a series of major public consultations on RTS, ITS and guidelines in 2014. These implementing measures are used to define all three pillars of the Solvency II framework and help to achieve harmonisation across Europe.

Beginning in April 2014, the first set of ITSs were issued for consultation, followed by the first set of guidelines in June 2014 and the final set covering an RTS, ITS and guidelines was published in December 2015. The final set of ITS included extensive quarterly and annual reporting requirements for Solvency II, including day-one, third country branches and financial stability reporting.

The first set of the ITS related to approval processes for ancillary own funds, internal models, matching adjustment, special purpose vehicles, undertaking specific parameters and the joint decision process on group internal models. The IRSG stressed in its response that the requirements in the ITS should not go beyond the existing legal text. Concerns over the length of time for supervisory approvals was also highlighted, as this would result in uncertainty for the companies.

In responding to the consultation on guidelines, the IRSG raised to EIOPA instances where a number of proposed guidelines should be abandoned, as they were overly prescriptive going beyond the requirements in the Solvency II legal texts.

The IRSG highlighted in its response to the second set of ITS concerning reporting that changes introduced in the final version of the reporting templates and associated logs should be transparent and that simplifications should be allowed for the first year of reporting in 2016.

Regarding the timeline for financial stability reporting, the IRSG emphasised that EIOPA should allow flexibility around the delivery, given that this is required shortly after the quarter or year-end (6 weeks) compared to 11 or 20 weeks for groups for all other regular reporting requirements or compared to 14 weeks for solo undertakings for annual regular reporting.

All of the guidelines and ITSs were finally published in all official EU languages by autumn 2015 and were applicable from 1 January 2016.

IRSG response to public and non-public consultation on risk-free rate methodology & related issues

Published on 21 November 2014 and 21 July 2015

In its response to the public consultation, the IRSG welcomed EIOPA's commitment to consultation, despite the very short time available to respond and recognised the challenging time-table for all parties due to the long drawn out Omnibus 2 process, the Solvency 2 implementation deadline and challenge to find reliable data sources.

The response highlighted however that, since reliable data sources had not yet been identified, the methodology consulted on remained conceptual and did not include any illustrative backward-looking results that would allow proper assessment. Furthermore, some aspects of methodology remained ambiguous in particularly in respect of volatility adjustments and risk corrections and fundamental spreads. In light of this, some anomalous results are likely to arise when the proposed approach is implemented in the preparatory phase from February 2015 onwards and the IRSG recommended that EIOPA, in conjunction with national supervisors, should proactively monitor implementation so that revisions to the methodology can be considered.

The IRSG also highlighted that anomalous results in respect of volatility adjustments, risk corrections and fundamental spreads may arise only in conditions of stressed markets and therefore it is desirable that backward-looking results be calculated especially covering year-ends 2008-2011 inclusive and that any implications for the methodology be digested well in advance of 1 January 2016.

The IRSG strongly supported the focus on stability in particular in relation to potential revisions of deep, liquid and transparent (DLT) assessment and ultimate forward rate (UFR), but pointed out that there was an element of double-counting in the probability of default and the cost of downgrade.

In the non-public consultation, the IRSG supported the current approach (approach 1) for the Cost of Downgrade methodology, as it best meets the objectives of providing good risk management incentives and expectations of stability and replicability.

Specifically, on the UFR, the IRSG highlighted that the need for stability is essential in the public interest, and recommended that the current level and methodology for the UFR should be maintained at the start of Solvency II, and there should be no changes until at least the review of the Delegated Acts. Any future revision to the methodology should be consistent with Omnibus II and the intentions of the long-term guarantee assessment (LTGA) as agreed by co-legislators and any changes should be:

- be accompanied by an impact assessment and a consultation with stakeholders.
- implemented gradually with a smoothing transitional period to prevent abrupt changes.
- Communicated to the undertakings well in advance.

The IRSG also commended strongly EIOPA's commitment to transparency and replicability reflected in their publication of the beta version of the MATLAB code used to perform calculations. Such transparency and replicability are crucial to allowing firms to build the underlying methodologies into internal models, into the planning systems used to steer their activities and much more.

IRSG response to EIOPA's questionnaire on equity dampener

Published on 1 April 2016

The IRSG also responded to a short questionnaire from EIOPA with regards to the information on the symmetric adjustment of the equity capital charge (equity dampener) which it has been publishing on its website since January 2015. In its response, the IRSG welcomed transparency on the calculation of the symmetric adjustment, but highlighted that companies have had difficulties with exact replication of the EIOPA's calculations. While the differences appear not to be significant, the exact cause is not known and the IRSG recommended that EIOPA engage with representative practitioners, for example in a workshop, to seek to eliminate any element of ambiguity.

The IRSG recommended that EIOPA, in the future, considers the pros and cons of using a recognised equity index such as the MSCI World Index, instead of constructing their own "EIOPA" index.

IRSG Pillar II & III papers

IRSG comments on EIOPA's draft proposal for the Advice to the EC in response to the Call for Advice on recovery plan, finance scheme and supervisory powers in deteriorating financial conditions.

Published on 2 March 2016

On 2 March 2016 the IRSG responded to EIOPA's draft proposal for advice to the European Commission on recovery plan, finance scheme and supervisory powers in deteriorating financial conditions. The IRSG noted concerns with the lack of clarity over whether EIOPA would allow a public consultation of the final RTS and urged EIOPA to perform a public consultation of the final version of the RTS.

