OPSG

OCCUPATIONAL PENSIONS STAKEHOLDER GROUP

Activity Report 2018-2020

July 2020

EIOPA-OPSG - 20-16

European Insurance and Occupational Pensions Authority

From the left to the right – Front row: Moses Azzopardi, Bernard Delbecque (Chair), Valdemar Duarte, Senka Fekeža Klemen, Bruno Gabellieri, José Carlos Gómez Fernández, Sue Lewis, Christian Gülich, Olav Jones, Kęstutis Kupšys, Aleksandra Mączyńska (Vice Chair).

From the left to the right – Back row: Philippe Seidel, Alf Alviniussen, Falco Valkenburg (Vice Chair), Fieke van der Lecq, Ann-Marie Wancke Widemar, Hans van Meerten, Francesco Briganti, Sybille Reichert (resigned in May 2019), Michael Reiner, Christian Lemaire, Philip Neyt, Stefan Nellshen, Jerry Moriarty, Gabriel Bernardino (EIOPA's Chairman), Flavia Micilotta, Frank Grund (EIOPA's Management Board Member), Elisa Luciano, John Maher, John O'Quigley, Catalin Oroviceanu.

Not pictured: Torun Reinhammar, Onno Steenbeek

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1. MESSAGE FROM THE CHAIR

The mandate of the OPSG started in October 2018 and should have continued until mid-2021. The revision of the EIOPA Regulation in 2019 in the context of the Review of the European Supervisory Authorities (ESAs) led to an early end of the OPSG mandate. The Covid-19 pandemic has also prevented the Group to hold a full meeting in person in May.

Despite these circumstances, the OPSG managed to adopt a number of position papers on important issues, including in recent weeks. In this context, I would like to extend a special note of gratitude to Francesco Briganti, Christian Gülich, Flavia Micilotta, Jerry Moriarty, Stefan Nellshen, Michael Reiner, Fieke van der Lecq and Ann-Marie Wancke Widemar, who accepted to take the lead of some OPSG working groups. They also contributed to the preparation of this Activity Report by highlighting the main conclusions of the position papers they submitted to the OPSG approval.

On a more personal level, I would like to share some thoughts on the work accomplished by the OPSG as well as on conditions that determine the quality of the OPSG's work.

At its inaugural meeting of 17 October 2018, the first decision taken by the OPSG was to amend the rules of procedure to give the possibility to elect two Vice Chairpersons. In my introductory remarks before the election, I proposed this amendment in order to allow a broader representation of the different categories of stakeholders represented in the OPSG. I also stressed the importance of the contribution of the representatives of the users, beneficiaries and members. Indeed, in my view, the long-term success of the pension fund industry depends on the quality of the services provided to users. For this reason, I was pleased that members approved the proposed amendment, which led to the election of two Vice Chairpersons: Aleksandra Maczynska and Falco Valkenburg. I wish to thank my two colleagues for their excellent support over the OPSG mandate.

I would also like to highlight the effective and fruitful cooperation which has been established between the OPSG and the Insurance and Reinsurance Stakeholder Group (IRSG), in particular on EIOPA's work on the Pan-European Personal Pension Product (PEPP). As the PEPP is a project of potential importance to all categories of stakeholders, the OPSG and IRSG agreed with the EIOPA management that it would be efficient to provide joint opinions on the PEPP. The large number of members (60) and strong divergence of views on some important topics, in particular the 1% fee cap on the Basic PEPP, made it difficult to agree on a unique set of recommendations. Still, members reached a consensus on many different issues, and agreed to present different viewpoints in the areas of disagreement in an open and constructive manner. I believe this approach allowed the Stakeholder Groups to make a significant and valuable contribution to the development of the Level 2 legislation for the PEPP.

The OPSG and the IRSG also united their forces to prepare a joint advice on the consultation launched by the ESAs on ESG disclosures. In addition, they drafted together with the Securities and Markets Stakeholders Group and the Banking Stakeholder Group a joint letter to give their opinion on the changes to the composition of the Stakeholder Groups as a result of the review of the ESAs. IRSG and OPSG members also interacted with the Board of Supervisors of EIOPA during a yearly Joint Board and Stakeholder Groups meeting in November. At these meetings in 2019 and 2020, participants discussed strategic topics of common interest, including sustainable finance, cyber risk, information documents, the PEPP, how to protect savers in a negative interest rate environment, and the role of supervision.

The cooperation within and between Stakeholder Groups requires considerable work, real commitment and a genuine willingness for dialogue. Indeed, preparing an advice involves a decision to commence a project and agreeing leadership of the working group, consulting with members, drafting a preliminary report, circulating it for consideration, reflecting and absorbing feedback, amending and editing the report several times and then finally submitting a text for approval. This is a challenging journey given the level of complexity in each project, the varying timelines and the diversity of profiles represented in the Stakeholder Groups. To arrive convincingly at a common position, it is important for all members to bring their own experience and expertise to the work, while also listening carefully to that expressed by colleagues with complementary perspectives. In my capacity as Chair, I was fortunate that members made a serious effort to work together with that in mind.

My only regret is that we could not finalize our work on the contribution of funded pensions to retirement income, growth and employment. This was an ambitious project that led members to discuss systemic issues relating to pension adequacy and sustainability, the financing of pay-as-you-go state pensions, the tax treatment of pensions, the market structure, the ability of private sector pensions to meet the needs of members, and different visions for the future of social protection. In the end, the OPSG did not have enough time to converge towards a common position on these different topics. I hope that the new OPSG will take up this important theme, taking into account the work begun under this mandate as well as the final reports of the High Level Group of Experts on Pensions and the High Level Forum (HLF) on the Capital Markets Union. The OPSG should not underestimate the time it will take to complete this project. To be convinced of this, it suffices to note that the HLF met 9 times between the end of November 2019 and early June 2020 to prepare its report.

Let me conclude by commending EIOPA's Chairman, Gabriel Bernardino, and EIOPA's Executive Director, Fausto Parente, for taking part in the OPSG meetings. Their sincere commitment to explaining EIOPA's positions and providing feedback to comments and questions enhanced the interest and quality of engagement of OPSG members.

