

EIOPA Occupational Pensions Stakeholder Group (OPSG)

ACTIVITY REPORT 2011 – 2013

EIOPA-OPSG-13-11

September 2013



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1. Foreword by the Chair and Vice-Chair

After an intensive first term of just 2.5 years we have to say that the Occupational Pensions Stakeholder Group is well and truly up and running. Those who thought there would be insufficient work for a Stakeholder Group working solely on occupational pensions have proven to be wrong. Both the Stakeholder Groups, for Occupational Pensions and for Insurance and Re-insurance have demonstrated – if ever needed – that the issues to deal with are quite different.

Moreover, it seems difficult to imagine there would be no specific forum for occupational pensions at a time when private pensions are being looked to in order to provide an ever increasing proportion of citizens' retirement income. Therefore the OPSG has already taken the view that EIOPA should also be tasked with a personal pensions work stream as the private pension savings arena is complex and diverse with both occupational and personal provision combining to reach - together with the state pensions - a level of adequacy, sustainability and safety that citizens can rely on.

The work of the first OPSG has been dominated by the review process of the IORP Directive. This started with the Call for Advice (CfA) from the European Commission and then the Quantitative Impact Survey (QIS) EIOPA had to undertake to prepare for the Impact Assessment from the Commission. In spite of extremely challenging timelines for delivery of Opinions, OPSG has been able to deliver papers displaying expertise, sense of reality and policy insight in a timely manner. It is heartening to note that both EIOPA and OPSG agreed on a number of matters, especially in respect of the QIS work stream.

As important as they are, the review process of the IORP Directive was not only focused on technical issues such as the holistic balance sheet approach. OPSG also dealt with some important issues that have gained relevance as a consequence of the shift of defined benefit (DB) pension schemes to defined contribution (DC) schemes. OPSG shed light on consumer protection in general with own initiative reports on the governance of pension schemes and on the provision of information to members, both in general and the specific issue of information relating to costs and charges.

Since EIOPA is one step in a process of supervisory convergence it seems noteworthy to say that OPSG – as other Stakeholder Groups within the European supervisory system – promotes a better



Chris Verhaegen, Chair



Benne van Popta, Vice-Chair

understanding of how Europe works. At a moment when the added value of Europe is challenged, our experience in OPSG is that this kind of structure demonstrates how difficult it is to really understand each other's issues. Stakeholder Groups promote a better understanding across the Union of issues which are of importance to stakeholders who might not otherwise have the opportunity to discuss such issues together. Stakeholder Group members testified they gained insight of non-domestic systems and approaches to supervise occupational pensions, leading them to a better understanding of wider issues. We have noticed over the term of OPSG that Stakeholder Group members grow in their role and express positions that are of ever greater relevance for the EU level.

We also experienced there is a general feeling among Stakeholders of "personal enrichment" or "personal learning process" to understand EU level approach and their commitment to communicate those insights back home. Brick by brick this in itself contributes to the improvement of the single market and a single supervisory culture.

One could raise the question whether OPSG had a balanced composition but to our mind it undoubtedly did. There is a wide diversity of expertise evident in OPSG that originates from very different organisations. It is a difficult task to ensure the balance required while still being connected to the realities on the ground. This is needed because regulation and supervision – especially in the pensions area – cannot be conducted successfully if disconnected from national experience. It may take some time before the overall national pension systems start converging towards a - non-existent for the moment - EU pensions model. Therefore, an authenticity of purpose requires the crafting of Stakeholder Groups in such a way that diversity is reflected but also, and this is key, that well established and efficient pension systems have a strong voice allowing others to benefit from their experience.

Looking back we dare to say a huge amount of work has been achieved. This was only possible with the huge commitment OPSG members put into their membership by engaging into leading subgroups, drafting papers and coordinating inputs. Without such engaged members, the OPSG output would be less impressive and we are grateful to the group for having cooperated so well.