On the content of the advice, the IRSG noted that supervisors should have an obligation to remove a capital add-on as soon as the company has addressed the issue giving rise to the add-on. It also noted that not every one of the requirements should apply in each case, so there should be sufficient flexibility to ensure that the recovery scheme is tailored for the specific situation. As the proposals provide leeway for supervisors to request any additional information for any particular period outside of the Solvency II regular reporting requirements – it should make clear that such requests should be focused on what is necessary and take into account the cost and impact during deteriorating financial conditions of providing additional reporting.

IRSG response to Public Consultation on Audit Guidelines (CP 16-002)

Published on 1 April 2016

The IRSG responded to EIOPA's proposal for guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those undertakings. The IRSG strongly supported the objective of this workstream, but also emphasised that undertakings should always be the primary source of information.

IRSG Market conduct papers

EIOPA questionnaire for the consumer trends annual report

Published on 14 May 2014 and 30 April 2015

In preparation of EIOPA's annual consumer trends report, the IRSG was informally asked to provide input on the trends for consumer protection observed in both 2014 and 2015. The IRSG acknowledged that the Consumer Trends Report is an important initiative by EIOPA, and noted that it is important to consistently improve the methodology, transparency and balance in its coverage of consumer trends. For example, trends identified should be put into perspective, to ensure that events occurring in one or two member states are not presented as a European-wide trend.

IRSG comments on a discussion paper and consultation paper on Conflicts of Interest in direct and intermediated sales of insurance-based investment products (PRIIPs)

Published on 22 July 2014 and 1 December 2014.

In July 2014 the IRSG responded to an EIOPA discussion paper on conflicts of interest in direct and intermediated sales of insurance-based investment products and in December 2014 on an EIOPA consultation paper on the same topic.

The IRSG stressed that it is essential that insurance intermediaries and insurers have reasonable and proportional systems to prevent conflicts from adversely affecting the interests of its customers. It also stressed that it believes that intermediaries and insurers should always act in the best interests of their clients as stated in Article 13D of the IMD 1.5. Effective competition between well managed, efficient organisations/outfits working in the best interests of their clients is what matters.

Training and education in the financial sector regarding conflicts and potential conflicts of interest in the context of EU and Member State regulation are an important component in protecting both the consumer and the sales person. To ensure that there is a homogeneous approach in this area there should be some level of harmonisation of training/education at an EU level. Increased emphasis on training/education will, in part, address sales being influenced by profitability rather than consumer interest and will improve the quality of advice.

IRSG feedback statement on an issues document on KID for non-life (motor) insurance products

Published on 10 December 2014.

The IRSG welcomed EIOPA's initiative on the topic of a KID on motor insurance which, if correctly implemented, would help ensure consumers purchase insurance based on clear and concise information and assist them in their decision making process.

In its response to EIOPA, the IRSG raised concerns on whether EIOPA had a clear mandate to regulate KIDs on motor insurance and whether this initiative was front running IMD2. The majority of IRSG's members also considered that the best way to deal with this information is on a local level, as there are so many differences between Member States , although the basic information in the KID can be recommended by EIOPA.

The IRSG also stressed that the KID's status must be clear. It is a pre-contractual document for the consumer, not part of the contract finally signed with the insurer. Its function is informational only, as a guide when comparing different types of motor insurance policies, both in structure and format, as well as in content, in the phase preceding the conclusion of the insurance contract. The IRSG recommended that any form of KID should be tested first on consumers and then implemented, in order to be sure that it answers the real needs of the market.

IRSG response to a consultation paper on the proposal for Guidelines on product oversight & governance (POG) arrangements by insurance undertakings

Published on 23 January 2015 and 1 February 2016.

When the guidelines on product oversight and governance arrangements were first consulted by EIOPA at the end of 2014, the IRSG recognized the importance of product oversight and governance (POG) arrangements. POG requirements will enhance consumer protection by strengthening the controls before a product is launched at the producer level and then minimize the risk of products and services being proposed to the public that could lead to consumer detriment. Insurance products are mostly sold by financial institutions other than insurance companies themselves, therefore the design of the product might not be the most important cause of mis-selling. As such, the IRSG asked EIOPA considering to include intermediaries in the scope of these guidelines and also making clear that the ultimate responsibility to ensure proper advice and needs-based selling rests with the distributor.

The guidelines on product oversight and governance by insurance undertakings can support these efforts by the distributors but can neither substitute for them nor should they address issues of distributor (mis-)conduct. Such conduct is beyond the scope of POG rules and is adequately dealt with in IMD2/IDD.

Hence, the IRSG also said that EIOPA should not lay down too prescriptive requirements on POG that could partially undermine the European legislator's work on amending IMD 2 (now the Insurance Distribution Directive, IDD) particularly as a decision had not yet been taken on the inclusion of POG in the final text or to which such products might apply. The IRSG therefore stressed that the EIOPA guidelines should not pre-empt the outcome of the decisions taken by the European co-legislators as part of the trialogue negotiations on IMD2.

EIOPA took into account the advice of the IRSG and extended the scope of the guidelines to encompass arrangements by both insurance undertakings and insurance distributors. These "preparatory" guidelines were publicly consulted late in 2015, with the intention of bridging the gap until the introduction of IDD level 2 measures.