My thanks also go to Florian Ouillades and Kai Kosik for their excellent support in the organisation of the meetings and the dissemination of documents for comments and approval.

Bernard Delbecque

Chair of the OPSG

2. THE OCCUPATIONAL PENSIONS STAKEHOLDER GROUP (OPSG)

2.1. ESTABLISHMENT AND OBJECTIVES OF THE OPSG

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 OPSG's main responsibilities are:

- advising EIOPA 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 advise on, any issue related to all of the above.

The Group provides opinions and advice, at EIOPA's request, on issues relating to pensions and by responding to consultations. It also provides opinions on its own initiative.

The Group consists of 30 members appointed by EIOPA's Board of Supervisors, representing in balanced proportions IORPs operating in the Union, representatives of employees, representatives of beneficiaries, representatives of SMEs and representatives of relevant professional associations.

The OPSG holds at least four meetings a year. As far as possible, the Group adopts its opinions or reports by consensus, and members handle drafts in their personal capacity.

2.2. REPORTING, TRANSPARENCY AND VISIBILITY

EIOPA publishes the opinions, feedback statements, reports and other advice of the Group, as well as the results of its consultations and meeting agendas, conclusions and presentations.

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.

This Activity Report contains a summary of the opinions and reports[1], listing the main conclusions and recommendations, and is part of the OPSG's reporting and transparency requirements.

[1] Under section 3.

2.3. EIOPA'S ROLE IN SUPPORTING OPSG ACTIVITIES

EIOPA provides support for the activities of the OPSG. EIOPA's Senior Management and Board of Supervisors Members regularly attend OPSG meetings.

EIOPA staff provides general administration support in relation with the organisation of meetings (agenda, documents, minutes, etc.) or preparation of opinions. The Secretariat also monitors progress to ensure timely delivery of output and payment of expenses.

In addition to this, OPSG members are invited to a number of EIOPA events to facilitate further interaction and understanding of EIOPA's activities and strategy.

2.4. INTERACTION WITH EIOPA'S INSURANCE AND REINSURANCE STAKEHOLDER GROUP

At least once a year a joint meeting with EIOPA's Board of Supervisors and the Insurance and Reinsurance Stakeholder Group (IRSG) is convened to discuss matters of mutual interest. 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, as explained in the message of the Chair, the two Stakeholder Groups worked together on a number of topics.

2.5. ADJUSTED 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 updated Stakeholder Group selection procedure can be found here.

3. Overview of the OPSG work

3.1. IORP II AND ITS IMPLEMENTATION

3.1.1. Information to members and beneficiaries

Under the leadership of Sibylle Reichert, the OPSG also delivered an advice on information documents to be provided to prospective members, members and beneficiaries. In this advice, the OPSG confirmed in particular that

- Information should be comprehensive, understandable for non-financially literate people and user-friendly.
- For schemes in which members bear investment risks or can make investment decisions, prospective members should be provided with information on these risks, past

performance for ten years, or, if the investment vehicle is less old, since the inception of the vehicle.

- Modern communication, which can easily be layered, tailor-made, and segmented according to the financial literacy of people, should take into account behavioural economics and help to raise retirement awareness and behaviour of scheme members.
- While certain rules on information provision are necessary, these rules should be flexible enough to be adjusted to the needs of scheme members and developments in technology, as long as the intelligibility and accessibility of the information to persons with impairments is preserved.
- In order to find out about the information needs of scheme members, any information needs to be tested with scheme members. Information provided must be capable of validation or audit.

The OPSG advice influenced significantly the drafting of the updated version of the report, which was adopted by the Board of Supervisors in January 2019. The OPSG views on the way to present past performance, the differentiation between DB and DC types of scheme for the pre-retirement information and the need to incentivise members to take appropriate retirement decisions were amongst the aspects reflected in the report.

The OPSG also provided feedback on the Pension Benefit Statement (PBS) designs throughout 2019. First, some OPSG members responded to the targeted consultation on the draft designs conducted in June. This helped clarify the scope of the PBS designs for DC types of schemes in addition to specific input to the proposed designs. Secondly, OPSG members provided further comments on improved PBS designs drafts following the consumer testing results, whilst expressing their overall positive feedback on the project. Members supported the idea of linking the PBS with the digital pension dashboards and other digital innovations to reach out to those who have limited financial education (e.g. with the help of explanatory videos). Members also highlighted the importance of consumer testing to identify a standardised and user-friendly template for the use of all IORPs.

3.1.2 Governance and Risk Assessment

In March 2019, the OPSG gave its feedback on EIOPA's informal consultation on four supervisory opinions: (i) governance documents, in particular Statement of Investment Policy Principles (SIPP) and Own Risk Assessment (ORA), (ii) practical implementation of EIOPA's common framework on risk assessment, (iii) operational risks, including cyber and outsourcing risk management, (iv) ESG risk management.

Through this consultation, EIOPA aimed at gathering the OPSG perspectives on specific aspects before finalising supervisory opinions addressed to National Competent Authorities (NCAs).

When discussing the draft opinions, the OPSG cautioned that these opinions should not result in double work, given that a number of NCAs were already discussing the implementation of IORP II with the private sector. It was also stressed that quite a large number of groups had not yet transposed the Directive, whereas NCAs in other Member States were already developing guidelines for the implementation of IORP II. Some members feared that the EIOPA work could lead to changes to those guidelines and therefore additional costs. EIOPA explained that supervisory opinions are not guidelines but opinions, i.e. they are not legally binding.

3.1.3 Environmental, Social and Governance Risks

Under the leadership of Flavia Micilotta, the OPSG carefully reviewed the draft opinion of EIOPA on the supervision of ESG risks by IORPs on the basis of Article 25.2 (g) and Article 28.2 (h) of Directive (EU) 2016/2341 – the IORP II Directive. The OPSG looked favorably on this initiative on the part of EIOPA to support the NCAs in their work to transpose the Directive into national law by 13th January 2019. This was considered an important step, particularly in view of the fact that the implementation level across Member States, to date, is still extremely low, a point which might indicate that there is still some degree of confusion as to how NCAs take into account some elements of the Directive. This could be particularly linked to the integration of ESG risks and the consequent impact of the introduction of transparency requirements on sustainable investments undertaken by IORPs.

