
64TH MANAGEMENT BOARD MEETING VIA VIDEOCONFERENCE

DATE: 08 JUNE 2022 10:00-12:30

LOCATION: VIDEOCONFERENCE

FINAL MINUTES

WELCOME AND INTRODUCTORY REMARKS BY THE ACTING CHAIRPERSON

1. The Chairperson welcomed the attendees to the 64th meeting of EIOPA's Management Board (MB).

AGENDA ITEM 1: ADOPTION OF THE AGENDA

DECISION

2. The MB adopted the agenda by consensus.

CONCLUSIONS AND ACTION POINTS

3. The Chairperson concluded that there is no MB Member that has an interest that could be considered prejudicial to their independence with regard to any item of the adopted agenda following declaration by all MB Members of absence of any such interests.

AGENDA ITEM 2: UPDATE BY THE CHAIRPERSON, EXECUTIVE DIRECTOR AND THE EUROPEAN COMMISSION (COM)

UPDATES BY THE CHAIRPERSON

4. The Chairperson updated the MB Members on the following topics:

MEMBERSHIP UPDATES

5. Following an extensive exercise for the biennial submission of the declaration of interests from the MB and Board of Supervisors (BoS) Members, all declarations have been received and made available on EIOPA's public website. No issue of conflict of interests has been noted or reported.

EU INSTITUTIONAL RELATIONS:

SOLVENCY II REVIEW

6. In the context of the ongoing Solvency II review negotiations, EIOPA continues to provide technical support to the Co-Legislators.
7. In this regard, EIOPA shared in April with the COM and the Co-Legislators the Opinion on the disclosure of individual stress test results, as well as a letter on diversity in management boards.

EIOPA SUPERVISORY TOOLS AND POWERS IN CROSS-BORDER CONTEXT

8. On 30 March 2022, the BoS discussed tools under EIOPA Regulation which can be used to support supervisory cooperation or to address prudential or conduct of business concerns in a cross-border context. Following this discussion, EIOPA drafted a staff paper – shared with COM, the European Parliament, and the Council on 19 May 2022 – on how to enhance consumer protection within the EU single market via targeted adjustments to the Solvency II Directive. The drafting suggestions aim at further supporting and complementing COM's proposal on the Solvency II review.
9. As next steps, EIOPA is proceeding to further develop the discussion on EIOPA's powers, mainly focusing on the ability of National Competent Authorities (NCAs) to implement EIOPA's recommendations or to use some of the powers envisaged in the framework such as joint on-site inspections. EIOPA plans to bring up the topic with the BoS at its September meeting.

THE EUROPEAN SUPERVISORY AUTHORITIES (ESAS)

10. COM published its report on the operation of the ESAs on 23 May 2022. The report concludes that, since the last ESA review in 2019, the ESAs have continued to perform their tasks efficiently and effectively, including during the pandemic. EIOPA welcomed the report and looks forward to continuing the dialogue with COM as regards how to improve supervisory convergence and supervision in the future, both in legislation as well as through possible non-legislative measures, where appropriate and not already in place.

IORP II DIRECTIVE

11. EIOPA is expecting to receive from COM a Call for advice (CfA) before summer.

RETAIL INVESTOR PROTECTION ADVICE

12. In response to the request for advice sent by the COM to EIOPA on 27 July 2021 regarding certain aspects relating to retail investor protection, EIOPA has shared its advice. In developing the advice, EIOPA has considered all stages to ensure close co-ordination with ESMA and the Joint Committee (JC) of the ESAs. COM reply is still to come.

ARTIFICIAL INTELLIGENCE ACT

13. COM published its proposal for an EU regulatory framework on artificial intelligence (AI) in April 2021. The draft AI Act will impact the entire industry, including the financial sector.

14. EIOPA is reflecting on the regulatory and supervisory effects of the draft AI Act and will revert to the Co-Legislators accordingly.

BREACH OF UNION LAW CASES

15. On 17 May 2022, EIOPA issued a recommendation to the Národná banka Slovenska (NBS) in accordance with its powers laid down in Article 17 of the EIOPA Regulation concerning breach of Union law.