The IRSG was pleased to see that POG arrangements at the level of the distributors were included in this consultation but also noted that while it is logical for POG guidelines to also cover distributors, this does not mean there are proven problems to address across all product categories (e.g. no study or impact assessment has indicated particular need for non-life insurance products like motor or home).

Nevertheless, concerns were reiterated about the development of preparatory guidelines that pre-empt the political discussions on level 2 measures, particularly as the IDD introduced empowerments for the European Commission to adopt delegated acts on POG. The IRSG stated that such guidelines can reduce the scope of discretion for level 2 and that the EIOPA founding Regulation does not provide a legal basis for such guidelines. These concerns could be met if the guidelines were formally issued after the EC had finalised its Delegated Acts on POG which would also avoid the need for duplicate implementation.

In preparation of the Commission's Call for Advice on the delegated acts under the IDD, the IRSG also responded to a questionnaire and highlighted the concerns mentioned above.

Key Information Documents (KID) for Packaged Retail and Insurance-based Investment Products (PRIIPs)

Published on 17 February 2015, 30 July 2016, and 1 February 2016.

The IRSG has taken the three opportunities provided to stakeholders to provide input into the ESAs work on the PRIIPs Key Information Documents draft RTS.

In February 2015, the IRSG shared their initial views on the ESA's discussion paper on KID for PRIIPs. The IRSG notably stressed the utmost importance of ensuring that the features of insurance-based investment products are taken into account appropriately in the KID. It was, in addition, underlined that parallel and equivalent disclosure requirements under different EU legislation mean that there could be a duplication of some pre-contractual information provided to consumers. The correct integration and coordination of the PRIIPs KID with other regulation on pre-contractual disclosures (Solvency II, IMD 2, etc.) was thus identified as being a paramount factor for a successful initiative.

In July 2015 the IRSG also provided its feedback on the ESAs Technical Paper on possible methodologies to determine and display risks, performance and costs. It underlined the importance of finding an appropriate solution for the different objectives the KID was aiming to achieve (e.g. feasibility, reliability, applicability, comparability, proportionality, etc.) as the products under the scope of PRIIPs (structured products, derivatives, funds, life insurance products, etc.) are very different. The objective of achieving a level-playing field (comparability) should be balanced with other very relevant objectives (feasibility, applicability, proportionality) in order to reflect adequately the nature and characteristics of each type of PRIIP.

The ultimate public consultation on the KID for PRIIPS, concluded in February 2016, by the Joint Committee, provided the IRSG with an opportunity to comment, by responding to 27 questions, on the draft RTS. Some of the messages conveyed by the IRSG included support for a specific section of the KID to early surrender where surrender costs would be displayed in a fully transparent way to retail investors. However, the response advised against repeating surrender cost information in the performance scenarios and cost sections to avoid confusion and double-counting. In addition, the IRSG pointed out that intermediate values in the performance scenarios and in the cost section of the KID are misleading for consumers. As regards the cost indicator, the IRSG remarked that only by separating the full biometric risk premium from the investment costs comparability can be achieved.

IRSG response to EIOPA's Consultation Paper on Product Intervention Powers under the Regulation on Key Information Documents for Packaged Retail and Insurance-Based Investment Products (PRIIPs)

Published on 27 February 2015.

The Commission requested EIOPA to provide technical advice on measures specifying the criteria and factors to be taken into account by NCAs and EIOPA in determining when there is a significant investor protection concern or a threat to the orderly functioning and integrity of financial markets amongst others.

In its response, IRSG considered of significant importance a clear delimitation of EIOPA's intervention powers to exceptional cases, i.e. where NCAs cannot or do not intervene. Therefore, flexibility should be required only if NCAs fail to intervene and EIOPA's interventions based on the PRIIPs empowerment should only be emergency measures applied in extraordinary circumstances and as a last resort - not as a general principle.

Intervention powers should neither directly or indirectly (e.g. by threat of their application) be used to address possible products in scope, where NCAs already have sufficient competencies. An intervention by the ESAs/EIOPA should therefore be extremely rare.

IRSG opinion on Joint Committee draft Guidelines for cross-selling practices

Published on 20 March 2015.

The guidelines aimed to clarify to competent authorities, through high-level principles and practical examples, ways to ensure that firms can comply with the general conduct of business standards toward customers that are expected of firms in the context of cross-selling practices.

The IRSG welcomed the recognition by the Joint Committee that the text of IMD 2 was still being discussed in the legislative process and subject to further changes, as well as the commitment to amend the proposed guidelines in order to ensure a full alignment with the final provisions of IMD 2.

However, the IRSG raised a concern that there was a risk of pre-empting ongoing discussions on Level 1 texts, notably IMD2, which also discussed the exact same issue. Although it is important to ensure a coherent approach, it is also important to avoid going beyond the scope and requirements of the relevant primary legislation. The guidelines should therefore refrain from addressing issues and requirements that are not specific to cross-selling practices, but rather apply to the sale of all financial products (e.g. advice, disclosures, training and remuneration).

Although, the IRSG recognised the importance of dialogue on the challenges that customers may face from cross-selling practices, the IRSG was still not convinced that the Joint Committee Guidelines for cross-selling practices were the right instruments at the right time.

EIOPA request for input by the IRSG Subgroup on Market Conduct on Mobile Phone Insurance

Published on 30 May 2015.