The management and integration of ESG risks is an increasingly relevant issue for institutional investors. From an investment perspective, ESG factors are considered as potentially important drivers of portfolio risk and return. Nevertheless, institutional investors must be able to reconcile their actions in terms of ESG issues with their obligations to their beneficiaries.

Understanding ESG issues and the potential impact of ESG factors on both their investment strategy and the broader operating environment is therefore an integral part of the good governance for institutional investors. Interpretation of institutional investors' responsibilities and how ESG integration can contribute to them, differ significantly. There are tangible difficulties both on the technical and operational side to properly and efficiently measure and understand ESG-related portfolio risks. Though sustainability is not a new concept, its recent rise in importance, particularly among financial players, has inevitably led to a range of different practices and general fragmentation which led to increased confusion. The OPSG concluded that there is definitely a great need to further educate the industry as to what sustainability entails and what are the implications for the financial industry. In that respect, and to add to the Opinion text proposed by EIOPA, the OPSG envisaged for specific ESG related workshops or webinars designed to increase the knowledge and know-how of NCAs and IORPs. These could fit within the remit of EIOPA in terms of protecting consumers and rebuilding trust in the financial system.

Today, the European Commission is on its way to undertaking substantial efforts towards defining a level-playing field for investors who have a sustainability appetite and intend to embed sustainability criteria in their portfolios. The work undertaken in the space of taxonomy, to help define harmonised criteria for determining whether an economic activity is environmentally sustainable, will help the Commission later and through delegated acts to identify activities which will qualify as being ‘sustainable’. This work though complex, aims at providing economic actors and investors with clarity on which activities are considered sustainable in order to inform their investment decisions.

At the same time, these efforts also underpin the concrete difficulty to determine the value of sustainability criteria for the different actors involved, along with the evolving nature of these elements. In this respect, any attempt at hard coding and defining strict approaches should be avoided in favour of more high-level principle-based approaches. For this reason, EIOPA should refrain from outlining an Opinion which would be too prescriptive and defined. As a matter of fact, sustainability is better assessed on a materiality-based principle which entails for different players to define their own categorization of ESG both in terms of risks and opportunities.

Some of the elements of the original matrix presented in Annex for instance, though informative, were considered confusing, as it does not allow for a comprehensive vision of ESG risks nor for a clear definition of ‘what are ESG risks’ and ‘how to deal with them’. Some examples of matrices available today are used by the industry for support in these efforts like the Sustainability Accounting Standards Board (SASB). The SASB framework defines the material topics per sector and by company and the SASB’s Materiality Map identifies sustainability issues that are likely to affect the financial condition or operating performance of companies within an industry and it is aimed at both corporations and investors. This could represent a good basis for IORPs who intend to start considering the value of ESG for their investments and who are at an early stage in their work. The OPSG recommended to include this example in the Opinion. The OPSG also proposed a revision of the original matrix initially drafted by EIOPA.

“The consideration of ESG risks by IORPs is not a novelty for some but it’s a concept which needs to be carefully considered in order for it to become the norm for the sector. Players are increasingly confronted with the necessity to standardize their approach and embed ESG risks in their risk management. Guidance is strongly sought after and EIOPA’s role is invaluable in this respect.” Flavia Micilotta, OPSG team leader on ESG

3.1.4 Operational Risks

At the end of March 2019, the OPSG, under the lead of Michael Reiner, gave input on the consultation of the draft "*Opinion on operational risk (including annexes on illustrative classification, outsourcing risk, cyber risk)*" by EIOPA. The OPSG received a reasoned feedback statement by EIOPA on 1 July 2019 where EIOPA explained to have taken into account suggestions made by the OPSG.[2] In particular, EIOPA provided more guidance on the principle of proportionality, which is especially relevant for operational risk management. On 10 July 2019, EIOPA published the finalized document: "***Opinion on the supervision of the management of operational risks faced by Institutions for Occupational Retirement Provisions (IORPs)***."[3]

The IORP II Directive introduced several provisions on the operation of the IORP and the management of the associated risks. Operational risks are part of the risk management (Art. 25), the own risk assessment (Art. 28) and the supervisory review process (Art. 49). The IORP II neither defines in detail what operational risks are nor how the management of them should be organized and executed. Hence some guidance by EIOPA is welcome. EIOPA's opinion focuses on the following topics: definition and classification of operational risks, the supervision by NCA's, outsourcing and cyber risks. From a formal point of view the opinion is addressed to the NCAs, but it has an impact on IORPs as well.

In his feedback the OPSG was guided by the business model of IORPs, which often provide just one product and have a very specific distribution process. So IORPs are very different from insurance companies and the OPSG argued for a cautious application of EIOPA's aim of cross sectoral consistency. Specifically, the OPSG drew the attention to the following aspects:

- Recognition of the business model of IORPs vis-a-vis insurance companies
- Recognition of the different business models of IORPs
- More recognition of the principle of proportionality
- Importance and distinction of political and regulatory risks
- Importance of avoiding too much regulation of operational risk to avoid an operational risk
- No need to repeat rules set in the IORP II Directive
- Importance of avoiding that the opinion goes beyond the IORP II Directive in scope and standard

[2] https://www.eiopa.europa.eu/content/opsg-feedback-iorp-ii-supervisory-opinions-governance-and-risk-assessment-letter-opsg-eiopa_en.

[3] https://www.eiopa.europa.eu/content/opinion-supervision-management-operational-risks-faced-iorps.