RECURRING UPDATE ON STAKEHOLDER GROUPS (SHG) MEETINGS

16. The Insurance and Reinsurance Stakeholder Group (IRSG) met on 27 April 2022. The agenda focused on, among other: IDD, Consumer Trends, EIOPA's strategy, Proportionality and Own-initiative reports, etc.
17. The Occupational Pensions Stakeholder Group (OPSG) met in person, for the first time after two years, on 31 May 2022. The agenda focused on, among others: Pensions data, Best Practices for Defined Contribution (DC) Pensions, Proportionality, Sustainable Finance, IORP II Review, Diversity and Inclusion in Pensions and EIOPA's update on retail related work.
18. The first in-person Joint BoS-IRSG meeting since the pandemic start is to take place on 28 June.

UPDATES BY THE EXECUTIVE DIRECTOR (ED)

19. The ED updated the MB Members on the following topics:

FINANCIAL STABILITY COMMITTEE

20. At the FSC meeting in Brussels on 25 May 2022, EIOPA presented, on behalf on the ESAs, the ESAs technical advice on the review of the PRIIPs Regulation. This is as a follow-up to COM's request of July 2021 to the ESAs in view of the development of a strategy for retail investments.
21. The ESAs suggest significant but targeted modifications to the existing PRIIPs Regulation, notably concerning the Key Investor Document (KID), and encourage COM to consider a broader review of the PRIIPs framework as well as to perform thorough consumer testing in this respect.
22. In addition, EIOPA presented its technical advice on retail investor protection. In parallel to the call for advice to the ESAs on the review of the PRIIPs Regulation, COM also sent individual call for advice to EIOPA on enhancing investor engagement with (digital) disclosures, assessing the risks and opportunities of new digital tools, tackling damaging conflicts of interest and promoting an affordable and efficient sales process and assessing the impact of product complexity in the retail investment market.
23. Finally, EIOPA presented its 2022 report on cost and past performance of Insurance-Based Investment Products (IBIPs) and Personal Pension Products (PPPs). The report includes a preliminary analysis on IORPs as well as a chapter on cost and past performance of ESG products. From a consumer perspective, there is room for improvement as the costs of pension products and IORPs remain high.

DG REFORM

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24. The Service Level Agreement (SLA) with DG REFORM and beneficiaries to be finalised in the next weeks – the SLA will comprise terms relating to the following three projects: (i) EU Supervisory Digital Finance Academy (SDFA); (ii) Transition to forward-looking risk-based supervision of IORPs in Ireland and (iii) Insurance Supervision – Development of a risk assessment framework and supervisory methodology including mystery shopping.
25. The last two projects are expected to start around June/July, while the first trainings of the EU SDFA are expected to be delivered in Q4 of 2022.

CALL FOR ADVICE (CfA) ON GREENWASHING

26. EIOPA and the other ESAs received a CfA on Greenwashing on 23 May 2022.
27. This CfA requests each ESA, separately but in a coordinated manner, to provide input on greenwashing risks/occurrences and on the supervision of the SUFI requirements. The CfA also asks the ESAs to: (i) have the same basic structure to allow for a certain degree of comparability; (ii) have a summary of key horizontal issues accompanying the reports; (iii) have shared sections across the reports (e.g. on “common high-level understanding of the key features of the greenwashing”).
28. In terms of deliverables, a progress report is expected by 31 May 2023, and a final report is expected by 31 May 2024. In terms of scope, EIOPA should cover the most relevant market segments under its purview, including those which may not be covered by SUFI requirements but where EIOPA sees the highest risk of greenwashing.
29. The CfA requests input on 3 main areas: (i) cases, risks and definition of greenwashing, (ii) supervision of greenwashing, (iii) proposals to improve the regulatory framework.

EUROPEAN COURT OF AUDITORS' FINDINGS ON MEMBER'S CONFLICT OF INTEREST UNDER ARTICLE 42(3) OF EIOPA'S REGULATION

30. On 30 March 2022, EIOPA received the ECA's preliminary findings and fact analysis in relation to several aspects of its rules concerning conflicts of interest.
31. EIOPA is working, in particular, in close cooperation with the European Banking Authority (EBA) and ESMA, on implementing all of the ECA findings.