The IRSG was consulted on an informal basis on insurance for mobile phones, as mobile phones play a fundamental role in today's modern society offering an increasing range of uses and functionalities that directly affect the day to day life of consumers.

Mobile Phone Insurance (MPI) is a relative new product in the insurance landscape, hence little or no official statistical information is available at the moment. Some of the findings of the IRSG Market Conduct Subgroup showed that many insured persons actually benefit from their MPI coverage due to the high practical and emotional value attached to the insured object. Nonetheless, there are reports that, in some EU member countries, MPI generates a certain level of consumer complaints which indicates a high level of consumer dissatisfaction with the product.

The IRSG's recommendation was that if needed, actions should be taken by national competent authorities, since they are best-placed to develop rules that fit local consumer expectations and needs.

Online survey in preparation of the Call for Advice from the European Commission on the delegated acts under the Insurance Distribution Directive (IDD)

Published on 1 February 2016.

In February 2016 the IRSG responded to an online survey in advance of the EC's call for advice regarding delegated acts under the IDD. The IRSG responded to this 21-questions survey, advocating (amongst other things) for a principles-based approach to capture the effective participation of a distributor in product manufacturing, and insisting that care had to be taken to balance effectiveness of any requirement with the administrative burden.

IRSG Response to the Joint Discussion Paper on automation in financial advice

Published on 4 March 2016.

In response to a Joint Committee Discussion Paper on automation in financial advice, the IRSG noted the great variety of applications of automated financial advice across the EU, including some jurisdictional examples.

IRSG Other regulatory issues papers

Basic Capital Standard (BCR) for calculating the capital add-ons for global systemically important insurers (G-SIIs) *[own initiative]*

Published on 8 August 2014.

In 2014, given the potential impact on European insurers, the IRSG decided to provide its views on the BCR for calculating the capital add-ons for global systemically important insurers. The IRSG supports the development of a global capital standard with the purpose to ensure increased resilience of the global financial system, but also believes that Solvency II is the most modern risk-sensitive prudential regime finalized and implemented after the financial crisis and as such should provide guidance to the development of new global capital requirements.

The IRSG recognized the considerable challenge facing the IAIS in terms of resolving trade-offs between simplicity, comparability and risk sensitivity in the design of the BCR and subsequently the ICS. In particular, having simplicity as a target for the BCR design has resulted in a decision not to explicitly recognize diversification effects nor the impact of asset-liability matching (the latter being of key importance for life insurers). As a result, the BCR is not very reflective of the risk profile of any individual G-SII and, as a consequence, the calibration level should be carefully considered. This is particularly important to avoid interference with sound risk management principles and to not unfairly discriminate against G-SIIs with substantial operations in both life and non-life insurance. The IRSG also urged the IAIS to finalise the framework and the valuation principles as soon as possible as they provide the basis for determining exposure measures for the BCR as well as the qualifying capital resources against which the capital requirement is measured.

Risk-based Global Insurance Capital Standard (ICS) (February 2015) *[own initiative]*
Published on 16 February 2015.

The IRSG also responded to the IAIS consultation concerning the development of a global international capital standard (ICS) by the International Association of Insurance Supervisors (IAIS) .

The IRSG recommended the IAIS to consider developing the global capital standard by taking a step-by-step approach through which the IAIS could first foster more alignment across existing solvency regimes before making the leap to a full global standard. As the ICS could have significant impact on insurance companies, consumers, insurance products, markets and economies the lessons learned from various regional developments, such as the Solvency II regime in Europe, should be accounted for in the development of the ICS so as to avoid duplicative requirements and distortion of competition in local markets.

Hence, the IAIS should confirm early in the development process that local regimes that equal or surpass the ICS minimum standard should be acknowledged as being a suitable implementation of the ICS framework.

Higher Loss Absorbency (HLA) for G-SIIs. (August 2015) *[own initiative]*

Published on 21 August 2015.

In mid-2015 the IAIS consulted selected stakeholders on the Higher Loss Absorbency requirements which are based on the Basic Capital Requirement (BCR), as consulted in 2014. As already stated in previous consultations the IRSG supports the development of a global capital standard with the purpose to ensure increased resilience of the global financial system, and for this particular consultation welcomed that the IAIS exposed further details of its considerations on the HLA framework.

The IRSG recalled that capital requirements are complementing the G-SII framework's qualitative policy measures (such as enhanced supervision, the preparation of systemic risk management plans as well as recovery and resolution plans and liquidity management plans) to address remaining systemic risks. Nonetheless, it is also paramount that any new regulation for G-SIIs is designed in a comparable manner and that these requirements are applied consistently allowing for the Financial Stability Board's (FSB) proposed measures to appropriately address systemic risks.

The IRSG also noted that the HLA is based on the Basic Capital Requirement (BCR) with an up-lift and not primarily linked to the activities that generate/ amplify systemic risk i.e. the Non-Traditional insurance (NT) and Non-Insurance (NI) activities. The HLA therefore appears to respond mainly to the size of a group rather than activities that create systemic relevance. Additionally, the definition and guidance on what constitutes NT and NI activities were lacking making it difficult to determine the impact of the HLA. The IAIS also proposed that scoring results from the G-SII designation process should be utilized to classify G-SII into HLA buckets. This requires that the designation process and results are made fully transparent, which is currently not the case.