"Operational risk management is a new topic in the IORP II. Hence it is important to get it right from the start. The opinion of EIOPA could help in this direction. As a lawyer I was critical regarding the approach of EIOPA since it wanted to strengthen cross sectoral consistency and went well beyond the IORP II Directive. On the one hand, the OPSG welcomed the opinion because a uniform supervision is essential for the functioning of the internal market. NCAs across the EU have the same questions arising from the implementation of IORP II and EIOPA could facilitate the efficient handling of these questions. On the other hand, the OPSG pointed out that in order to archive this goal and to respect the rule of law, it is necessary to strictly stick to IORP II. Otherwise it is not a common supervisory standard for IORP II but rather some other standard which EIOPA believes in. This is especially important as many Member States have implemented the IORP II literally. Considering that supervision is the exercise of sovereignty, NCAs are strictly subject to the rule of law." Michael Reiner, OPSG team leader on operational risks

3.1.5 EIOPA feedback

In light of the OPSG's technical feedback on the implementation of IORP II governance and risk assessment provisions, EIOPA amended the relevant parts of the opinions which included:

- Removing unnecessary repetitions of the IORP II provisions
- Using to the extent possible IORP II terminology to avoid misunderstanding with Solvency II-specific concepts
- Highlighting the specificities of IORPs and any relevant differences vis-à-vis the potential vulnerability and exposure to certain risks
- Bringing in more explicitly the proportionality principle whilst leaving more detailed implementation to NCAs
- Including suggested examples
- Focusing on relevant considerations for information disclosure

3.2 IORP Stress Test 2019

In February 2020, the OPSG approved a position paper on the pan-European stress test 2019 prepared by a subgroup, which was led by Stefan Nellshen.

The paper encouraged EIOPA to take a macro-prudential, pan-European approach with regard to stress testing and generally pointed out the importance of a pan-European stress test for deriving an aggregate picture for the current shape of the European occupational pension landscape and its resilience against certain shock events. Furthermore, such an assessment could give valuable insight into the risk situation of a participating IORP for its board members and different stakeholders, and it could (as one option) be used by an IORP (if it wants to do so) in the context of its own risk assessment (ORA).

The paper contains detailed and technical comments, proposals and advices with regard to the models, technical specifications and methodologies used, which partially were given to EIOPA before the stress test exercise for the respective IORPs started.

The paper also contains general observations and comments regarding the results and their publication by EIOPA. Like in earlier papers, the OPSG saw the "Common Methodology" (Common Balance Sheet, Common Framework) as not being the most suitable methodology. The OPSG generally prefers a cash-flow analysis, which could take longer term developments into account and which would not be purely based on valuation conventions not fitting to every IORP in every Member State. Such a cash-flow analysis could - in the view of the OPSG - be better done consistently across Member States while taking at the same time the national and individual specificities of the single IORPs into account. Hence, the OPSG encouraged EIOPA to focus on that approach and to envisage to end the current parallel run of the two methodologies (Common Methodology and cash-flow analysis) at some future point in time.

The Group also advised to rethink certain figures being used as risk-measures, which do not seem to be perfect for this purpose (e.g. value of sponsor support as a percentage of a sponsor's market value, shortfall of assets over liabilities). Additionally, the OPSG emphasized, that assuming risk-free returns in a cash-flow analysis would not be appropriate for a base case scenario – it could be one of the risk scenarios instead. With regard to the publication of the results, the OPSG recommended to EIOPA to choose a more differentiated way of presenting the results instead of showing and interpreting total figures only, which have been influenced too strongly by an extremely high weight of one Member State only. This would give a fairer view and could help to avoid press reactions causing unjustified panic on the side of the beneficiaries in some European countries showing results, which could be seen as still being acceptable.

The OPSG appreciated the integration of ESG elements into the stress test. The OPSG advised EIOPA to stick to a qualitative (and relatively uncomplicated) approach as chosen in this year´s stress test, while a potential future integration of quantitative ESG-elements into the stress tests has been seen critical by the Group due to the danger of a lack of objectivity.

All in all the OPSG congratulated EIOPA for the good participation rate achieved in the stress test and appreciated the idea to run the stress test in three year intervals in the future as well as the use of a stress scenario assuming coherent movements of the discount rates on the assets and the liabilities side. The Group encouraged EIOPA to give aggregate conclusions and tangible recommendations for different stakeholders based on the stress test. For any further details please refer to the full paper.

The OPSG advises the next OPSG to continue to give input to EIOPA also regarding the stress test 2022 and to be in general a competent, open and honest discussion partner for the authority in the whole field of quantitative regulatory elements.

"The creation of an environment promoting adequate and reliable occupational pensions in Europe should be one of the most important targets for the European society. EIOPA as the pan-European supervisory authority in this field will be of utmost importance with regard to reaching this goal – especially by adequately assessing the resilience of the pan-European occupational pension system against adverse events, by working towards a minimum harmonization of regulatory practices and by providing recommendations and best practices. For me as a practitioner working for an IORP, it is extremely important to advise EIOPA regarding which consequences certain regulatory instruments (e.g. stress tests), recommendations, actions and regulatory practices etc. will have on the European beneficiaries of occupational pensions, the respective IORPs and on the respective employers offering voluntarily occupational pensions to their employees. Only if these consequences are adequate and acceptable to all of these groups of stakeholders, occupational pensions will have a bright future in Europe. In this sense I always found the work of the OPSG extremely useful and important and I always enjoyed this kind of work serving the European idea and the fruitful and open discussions, which we had in our Group." Stefan Nellshen, OPSG team leader on IORP stress tests

3.3 EIOPA's Financial Stability Reports

Every June and December, EIOPA issues its Financial Stability Reports. The OPSG decided to respond annually via a Feedback Statement, to start with the December 2016 Report. Since the points made by the OPSG still seemed valid in 2017 and 2018, the OPSG decided not to respond to those years' reports. In 2019, the OPSG responded to the June 2019 Report. The work was led by Fieke van der Lecq.

The OPSG's feedback statement endorsed the remarks in the June 2019 Financial Stability Report (FSR) and indicated some points of attention going forward. These referred mainly to asset liability management of pension funds and macroeconomic stability. Discontinuity risk for pension plans is a macro stability risk of itself.

The OPSG encouraged EIOPA to complement its assessment of investment allocations with an assessment of liability allocations. Which fractions of the pension promises are in defined benefit terms, and which are in defined contribution terms, or other terms? How large is the sensitivity of the liabilities to the asset volatility? An asset-liability assessment on the macro level of Member States would provide such insight. Such assessment is logically connected to the stress testing exercise, which is gaining sophistication.

The FSR draws attention to the volatility in the equity markets, and the impact of the sustained low interest rate. This raises concerns on micro stability of pension funds (IORPs). The OPSG also pointed to the trade-off between adequacy and sustainability of pension plans. If the balance between the two is not considered a fair one by all stakeholders, then the support for pension plans may be at stake. This discontinuity risk does affect the macroeconomic stability.