DIGITAL OPERATIONAL RESILIENCE ACT (DORA)

32. On 10 May 2021, provisional agreement between co-legislators at the trilogue on DORA, which increases the work for the ESAs in the coming years compared to the COM proposal.
33. To this end, COM developed a new draft LFS which assigns more resources to the ESAs.

BUDGET 2023

34. EIOPA was informed by COM that the EU contribution for 2023 will increase to reflect revised salary parameters.

ORGANISATIONAL MATTERS: CORPORATE PLANNING

35. The MB was informed of EIOPA's plans concerning new times for the MB and BoS approvals of the EIOPA Single Programming Document (SPD) and budget.

GOVERNANCE: VOTING PROCESS

36. In response to the 2020 Quality Control Committee's recommendations for improvement and automation, EIOPA is in a process of purchasing a customised e-voting solution intended to increase efficiency of the voting process.

UPDATE BY THE EUROPEAN COMMISSION (COM)

37. The COM representative informed the MB on the following business files:

SOLVENCY 2 PACKAGE NEGOTIATIONS

38. The FPEU put forward a proposal along the lines of the COM proposal. A discussions in ECOFIN might take place on 17 June 2022.
39. On the Solvency II Delegated Regulation, a meeting of the expert group took place on 1 June 2022 to discuss the options on the way forward on the long-term guarantee measures, long-term equity. In upcoming meetings other relevant issues will be discussed.

RETAIL INVESTMENT STRATEGY

40. EIOPA submitted the technical advice and is awaiting for reply from the COM. In reviewing the advice and formulating the answer many units of DG FISMA are involved. The publication of the Strategy might need to be delayed to beginning of 2023.

PENSIONS

41. COM is working on the IORP II call for advice which is expected to be launched soon. July 2023 is the targeted date for the delivery of the report by EIOPA.

OTHER WORK

42. The Council and the European Parliament reached a provisional agreement on DORA while technical trilogues are still ongoing as regards the allocation of resources among the three ESAs. DORA is expected to start being implemented as of 2025.
43. On the AI Act, there has been a progress report which is yet to be finalised. To be noted that the Council, in opposition to the COM, indicated insurance as high risk case, thus COM's concerns of potential overlapping requirements.
44. On Motor-insurance, COM is in closed contact with Insurance Europe and the Council of Bureaux (CoB) on the developments at the Ukrainian borders. COM intends to have regular interactions with the MSs on how issues are handled in the different jurisdictions, to understand the problems and the treatment to ensure harmonized application.
45. Initiative on the right to be forgotten – a report commissioned by DG SANTE, published on 30 May 2022, and which is looking into the financial access of patients in cancer remission. This initiative is part of the Europe's Beating Cancer Plan. In the context of this strategy further

actions are announced, namely the adoption of a code of conduct applicable to all insurers entities, guiding their treatment in regards to the cancer patients in remission¹.

DECISION

46. Not applicable.

CONCLUSIONS AND ACTION POINTS

47. Not applicable.

AGENDA ITEM 3: QCC REVIEW 'LESSONS LEARNT FROM COOPERATION AND INTERACTION BETWEEN EIOPA AND NCAS DURING COVID-19 PANDEMIC': RESULTS

48. The QCC Chair presented the draft report on the review of the lessons learnt from the cooperation and interaction between EIOPA and NCAS during covid-19 pandemic. The report's findings are based on interviews with BoS members, Alternates and Permanent Representatives volunteering to participate, the Chair of the Risk and Financial Stability Steering Committee (RFSC) and relevant members of the EIOPA management.
49. The report provides a summary of the evolution of the situation during the crisis and the discussions and actions taken at EIOPA level, it summarises the results of the interviews and finally provides a set of conclusions and recommendations.
50. The overall conclusion is that the cooperation went well during the crisis and, in addition, EIOPA was able to continue to implement its regular work programme during this exceptional period. Nevertheless a number of enhancements can be made in the cooperation, further building on the already established practices. These enhancements are articulated in the report as recommendations.
51. MB Members broadly welcomed the draft report. However, the relevance and feasibility of crisis templates was discussed; in particular, the IT constraints they could represent for the NCAs and the industry were underlined. Suggestions for improvement were provided, mostly related to the recommendations and the inclusion of an executive summary. Members invited the QCC in particular to review the formulation of recommendations 5 (NCAs following decisions taken at a European level, considering national legal and market situations), 6 (usage of 'crisis templates' and their implementation efforts), 11 (dividend payments) and 12 (regular liquidity reporting on EU level).