The IRSG encouraged the IAIS to provide further evidence and rationale for the design choices made including the parameters used, since the proposed HLA framework was based on building blocks already scheduled for further review after the HLA consultation. Once the IAIS has a stable version of the updated HLA framework available the IAIS should consult again enabling stakeholders to provide more targeted and valuable feedback.

IRSG response to the Joint Committee consultation paper on draft RTS on risk concentration and intra-group transactions under Article 21a (1a) of the Financial Conglomerates Directive

Published on 24 October 2014.

In 2014 the IRSG was consulted by the ESA's Joint Committee on a draft RTS concerning risk concentration and intra-group transactions under the remit of the Financial Conglomerates Directive (FICOD). The aim of the draft RTS is to enhance supervisory consistency for risk concentration and intra-group transactions at the level of the financial conglomerate.

The IRSG welcomed the ESAs' approach to provide clarification and supervisory measures aimed at ensuring a consistent and harmonised application of FICOD, but also flagged considerations for the Joint Committee to take into account before finalising the RTS.

Most importantly, duplication of requirements should be avoided and hence, the ESAs should look at existing sectorial requirements addressing the issues of risk concentration and intra-group transactions. The ESAs should assess to which extent existing rules, e.g. Solvency II and the banking requirements, can fulfil the current needs and therefore aim to rely as much as possible on such rules. Given that sectorial rules are aimed at ensuring harmonisation, such an approach would help address one of the key aims of the RTS. The RTS should therefore include a reference to already existing EU legislation and implementing measures(e.g. Solvency II QRTs).

This was and still is particularly important for the additional reporting requirements requested by FICOD which should only be introduced if there is a clear need and benefit. Therefore, when harmonisation is already ensured at a lower level (e.g. by the requirements set in Solvency II or CRD IV/CRR) the RTS should avoid duplication of work at the level of the supplementary supervision.

As a closing remark, the IRSG noted that, should the ESAs conclude that existing reporting requirements are not enough to fulfil the current scope, they should indicate the reasons for this in their final report and they should also indicate how any new reporting rules would interact with existing reporting requirements. The IRSG thus believes that any new reporting requirements should allow for alignment with existing reporting requirements, at least in terms of frequency of reporting.

IRSG Strategic Areas papers

European Market Infrastructure Regulation (EMIR): Implementing Technical Standard on Risk-mitigating techniques for OTC derivative contracts not cleared by CCP

Published on 14 July 2014 and 10 July 2015.

In July 2014, the IRSG and the OPSG jointly responded to EIOPA's consultation on a draft Regulatory Technical Standard on risk-mitigation techniques for OTC-derivative contracts not cleared by a CCP (Central Clearing Partner)

The response addressed issues and concerns related to the implementation of the European Market Infrastructure Regulation (EMIR) and highlighted that this regulation may potentially have a severe negative impact on IORPs and insurers, as well as on banks which serve as swap counterparties to both IORPs and insurers. Both stakeholder groups believe that the practical implications of EMIR implementation will be opposite to the main goal of what EMIR tries to achieve. This paper aimed to highlight the position of both OPSG and IRSG with regard to EMIR. In summary:

1. The OPSG and IRSG both agree with the overall principles of EMIR, which is to increase transparency and decrease systemic risks.

2. The OPSG and IRSG both believe that both IORPs and insurers face similar problems with the implementation of EMIR, in terms of increased costs and the negative impact on returns to IORPs and insured beneficiaries and policyholders.

3. The OPSG and IRSG both agree that EMIR is likely to increase costs, which is the price of improved transparency and decreased systemic risk. However, EIOPA should try to minimise excessive or avoidable increases in costs, and develop workable implementation solutions.

4. The OPSG and IRSG both recommend that EIOPA delays the implementation of mandatory posting of collateral for both IORPs and insurers until well beyond the current IORP exemption expiration of August 2015. The OPSG believes that the social goals of IORPs and the exemption granted to IORPs merits special consideration by EIOPA. The IRSG notes that the business model of insurers is relatively low-risk, so any extension of the exemption for posting of initial margin and variation margin should also apply to insurers.

5. The OPSG and IRSG note that EMIR possibly will only shift the system risks from IORPs and insurers to Clearing Members (CM), which often will have a higher default risk. Shifting these risks to CMs will not lower these risks per se. The concentration risks of Central Counterparties (CCP) is even bigger than that of CMs, so even though their default probability is most likely smaller, the impact of their default will be more severe. A CCP default will lead to replacement risk, i.e. having to set up the derivative positions all over again at high costs (and possibly in non-willing markets), which exposes IORPs and insurers to open positions and high costs.

6. The OPSG and IRSG differ in certain respects. The OPSG suggests that IORPs should be given access to ECB liquidity and CPPs rather than going through bank intermediaries. IRSG members do not ask for ECB and CCPs access since they believe that this access would force the insurers to be characterised as globally systemic financial institutions, which would result in significantly increased levels of regulation.

7. In terms of specific comments, the OPSG notes that the current three year exemption period to IORPs from mandatory clearing ending in August 2015 has barely been effective. The intended effect, the creation of a fit for purpose clearing environment for IORPs, is not observed in the markets yet. Neither are alternative measures which would mitigate the impact of central clearing on IORPs introduced. The OPSG would like the exemption period at least for the margining requirements to be prolonged until an acceptable solution for IORPs has been found especially for the following items: fully segregated accounts, a solution for cash variation margin, and the guaranteed return of specific collateral posted. An increased willingness and capacity of CCPs to find solutions together with IORPs would speed up the process2.