The OPSG recommended EIOPA to consider the issue of pension adequacy in relation to pension plans sustainability, at the backdrop of changing population structures and the low interest rate environment. The discontinuity risk of pension plans may incur macro stability risks. Depending on the penetration rates and structure of liabilities, these may impact the economies of Member States to a different degree.

"The OPSG focuses on topics that are relevant to the EIOPA agenda. Some topics have a continuous character, such as financial stability. The OPSG decided to comment on the EIOPA financial stability reports from the perspective of IORPs, since they are both affected by financial developments, and are influential to them. Although this is not very topical, it is important. I enjoyed the intellectual exercise of commenting on the financial stability reports, and inviting EIOPA to develop a sector specific perspective to the subject of occupational pensions and financial stability." Fieke van der Lecq, OPSG team leader on financial stability reports

3.4 Cross-Border Activities

One of the main goals of the new IORP II Directive is to remove obstacles faced by occupational pension funds operating across borders in Europe. In addition, the IORP II Directive granted the possibility to make cross-border transfers of pension schemes.

Against this background, the OPSG adopted a position paper with the view to asserting that the implementation of the IORP II Directive in the different Member States should not bring unnecessary obstacles to the cross-border activities of IORPs and cross-border transfers of pension schemes. Whilst recognizing that new Article 12 of the Directive introduces new and tougher requirements for cross-border transfers of pension schemes, the OPSG considered that those requirements should remain consistent with – and not go beyond – the overall EU legal framework.

The OPSG also recognized that IORPs should have the freedom to determine the methodology they use to perform their own risk assessment (ORA), as opposed to using one single harmonized ORA approach. Therefore, an IORP performing cross-border activities must comply with the implementation of the IORP II legislation of its home country.

The OPSG acknowledged that the own risk assessment introduced by IORP II is not part of social and labour law. Therefore, a host Member State should not be allowed to argue that the methodology chosen by an IORP for its ORA in line with the minimum requirements of the home Member State is incompatible with the national requirements of the host Member State; such practice would be an impediment to the good functioning of the single market.

The OPSG also agreed that the introduction of the IORP II Directive led to new complications for cross-border activities of IORPs. These complications not only result from the implementation of IORP II in local legislation, but also from requirements set by the host Member State NCAs and from other rules and regulations that fall outside the scope of IORP II and are not necessarily consistent with the overall EU legal framework. Examples of such complications are provided in the OPSG advice.

In this context, the OPSG stressed that discriminations against IORPs located in other Member States should be avoided, and that no additional requirements or adaptations to local provisions could be imposed by host Member States to such IORPs trying to operate cross-border activities in that Member State in areas, unless those local provisions are part of social and labour law and tax framework of the host Member States (assuming that Member States do not create “ad hoc” social and labour legislation when implementing the new Directive with the only aim of creating new obstacles to cross-border activities).

The OPSG recommended that all NCAs and Member States respect this guiding principle, and that the European Institutions and EIOPA remain vigilant on this issue.

"Well functioning cross-border activities of IORPs might represent an excellent opportunity for several employers and workers in the EU: big companies employing workers in several EU Member States could benefit from economies of scale in managing their workplace pensions and from a more efficient governance, as opposed to a fragmentation of their local company's pension funds; mobile workers might take the advantage of remaining covered by the same cross-border pension funds when transferred from an EU state to another; more efficient investments and costs of administration would lead to higher pension benefits. The EU, aware of the difficulties for cross-border activities to take-off under the previous IORP I Directive, tried to remove some of those through the IORP II Directive. I really wish that the European Institutions, the EIOPA and the NCAs will make sure that the new IORP II Directive will achieve (one of) its goals: to make cross-border activities of pension funds easier, and to avoid that those become more difficult than before" Francesco Briganti, OPSG team leader on cross-border activities of IORPs

3.5 Pan-European Personal Pension Product

Following the adoption of the PEPP Regulation in 2019, the OPSG worked on a Position Paper and two consultations. In order to give consistent advice to EIOPA and given the variety of PEPP providers, it was agreed that the OPSG and the IRSG would comment together on this topic. Jerry Moriarty lead the work on behalf of the OPSG.

The Position Paper was prepared in anticipation of the first consultation that EIOPA launched on the PEPP in December 2019. The Paper was finalized in November 2019 and dealt with the following key policy issues on Level 2 Regulation:

- Digitalisation
- Cost disclosure, summary risk indicator and performance scenarios
- Performance disclosure
- Impact of inflation and fees
- Structure of the benefit statement
- The 1% fee cap
- Cost of guarantees
- Risk mitigation techniques
- Establishing buffers and reserves

While there was broad agreement in some areas, there were also a number of areas where there were very differing views among the participants in both Groups. This was most evident in the areas of costs and cost disclosure. As an example, many participants questioned how feasible the 1% fee cap on the Basic PEPP was relative to the amount of work that needed to be done to sell a PEPP and the likely return to the provider. Others felt it was crucial for consumers that the 1% fee cap be absolutely adhered to.

There was quite a lot of detail in the paper with many responses received across both Stakeholder Groups.

The first consultation (concerning technical advice, implementing and regulatory technical standards for PEPP) followed quickly after the paper was finalised and the Groups were able to refer to the issues covered in that as part of the response.

The Groups agreed that the PEPP should be attractive to consumers to have a chance to be successful. This means, in particular, that the PEPP should be simple, transparent, trustworthy, safe, well-governed, and last but not least, cost-effective and providing good value for money. At the same time, the Groups recognised the importance of ensuring that the regulatory framework provides sufficient incentives to potential providers to take the decision to offer the PEPP.

There were, again, differing views on how this could be achieved and where the balance lies. The response to the consultation was published in February 2020.

The second consultation (on the format of supervisory reporting and the cooperation and exchange of information between competent authorities for the PEPP) was finalised in June 2020. The response highlighted the need to consider the level and nature of reporting PEPP providers already undertake in order to ensure adding unnecessary layers that would increase costs. It also highlighted the impact of Covid-19 and the limited time available to EIOPA to analyses responses.