DECISION

52. Not applicable.

¹ https://ec.europa.eu/health/document/download/67a13c50-eba8-4980-bef4-4f388bebadb5_en?filename=euhealthsupport_access-fin-services_report_en.pdf

CONCLUSIONS AND ACTION POINTS

53. MB supported the draft report and provided suggestions for improvement.
54. MB Members are invited to provide further comments on the draft report to the QCC Chair by the latest, Friday 10 June 2022.
55. QCC Chair to prepare a revised version of the draft report for BoS discussion at the 29 June 2022 meeting.
56. EIOPA to develop an action plan further to the final review report, addressing the approved recommendations.

AGENDA ITEM 4: EIOPA STAFF WORKING TIME AND HYBRID WORKING

57. The Head of Corporate Support Department presented the situation with regard the new COM HR Implementing Rules on working time and hybrid working. While they promote a modern way of managing staff and introduce equal footing for working remotely or the premises, their implementation would have a serious impact on EIOPA's attractiveness as employer and budgetary impact .
58. EIOPA can either adopt by analogy the COM Decision, wait for the Model Decision to be available early in 2023 or opt-out and adopt own rules. Given the fact that the Model Decision will only be available in 2023 and the need to retain staff already today, it is EIOPA's plan to opt out and ask for the adoption of own rules.
59. The COM representative explained that pre-Covid staff rules do not allow teleworking from abroad, and pointed out that an EIOPA opt-out or alternative decision would need approval by the Commission. The COM representative referred to the ongoing work on the model decision meant to cater for specificities of the agencies, encouraging EIOPA to actively participate in the drawing of that decision and to directly contact HR for explaining specific concerns, especially in light of recruitment of temporary staff.
60. MB members supported EIOPA's assessment of the implications of adopting by analogy COM Decision and therefore would support opting out of COM Decision.

DECISION

61. Not applicable.

CONCLUSIONS AND ACTION POINTS

62. MB supported EIOPA's proposed way forward.
63. EIOPA to further liaise with COM on this topic, followed by launching a written procedure to adopt EIOPA specific rules on working time and hybrid working.

AGENDA ITEM 5: PEER REVIEW WORK-PLAN 2023-2024

64. The Head of Supervisory Convergence Unit presented the proposed Peer Review Work Plan 2023-2024.

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65. Regarding the new topics proposed for 2023-2024 (i.e. on Internal Model/use test and the Prudent Person Principle), the MB suggested that the topic on the use of stochastic valuation in the technical provisions calculation – previously also presented to the MB - would be more beneficial in comparison to the one on Internal Model, taking into account the need for supervisory convergence in the area of technical provisions.

DECISION

66. MB approved the proposal for the Peer Review Work Plan 2023-2024 including two peer reviews on some aspects of the prudent person principle (in 2023) and on the use of stochastic valuation in the technical provisions calculation (in 2024).

CONCLUSIONS AND ACTION POINTS

67. EIOPA to amend the Peer Review Work Plan 2023-2024 reflecting MB proposal and submit the plan to the BoS for the adoption via written procedure.

AGENDA ITEM 6: BoS PREPARATION

6.1 THEMATIC REVIEW ON CREDIT PROTECTION INSURANCE SOLD VIA BANKS: APPROVAL OF FINAL REPORT AND NEXT STEPS

68. EIOPA staff presented the key issues outlined in the Final Report together with the proposed supervisory measures that will be submitted for approval at the June BoS.
69. MB broadly expressed support for the proposed measures and next steps.