8. In terms of specific comments, IRSG insurer concerns are: a) insurance derivatives be specifically out of scope b) a solution for a likely lack of exchange of internal models for initial margin be developed c) collateral concentration limits be made materially more flexible and in particular eliminated in the

case of EU government bonds, d) the implementation of mandatory posting of variation margin be extended beyond December 2015, and e) intergroup exemptions be expanded. In addition, IRSG bank concerns are a) securitisation swaps should be specifically exempted from EMIR and b) that limited re-hypothecation be permitted.

In July 2015 the IRSG further responded to a consultation paper on draft RTS on Risk-Mitigation Techniques for OTC-Derivative Contracts Not Cleared by a CCP under Article 11(15) of Regulation (EU) No 648/2012. In its response, the IRSG strongly supported the goals of strengthening systemic resiliency in the non-centrally cleared derivatives market by establishing risk mitigation techniques and margin requirements in accordance with EMIR. The IRSG welcomed some of the changes that have been introduced in the updated draft of this RTS, such as the alignment of provisions related to the use of external credit ratings vs use of credit ratings based on internal models . However, the response also re-iterated its key concerns relating to EMIR, namely that:

- EMIR may potentially have a severe negative impact on insurers as in practice, although allowed by the Directive to accept a range of high quality assets and collateral, it appears that central clearing counterparties (CCPs) accept only cash as collateral. This risks forcing insurers to either hold higher than optimal amounts of cash, perform forced sales of assets when cash is needed or monetise assets via the repo market to cover collateral needs. All these options are not ideal and risk incentivising insurers to take a pro-cyclical behaviour in periods of market stress when, like most other market players and in contrast to their traditional role, insurers will be looking for liquidity. From this perspective the stakeholder group believes that the practical implications of EMIR will be opposite to the main goal of what EMIR tries to achieve, namely to decrease systemic risk.
- On the treatment of insurance derivatives which due to their special characteristics and difference to financial derivatives, should not be classified as derivatives according to EMIR.

The response proposed a number of amendments to avoid the potential severe negative impact on insurers.

IRSG Responses on Infrastructure (EIOPA Discussion Paper on Infrastructure Investments by Insurers, EIOPA Call for Advice on Infrastructure Investments and EIOPA CP on infrastructure corporates)

Published on 25 April 2015, 9 August 2015 and 16 May 2016

In April 2015 the IRSG provided a response to a questionnaire for EIOPA's Discussion Paper on Infrastructure Investments by Insurers. The response was very supportive of the creation of an infrastructure asset class and agreed that there was evidence of a risk-based rationale that supported lower capital calibrations for assets meeting appropriate criteria.

Some of the key points raised in answer to the questions included:

- The current valuation approach used by SII for infrastructure, because of its sensitivities to spread changes, can create very large implicit capital requirements for long-term debt such as infrastructure which adds to the disincentives created by the very high explicit SCR.
- The definition of an infrastructure asset class should not depend on there being an external credit rating (ECAI).
- A proposed definition for "Infrastructure" assets based on "a long term, capital intensive undertaking the purpose of which is to utilise certain assets, facilities, equipment, systems,

networks or part thereof to provide services that are essential or desirable for the maintenance of societal or governmental functions, health, safety, security, economic or social well- being of the population."

- Construction risk can be and often is mitigated very effectively with an engineering, procurement and construction (EPC) contract.
- The condition which ensures that an insurer is in a position to hold the infrastructure investments to maturity is that an insurer is not exposed to fire-sale risk by the structure of its asset-liability profile. There must be no requirement to hold to maturity as this interferes with the ability to manage risks appropriately and obligations to optimise returns for policyholders
- There is strong rationale to cover infrastructure debt in the counterparty default risk module:
    - There is no active market price so bonds cannot be easily traded and by definition they are usually held long term
    - They are generally unlisted assets so there is no market price therefore the use of a theoretical "worst case" price change to determine capital is very obviously questionable
    - High historical levels of recoveries on infrastructure finance are key feature and provide strong evidence vs typical corporates
    - Maturities will typically be very long-term and therefore will be most impacted by an incorrect treatment in spread module

In its response to EIOPA's consultation on the Call for Advice on identification and calibration of infrastructure in May 2016, the IRSG welcomed EIOPA's draft advice as a step in the right direction. However, the current draft does not go far enough in order to remove the impediments to infrastructure investments for insurers. The proposed definition refers to project finance and excludes an important part of infrastructure investments.

Furthermore, the capital charges are still too high for the risk posed by investments in infrastructure. The framework on criteria proposed by EIOPA appears very restrictive and might exclude even more investments. Therefore, IRSG suggests that EIOPA introduces more flexibility in the criteria. IRSG acknowledges the challenges in calibrating risk charges. However, there is sufficient evidence that the capital requirements can be lowered. This holds true for the risk charges for the individual asset classes, but should also apply in a portfolio context where low correlation factors between infrastructure and other asset classes, preferably zero, should be recognised.

IRSG highlighted the following regarding the definition:

- The definition with reference to project finance excludes unnecessarily any infrastructure corporates. This exclusion should be avoided.
- Particularly, the definition should be extended so that infrastructure projects that are pre-financed or co-financed by the European Investment Bank (EIB) fall within the proposed definition.