"The work done by the OPSG on the PEPP highlights the significance of this topic and the importance of getting it right. Finding the balance between the need to have a product that works for consumers and can be delivered by providers will be difficult, but there is a strong will to work with EIOPA to help achieve that." Jerry Moriarty, OPSG team leader on the PEPP

3.6 Consumer Trends Reports

During the course of its mandate, the OPSG submitted two Feedback Statements to the EIOPA Questionnaire on the Consumer Trends Report.

The respective documents were approved in June 2019 and June 2020, under the leadership of Christian Gülich and the support of many members who shared their views and provided information on how the demand for, and offer of, occupational and personal pension plans and products has recently evolved at national level.

In addition to this, every EIOPA Questionnaire brought different topics to the attention of the OPSG, such as financial advice, financial innovation, digitalisation, new products and distribution channels and many others.

The input provided by the Group was taken on board by EIOPA together with data collected from Member States, National Competent Authorities and other relevant sources for identifying trends, including consumer organizations.

Over the course of the mandate, members of the OPSG welcomed and appreciated the constant development and improvement of the Consumer Trends Reports. In particular, members appreciated EIOPA's proposal to aim at improving the section on pensions. The various comments on pensions stressed again the strongly divergent developments in the EU Member States with regard to a cross-sectoral pension dashboard, innovations for payouts options or auto-enrolment systems. Still some Member States have not yet implemented the IORPs II Directive! The ongoing "low for long" interest rate phase, now even reinforced by the economic impact of the Covid-19 crisis, will unfortunately enhance the problem of pension adequacy.

"Taking the lead for the subgroup on the Consumer Trends Reports was a pleasant task. Colleagues from most countries and representated associations contributed with substantial comments, the participation rate was high. By doing so, a crucial support for enhancing the quantitative and qualitative basis of EIOPA's annual reports could be achieved. Reports and opinions cannot always be clearly differenciated, but any "censorship" must be prohibited. In consequence any assessment, valuation or opinion should be based upon empirical facts or at least exemplary cases. That is what I strongly recommend". *Christian Gülich, OPSG team leader on Consumer Trends Reports*

3.7 Gender gap in pensions

In June 2020, the OPSG approved an advice on practices to reduce the gender gap in pensions.

This paper has been produced on the OPSG's own initiative and it is the result of a strong belief that there is more that could be accomplished to decrease the gender gap in pensions, not only through efforts taken in the 1st pillar. Through the advice, the OPSG wants to encourage more progress and inspire Member States to take measures in the 2nd pillar, which are specifically aimed at reducing the difference in retirement income between men and women. To contribute to the discussion, members in the OPSG have provided examples from their Member States on taken measures and ongoing efforts within the 2nd pillar to reduce the gender gap. This inexhaustive list of examples can serve as a menu of mechanisms that policymakers can explore further and inspire to further innovation with respect to tackling inequality.

The gender gap in pensions ranges between approximately 2 percent and 47 percent across EU Member States. The fact of the gender gap in pensions is not disputed, and the reasons for the existence and size of it are mainly determined by factors related to the employment history of individuals (i.e. number of years and intensity of employment, type of employment contract, remuneration, choice of education and sector) and the design of the pension system (i.e. career break compensation, insurance solutions, pension redistribution, pension indexation and retirement age).

The OPSG strongly believes that more can and should be done to decrease the gender gap in pension. New products and pension schemes designed to help women and men to plan for their retirement income, career paths or for care-periods not only by deciding who should take a career-break, but also to decide to compensate for the pause in the pension accrual period. For example, occupational pension products that allow for transfer of pensions between spouses on certain conditions could be explored. In addition, it is also important to focus on information campaigns with the aim of raising pension awareness, but also raising knowledge on how different choices made during a working life can affect individuals' retirement incomes. By doing this, it can hopefully lead to individuals making more conscious and informed decisions in situations that can ultimately affect their pension. In order to do this, it is important to explain the reasons behind the gender gap as well as providing a list of measures that can reduce it.

The report has resulted in a number of recommendations, which the OPSG believes will contribute to further progress being made, based on a sense of a collective desire among stakeholders to improve the financial and social outcomes achieved by women upon retirement. The recommendations are addressed to the European Commission, Members States, EIOPA, IOPRs and the social partners. Lastly, the OPSG proposes through its recommendations that more measures are taken to promote research and other efforts to decrease the gender gap in pensions.

"I believe that the OPSG are in a unique position to take own initiatives in important issues in the fields of insurance and occupational pension, such as the gender gap in pensions. The OPSG should use this possibility to address these types of issues as legislators and authorities need to be made aware of them.

Pensions can be a difficult subject. Many believe that it is only a few years before retirement that it is time to look into one's retirement plans and savings. It is, therefore, important that different stakeholders (e.g. employers, Member States, occupational pension providers), put a lot of effort into raising awareness for example through information campaigns, about pensions in general, but also the gender gap in pensions. Information is an important tool that we can use." Ann-Marie Wancke Widemar, OPSG team leader on gender gap.

3.8 ESG Disclosure

In April 2020, the ESAs published a consultation paper setting out the proposed Regulatory Technical Standards (RTS) on content, methodologies and presentation of disclosures under the *Sustainable Finance Disclosure Regulation* (SFDR).

The SFDR requires financial market participants and financial advisers to make disclosures on the integration of sustainability risks (SRs) and the consideration of adverse sustainability impacts in their processes and the provision of related information on financial products (including funds and pension products). The SFDR is in essence trying to harmonise ESG disclosure standards for disclosures of different types of information complexity, granularity and consumer-friendliness, ranging from detailed fund prospectuses to the concise "KIDs" for PEPPs and also in short consumer-facing documents for IORPs.

The draft RTS includes a mandatory reporting template, a set of indicators for ESG adverse impacts, and details the content and presentation of required disclosure. The ESAs will finalize the drafting and submit the RTS text to the Commission by 30 December 2020. Following the Commission's adoption, the European Parliament and the Council will have between 1 and 3 months to object or endorse the draft rules. The ESAs consultation is open until 1 September 2020. Entity-level disclosure obligations will start applying as of 10 March 2021.