DECISION

70. Not applicable.

CONCLUSIONS AND ACTION POINTS

71. MB broadly supported the approach proposed by EIOPA.
72. EIOPA to submit the Cover Note and the Final Report to June BoS, for approval

6.2 CONSULTATION PAPER ON THE SUPERVISORY STATEMENT ON DIFFERENTIAL PRICING PRACTICES

73. EIOPA staff presented the content and objectives of the draft consultation paper, including the rationale for developing a supervisory statement following a risk-based and proportional approach in view of market developments and the opportunities and challenges arising from differential pricing practices.
74. MB supported the proposed approach to present the draft consultation paper at the BoS. It was suggested to elaborate more in the text of the consultation paper on the suitability of POG requirements to address risks for consumers arising differential pricing practices

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DECISION

75. Not applicable.

CONCLUSIONS AND ACTION POINTS

76. MB broadly supported to seek BoS approval to issue the draft Supervisory Statement for public consultation.

77. EIOPA to submit the draft Consultation Paper to June BoS, for approval.

6.3 GOVERNANCE OF EIOPA' SUPERVISOR HANDBOOK, INCLUDING PUBLIC DISCLOSURE

78. The Head of Supervisory Processes Department presented the new governance of the Supervisory Handbook (i.e. its production cycle from the initial production to the on-going maintenance), focusing in particular on the issue of its public disclosure.

79. MB supported the general approach to review the level of confidence of the Handbook, including the possibility to publish sanitised versions of new chapters,

80. In addition, MB suggested EIOPA to further align its public disclosure strategy with the approaches of the other ESAs and the ECB-SSM.

DECISION

81. Not applicable.

CONCLUSIONS AND ACTION POINTS

82. MB broadly supported the approach proposed by EIOPA.

83. EIOPA should further clarify in the Governance of the Handbook the forward-looking approach for the confidentiality assessment of the different chapters. EIOPA proposes to perform this assessment when chapters are issued for the first time (new chapters) or when existing chapters are materially revised.

84. EIOPA will further consider the approach of other ESAs and ECB-SSM for the BoS discussion. Details on the approach will be further discussed at a second step, including a communication plan.

AGENDA ITEM 7: AOB

DECISION

85. Not applicable.

CONCLUSIONS AND ACTION POINTS

86. EIOPA to circulate the MB and BoS tentative dates for 2023.

87. EIOPA to circulate to the BoS the staff paper on “Enhancing consumer protection within the EU single market via targeted adjustments to the Solvency II Directive”, shared with the EU Institutions on 19 May 2022.

ANNEX: LIST OF DECISIONS ADOPTED BY WRITTEN PROCEDURE FROM 09.03.2022 TO 08.06.2022

MB-2022-03

88. Decision adopting, by consensus, the Minutes of the 63rd Management Board Meeting.

MB-2022-04

89. Decision adopting, by consensus, the Consolidated Annual Activity Report 2021 (CAAR 2021).

MB-2022-05

90. Decision adopting, by consensus, the MB Decision laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceeding.

MB-2022-07

91. Decision adopting, by consensus, the draft MB decision on the second amendment of EIOPA's Financial Circuits.

Participants at the Management Board's meeting via videoconference

08 June 2022

Chairperson: Petra Hielkema

Vice-Chairperson: Peter Braumüller

<u>Country</u>	<u>Member/ Alternate</u>
Czech Republic	Zuzana Silberová / Jiří Kalivoda
France	Patrick Montagner/[-]
Germany	Frank Grund /[-]
Italy	Alberto Corinti /[-]
Netherlands	[-]/Armand Schouten
Sweden	Åsa Larson /[-]

<u>Institution</u>	<u>Non-Voting Member/ Alternate</u>
European Commission	Larisa Dragomir

EIOPA Staff

Executive Director	Fausto Parente
Head of Corporate Affairs Department	Susanne Rosenbaum
Head of Corporate Support Department	Danny Janssen
Head of Supervisory Processes Department	Ana Teresa Moutinho