IRSG highlighted the following regarding the criteria:

- There needs to be more flexibility in the area of criteria since the current list of criteria has the potential of disqualifying many projects and therefore not removing impediments for infrastructure investments.
- IRSG proposes the allowance of internal ratings for the determination of credit quality steps for infrastructure. - Further proposals on the criteria are included in IRSG's comments below.

IRSG highlighted the following regarding the calibration:

- IRSG suggests that EIOPA includes a calibration proposal for the counterparty default risk module. - If a recalibration in the spread risk module is chosen, then the liquidity and credit risk approach should be combined.
- The credit risk approach should not be restricted to CQS 2 and 3.
- The probability of sale set at 10% in the liquidity approach is not well justified and leads to too conservative results.
- EIOPA should make a separate proposal for unlisted infrastructure equity investments. - Recognition of low, ideally zero, correlation between infrastructure and other assets is key.

In May 2016 the IRSG also responded to EIOPA's consultation on infrastructure corporates and highlighted the importance of appropriate definition and capital calibration of corporate infrastructure investments especially given the role they can play in connection with the Commission's Capital Markets Union initiative and Investment Plan for Europe.

IRSG welcomed (with the exception noted in the following paragraph) the initiative to extend the definition of qualifying infrastructure so that it also includes not only project finance structures, but also corporate infrastructure transactions, which according to Moody's represent 4x the combined capital value of the infrastructure project finance transactions.

The IRSG considered that there is sufficient evidence that the risk of infrastructure corporates is lower than normal corporates to justify lower capital charges. Therefore, where eligible infrastructure corporates ("qualifying infrastructure corporates") and infrastructure project finance entities have sufficiently similar risk profiles, applying the same capital treatment is justified in line with those used for infrastructure project finance.

In terms of definition, IRSG supported the application of the criteria for infrastructure project finance to infrastructure corporates, with appropriate modifications of the requirements for the contractual framework.

The IRSG response made a range of specific improvements to the draft wording provided by EIOPA.

IRSG Response to the Consultation Paper on the creation of a standardised Pan-European Personal Pension product (PEPP)

Published on 5 October 2015.

In response to the consultation Paper on the creation of a standardised Pan-European Personal Pension product (PEPP), the IRSG welcomes that the PEPP is a long-term savings product with the aim to provide income in retirement. It is also welcome that the proposed design allows for the recognition of existing national practices.

In summary the IRSG made the following general comments on the key design features that should be incorporated into the PEPP:

- Minimum investment periods are fundamental to PEPP product design, as they will enable good returns to be generated over the long-term, in addition to allowing funding for long-term illiquid investments as intended by the creation of a Capital Markets Union.
- The PEPP product should have a 10 to 12 year minimum investment period with a possibility to surrender/switch at that point or to continue with a minimum investment period of 5 to 10 years. Furthermore, early switching or surrender should be possible, although this will lead to cancellation costs being passed onto consumers, due to the disinvestment in the illiquid assets or the need to recoup costs. The cancellation periods can therefore depend on the investment strategy of the provider. Additionally, minimum investment periods would allow for amortisation of distribution and advice costs over several years.
- PEPP providers should be free to offer PEPPs with default options based on the following investment strategies:
    - Guarantees
    - Long-term collective investments with a smoothing of returns
    - Life cycling with de-risking
- The decision about permitted default options should take into account that products with guarantees offer a higher level of protection than life-cycling strategies or balanced funds. In the latter, consumers are exposed to the risk of losing their capital and therefore having a lower retirement income than expected.
- The IRSG is highly sceptical about equivalence assessments of prudential regimes applicable to different types of financial institutions. The Solvency II framework should be applicable to all PEPP providers offering products with minimum return guarantees and/or biometric risk coverage. However, the Solvency II framework will need to be amended to better reflect insurers' ability to manage market volatility in the long-term, so that these products become viable.
- The PEPP should come with the option for the consumer to ask for additional biometric risk coverage during the accumulation phase, regardless of the type of PEPP provider. It should be noted that in some markets this is a mandatory feature for personal pension products and insurance products.
- Public pensions are always paid as annuities. Given that pension products aim to provide an income during retirement, the protection against longevity risk should be promoted among these options.
- Costs and charges should not be capped at European level. Competition should be allowed between providers. Consumers can be provided with clear and concise information in pre-contractual and on-going information, regarding the number and length of a particular PEPP's minimum investment periods, as well as the associated costs for switching early

Compulsory vs Optional Disaster Insurance *[own initiative]*

Published on 1 April 2016.

This paper states that rather than issuing compulsory insurance, there should be a focus on building an effective and good working insurance market. To do so, attention should be given to prevention and information sharing. Therefore, the paper notes that it is important to build, at European level:

- Cooperation between the private and public sectors in order to build good and efficient (European) databases (with possibility to exchange information internationally) to improve accuracy and comparability of risk data and risk modelling, and improve protection.
- Exchange of experiences on best practices of local insurance solutions and disaster risk management (DRM) (education message)

It also explores the risks and opportunities inherent in climate change, and a societal transition to a low carbon economy. Three risks are important to review:

- Physical risk impacting the liability side of the balance sheet;
- Transition risk as the global transition to a lower carbon economy may have an impact on insurers through their investments in carbon-intensive assets, and reduce insurance premiums, and
- Liability risk, as there is a potential for increased claims in general liability classes of business, such as public liability, directors' and officers' and professional indemnity, with three primary lines of argument for establishing liability considered most relevant: failure to mitigate, failure to adapt and failure to disclose.