The consultation foresees disclosures at entity and product level. At entity level, players will be required to report on the principal adverse impacts their investment decisions have on sustainability factors should be disclosed on the website of the entity. The disclosure should take the form of a statement on due diligence policies with respect to the adverse impacts of investment decisions on sustainability factors, showing how investments adversely impact indicators in relation to: climate and the environment; and social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. At product level, players will be required to disclose the sustainability characteristics or objectives of financial products in their pre-contractual and periodic documentation and on their website (applicable to products with either ESG characteristics or with sustainable investment objectives.

The proposals included in the draft RTS present the rules for how this disclosure should be carried out, ensuring transparency to investors regarding how products meet their sustainability characteristics or objectives. They also set out the additional disclosures that should be provided by products that have designated an index as a reference benchmark. Finally, the product level proposals set out suggested provisions for disclosing how a product based on sustainable investments complies with the “Do Not Significantly Harm” (DNSH) principle. This consultation puts emphasis on the crux of sustainability – the way sustainability disclosures should be harmonized and standardized by different financial players.

In a joint paper, the OPSG and IRSG emphasized the following points:

- Strong support for standardisation, with reiterated need for a flexible approach and adequate implementation timeline and an adequate number of mandatory indicators only.
- Full consideration of the practicalities and current feasibility by the industry in line with the current reporting availabilities.
- The Commission needs to tie the application of this into the review of the effectiveness of the non-financial reporting directive, as well as the shareholder rights directive and articulate the right sequencing through a longer term and more phased approach accordingly.
- The disclosures being very technical, there is a concern with regards to their usefulness for the intended recipients.
- The entity-level disclosures should better consider materiality of adverse impacts and the current issues with the availability of ESG data, while providing more clarity with respect to the definitions and the scope of the disclosures.
- The indicators should be designed to be consistent with the approach of the taxonomy regulation to avoid the risk of a two-tier approach developing. A principles-based disclosure against the objectives of the taxonomy, for example, might work better at firm level, with greater detail at product level.

3.9 Costs and past performance

EIOPA published in early 2019 its first Report on Cost and Past Performance. This report pointed out that, anticipating the challenges in preparing it, the first report was conducted as a pilot exercise. The absence in many Member States of a regulatory reporting for product costs and performance and the complexity and diversity of the market for insurance based investment products (IBIPs) were among the difficulties. The approach taken was sample-based, i.e. gathering information for a representative sample of the larger undertakings and their largest products in each national market. KIDs and information necessary for preparing KIDs was used as far as possible. This implied that only three markets were covered for personal pensions data.

When the OPSG discussed the Report in February 2019, members were generally supportive of the approach taken, mindful of the data issues. During this meeting, Christian Gülich presented the 2018 edition of Better Finance's Report entitled "Pension Savings: The Real Return". Members agreed that this report had the merit of drawing the attention of policymakers and stakeholders on the level and evolution of the real return of pension savings. The OPSG also agreed on the importance of developing a common methodology for calculating past performance and cost.

Because of the Covid-19 pandemic and the lockdown measures which led the cancellation of the physical meeting of May 2020, the OPSG did not discuss the second annual report of EIOPA, which was published in March 2020.

3.10 ESA review

EU legislators agreed in 2019 on a revision of the EIOPA Regulation in the context of the Review of the European Supervisory Authorities (ESAs). The text required changes to the composition of the Stakeholder Groups.

In a Joint Position Paper, the OPSG, the Banking Stakeholder Group, the Insurance and Reinsurance Stakeholder Group and the Securities and Markets Stakeholder Group shared their opinion on the change of the composition of the Stakeholder Groups, and

- regretted the reduction of the number of academics, from at least 5 to exactly 4;
- stressed the need for a balanced representation of the industry-side and users-side in all four Stakeholder Groups;
- regretted the fact that such important changes have been decided upon without prior consultation - even though not legally required - of the Stakeholder Groups; and
- regretted the lack of a transition period to implement the new Regulation.

As co-rapporteur on the review of the ESFSF, Othmar Karas, Vice-President of the European Parliament, appreciated the comments of the Stakeholder Groups. He noted that a majority of the political groups in the European Parliament were in favour of the compromise amendments on the revised composition of the Stakeholder Groups. The changes were adopted in April 2019 after intense political negotiations. Nonetheless, he assured the Stakeholder Groups that their Joint Position Paper would be taken fully into account when the European Parliament will engage in further discussions on the founding regulations of the ESAs.

On behalf of Executive Vice President Dombrovskis, John Berrigan, Director General of the European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union also reacted the Stakeholder Groups' opinion, noting that (i) the reduction in the number of academics in the Stakeholder Groups as a result of the ESA review was not part of the Commission's proposal but added by and agreed upon by the co-legislators and (ii) the Commission will assess the ESAs' framework in the next evaluation foreseen for 2022.

4. CONCLUSIONS

A recurring concern of OPSG members is to be assured that their position papers are seriously taken into account by EIOPA. It is legitimate to expect that the time and efforts that members dedicate to these reports have a real impact on the decisions taken by the Management Board and Board of Supervisors of EIOPA. A number of conditions need to be met for this to happen. In particular, the requests for advice should clarify fully the issues on which EIOPA is particularly interested in receiving comments from the OPSG. The deadline to respond should be sufficiently long to provide members enough time to prepare a well-thought advice. On the OPSG end, the challenge is to produce a sharp and clear advice, well-argued and documented with facts and figures. Finally, it is essential that EIOPA provides a reasoned feedback on the OPSG's advice. Serious progress has been made by EIOPA under the OPSG mandate to explain how it has taken the Group's advice into account, giving reasons for EIOPA's position and publishing the feedback on EIOPA's website. It is an important positive development, and members trust that this will continue under the new OPSG. In this context, OPSG members note with satisfaction that the revision of EIOPA Regulation replaced Article 37.8, which stipulated that *"The Authority shall make public the opinions and advice of the Stakeholder Groups and the results of their consultations*" by the following text: "*The Authority shall make public the advice of the Stakeholder Groups, the separate advice of its members, and the results of its consultations as well as information on how advice and results of consultations have been taken into account*."[4]

Another important development is that the revised EIOPA Regulation inserted the following text in Article 37: "*The European Parliament may invite the Chair of any Stakeholder Group to make a statement before it and answer any questions from its members whenever so requested*." This step represents a significant political step forward in recognizing the role of the Stakeholder Groups. The

[4] The EIOPA Regulation can be downloaded by clicking on this link:

https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02010R1094-20200101&from=EN.

possibility that Members of the European Parliament read their reports, request some clarifications and raise questions will give a new meaning to their work and place the responsibility of the Stakeholder Groups and their Chairpersons on the line. Undoubtedly, this will also give the ESAs further reasons to closely associate the Stakeholder Groups to their work.

OPSG members also hope that possible interactions between the OPSG and the European Parliament will convince the European Commission to show more interest in the OPSG work. Whilst appreciating the fact that they can raise questions to Commission's officials, OPSG members strongly believe that it would be helpful if the Commission could participate in person in OPSG meetings, at least once a year.

To conclude, it is important to stress that the IORP II Directive does not include delegated acts as Solvency II does and thus EIOPA has less need to consult the OPSG than the IRSG. Faced with this situation, OPSG members have the choice to focus solely on the formal requests for advice or to start working in parallel on own initiative reports. The recommendations of the High-Level Forum on the CMU in the area of pensions and its potential impact of EIOPA work in the coming years should provide a good source of topics for own initiative reports.

5. ANNEXES

5.1 Membership of the OPSG

Member's Name	Nationality	Organisation	Representing
Alviniussen, Alf	Norway	Small Treasury Consulting and Investment Company	SMEs
Azzopardi, Moses	Malta	Maltese Association of Pensioners	Beneficiaries
Briganti, Francesco	Italy	Cross Border Benefits Alliance Europe	IORPs
Delbecque, Bernard (Chair)	Belgium	European Fund and Asset Management Association (EFAMA)	Professional associations
Duarte, Valdemar	Portugal	Ageas Pensões	IORPs
Fekeža Klemen, Senka	Croatia	Erste, Ltd.	IORPs
Gabellieri, Bruno	France	European Association of Paritarian Institutions (AEIP)	Employees
Gómez Fernández, José Carlos	Spain	Spanish Consumer Association (ADICAE)	Beneficiaries
Gülich, Christian	Germany	German Association of Insured (BdV)	Beneficiaries
Jones, Olav	Norway/UK	Insurance Europe	IORPs
Kupšys, Kęstutis	Lithuania	Alliance of Lithuanian Consumer Organizations	Beneficiaries
Lemaire, Christian	France	Amundi Pension Fund	IORPs
Lewis, Sue	UK	The People's Pension	Beneficiaries
Luciano, Elisa	Italy	University of Torino	Academics
Mączyńska, Aleksandra (Vice-Chair)	Poland	Better Finance	Beneficiaries
Maher, John	Ireland	Waterford Institute of Technology	Academics
Micilotta, Flavia	Italy	Luxembourg Green Exchange (FESE)	Professional Associations

Moriarty, Jerry	Ireland	PensionsEurope	IORPs
Nellshen, Stefan	Germany	Bayer-Pensionskasse VVaG	IORPs
Neyt, Philip	Belgium	PensioPlus, Belgian Association of Pension Institutions	IORPs
O'Quigley, John	Ireland	Public Sector Pension Trustee Companies	Employees
Oroviceanu, Cătălin	Romania	Association of Participants in Pension Funds and Investment Funds	Beneficiaries
Steenbeek, Onno	Netherlands	All Pension Group (APG)	IORPs
Reiner, Michael	Austria	University of Vienna	Academics
Reinhammar, Torun	Sweden	CDP Europe	Professional Associations
Seidel, Philippe	France/Germany	AGE Platform Europe	Beneficiaries
Valkenburg, Falco (Vice-Chair)	Netherlands	Actuarial Association of Europe (AAE)	Professional Associations
van der Lecq, Fieke	Netherlands	Vrije Universiteit Amsterdam	Academics
van Meerten, Hans	Netherlands	University of Utrecht	Academics
Wancke Widemar, Ann-Marie	Sweden	ALECTA	IORPs

The exhaustive list of activities of the different members (including membership in the various technical working groups) can be made available upon request (see LINK – restricted access).

5.2 List of publications

A comprehensive list of the OPSG advice provided to EIOPA is available on EIOPA's website (LINK).

Sustainability ESG factors
Joint IRSG - OPSG advice on ESG
SHG Advice 07 Jul 2020

IORP II
OPSG advice on cross-border transfers of pension schemes -IORP II implementation
SHG Advice 30 Jun 2020

Consumer protection
OPSG advice on practices to reduce the gender gap in pension
SHG Advice 24 Jun 2020

PEPP
Joint IRSG/OPSG advice on the format of supervisory reporting and the cooperation and exchange of information between competent authorities for the Pan-European Personal Pension Product
SHG Advice 27 May 2020

Consumer protection
OPSG advice on Consumer Trends
SHG Advice 27 May 2020

PEPP
Joint IRSG/OPSG on PEPP - implementing technical standards for supervisory reporting and cooperation for the Pan-European Personal Pension Product
SHG Advice 28 Feb 2020

Stress test
OPSG advice on the Occupational pensions stress test 2019
SHG Advice 03 Feb 2020

Organisation
Joint (IRSG/OPSG/SMSG/BSG) letter on the ESAs Review
SHG Advice 16 Dec 2019

Financial stability
OPSG advice on EIOPA's Financial Stability Report June 2019
SHG Advice 18 Nov 2019

PEPP
Joint OPSG-IRSG advice on the Pan-European Personal Pension Product (PEPP)
SHG Advice 15 Nov 2019

Risk assessment | Supervision
OPSG feedback on the IORP II supervisory Opinions (Governance and risk assessment) - Letter to OPSG with EIOPA's Reasoned Feedback
SHG Advice 01 Jul 2019

Consumer protection
OPSG Feedback Statement on EIOPA's questionnaire on Consumer trends
SHG Advice 31 May 2019

Sustainability

OPSG Opinion on Implementing the European Commission's Sustainable Finance Action Plan: Legislative proposals
SHG Advice 03 Sep 2018