The paper highlights the potential for climate change to present a substantial challenge to the business model of insurers. However, there are also climate change related opportunities for insurance firms:

- to develop new products, particularly in areas relating to the transition to a lower carbon economy
- to find new sources of premium growth, such as renewable energy project insurance,
- supporting resilience to climate change through risk awareness and risk transfer, investments in 'green bonds' and providing financial sector leadership on climate change.

Savings, investment products and Guaranteed Savings Products (GSP). Their boundaries, regulations and communication to the public *[own initiative]*

Published on 1 April 2016.

This paper sets out the difference between guarantees (future provision of agreed value) and insurance mechanisms (conditional benefit). It notes that the increasing number of conditional guarantees based on macroeconomic and demographic variables within public pension schemes could have a huge impact on households. It is therefore important to increase the awareness of these developments among consumers. As the use of guarantees is becoming more costly and as this is likely to remain the case for some time to come, it is important to optimise the use of these guarantees, conditional or not. The paper calls for further research on:

- The (subjective) importance and perception of guarantees for consumers.
- The (objective) costs versus outcomes of guarantees.
- The optimal set and scope of variables that need to be adopted. Partial or temporary guarantees and targeted outcomes could provide interesting alternatives to fixed guarantees, if supply and demand are taken into consideration.

Catastrophe models and Solvency II: Transparency, evaluation, credibility *[own initiative]*

Published on 1 April 2016.

This paper examines issues around modelling of natural catastrophe risks.

Economic losses from natural hazards continue to escalate from the 1950's. From 2000 up to 2012, direct losses from disasters are in the range of $2.5 trillion. Hence, in 2013 the UN reports that losses are out of control, urging both the public and private sector to reduce risk. In accordance, insured losses follow a similar trend, exceeding $50 billion per year (Munich Re 2013). Overall vulnerability constantly increases (e.g. globally, $71 trillion of assets would be exposed to one in 250 year earthquakes), whereas some countries are significantly exposed, considering that their 1 to 250 year loss scenarios, exceed 4 or even 10% of their GDP.

The paper identifies a number of gaps and weaknesses in the way catastrophe risk is dealt with in the standard formula under Solvency II and explains the difficulties inherent in developing CAT risk models.

In order to improve present regulation, the paper suggests that independent expert opinion is required and that this can be achieved with the establishment of an independent multidisciplinary group of experts, covering different CAT risk topics that could propose reforms in current regulation and potentially revise the standard formula. The paper adds that the majority of its members should not be associated with the insurance industry or vendors so as to avoid conflicts of interest. A revision targeted for 2018 could be an achievable goal and should be coordinated by EIOPA.

It is suggested that regulators need support and training from expert advisers, in understanding and validating scientific aspects of the modelling process. In some cases, national supervisory authorities could offer a source of expertise. Following the above, the role of EIOPA as a coordinator could indeed be fundamental for: a) building capacity to assist regulators by setting up/organizing training seminars, b) creating a pool of specialists from existing national regulators, c) facilitate knowledge transfer and/or mobility of specialists from one country regulator to another according to the needs. The latter will support EIOPA's role in strengthening oversight of cross-border groups and promoting a coordinated European Union supervisory response.

The paper also suggests that EIOPA should support the development of open access CAT models. These models can be transparent, informing also the public in line with the proposals of the European Parliament.

Currently insurance in Europe does not efficiently support the agricultural sector and no specific rules have been included within Solvency II. The penetration rate of 20-25% of crop insurance in Europe is approximately half compared to the US. Special rules are needed for the CAT Risk of the agricultural sector so as to address agricultural needs and peculiarities. The paper suggests that a detailed study of the European scene is needed, setting priorities and importing best practices from the US and Australia, so as to increase penetration in Europe. Some coordination with the Common Agricultural Policy (CAP) that defines the European policy and distributes a major part of the European Commission Budget would be essential and beneficial.

Cyber risk *[own initiative]*

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The paper explains that Cyber risk is a major threat to businesses in meeting business goals and reputation management and continues to attract considerable attention in media rooms and boardrooms. The cyber risk landscape of tomorrow will look very different to that of today. Emerging risks will come from impact of technology.

Businesses have to understand how cyber risk impacts their operations, how it can be mitigated and then determine their own risk appetite. There is a very broad spectrum of potential losses, depending on the nature of the business and the sector in which it operates. A proactive and more multidisciplinary approach to assessing cyber risk is advised, together with a review of business continuity and crisis management frameworks.

The risks posed by cyber attackpresent an opportunity for the insurance market. The cyber insurance market is growing rapidly, but challenges come from business' ability to understand its own exposures, the ever-evolving nature of cyber risk and awareness of the different data protection laws globally.

In an environment of changing cyber risk, due to emerging technologies, an inadequate global cyber governance framework can be observed. A new governance framework is needed that is global and inclusive in nature and based on a multi-stakeholder approach, together with a flexibility to adapt to ever changing threats.

Experience of risk and/or insurance managers with the purchase of cyber insurance cover needs to be shared.

EIOPA should support the insurance sector in this new cyber activity and obtain the right oversight information from national supervisory authorities (NSAs). EIOPA also has to optimise the management of its own cyber risks.