Chris VERHAEGEN

OPSG Chair

Benne van POPTA

OPSG Vice-Chair

2. OPSG Members

Institutions for occupational retirement provision (IORPS)

Mr. Gabor Borza	HU	ING Hungary Life & Pension, CFO and Board member; Pensions Regulation Committee of the Hungarian Actuarial Society, Chairman
Mr. Fritz Janda	AT	Association of Austrian Occupational Pension Funds, Managing Director
Mr. Niels Kortleve	NL	PGGM Pension Fund, Senior Manager; Pensions Innovator Lab of Netspar, Coordinator and Researcher
Ms. Patricia Plas	BE	AEGON Group, Vice President Public Policy and Regulatory Affairs; Pan-European Insurance forum (PEIF), representative
Mr. Joachim Schwind	DE	Höchster Pensionskasse VVaG; chairman of the Management board; Hessen Chemie, Pensions-Sicherungs-Verein (PSVaG), aba and several other pension related positions
Ms. Maria Isabel Semião	PT	BPI Pensões, Manager; Pension Fund Consultative Committee (APFIPP) industry association, member
Ms. Martine Van Peer	BE	Luxemburg Association of Pension Funds (ALFP), representative; ESOFAC Luxembourg S.A., Managing director
Mr. Benne van Popta, Vice-Chair	NL	Royal Dutch Association of SME's (MKB-Nederland), member; Chairman of Association of Industry Wide pension funds, Pension Fund Retail sector and Pension fund Metal working and Mechanical engineering
Ms. Chris Verhaegen, Chair	BE	PensionsEurope (before: EFRP - European federation for Retirement Provision), former Secretary General
Mr. Allan Whalley	UK	Kraft Foods, UK Pensions Manager and European region Benefits Director; CBI Pensions Panel, member

Employees' & employers' representatives

Ms. Naomi Cooke	UK	FDA Trade Union, Assistant General Secretary (since 01/2013), previously GMB Trade Union, National Pensions Officer; National Employment Savings Trust, Members' panel member
Mr. Otto Farny	AT	Austrian Chamber of Labour, Head of the Tax Policy Department
Mr. Bruno Gabellieri	FR	Groupe APRIONIS, Director of Communication & External Relations; European Association of Paritarian Institutions (AEIP), Secretary General
Mr. Henri Lourdelle	FR	European Trade Union Confederation (ETUC/CES), Advisor; Pensions Forum (EU Commission), Vice-President
Mr. Giuseppe Rocco	IT	Fiba-Cisl Trade Union, Specialist in pension funds; University for members of Boards of Pension Funds "Universitas Mercatorum" (ABI), teacher

Mr. Douglas Taylor	UK	Employed by Which? the consumer organisation until September 2013 he has been a representative on a number of financial services groups in pensions and other issues; includes being a member of the NEST member panel.
Mr. Bernhard Wiesner	DE	Bosch Group, Vice President Corporate Pensions and Related Benefits; Bosch Pensionfonds AG, CEO; AbA German Association for Company Pension Schemes, Board member

Representatives of consumers & beneficiaries

Mr. Marcin Kawiński	PL	FSUG and FIN-USE member; Warsaw School of Economics, Reader Department Social Insurance
Ms. Baiba Miltovica	LV	Latvian National Association of Consumer Protection, European Consumer Consultative Group, member
Mr. Klaus Struwe	DK	Danish Shareholders Association, Representative of consumers in their capacity as investors, homeowners, pension-savers in governmental committees and working parties

Users of occupational pensions services

Mr. Charles Cronin	UK	Former Head of Standards and Financial Market Integrity for Europe, Middle-East and Africa, at CFA Institute.
Mr. Frank Ellenbürger	DE	KPMG, partner specialised on Solvency II; Federation on European Accountants (FEE), Chairman
Ms. Ruth Goldman	UK	Linklaters international law firm, Global Head of Pension Funds Adviser
Mr. Régis de Larouillère	FR	RLC, Partner, Independent Advice on strategy and governance to Insurance Companies; Institut des Actuaire, Executive director
Mr. Philip Shier	IE	AonHewitt, Adviser to trustees and sponsors of Irish occupational pension schemes (IORPs); Pensions Committee Groupe Consultatif Actuariel Européen, Chairman

Academics

Mr. Gunnar Andersson	SE	Royal Institute of Technology in Stockholm, Adjunct Professor
Mr. Manuel Peraita	ES	Universities Alcalá de Henares and Complutense in Madrid, Associate Professor on Pensions and Actuarial Science
Ms. Frederica Seganti	IT	MIB School of Management in Trieste, Programme Director Master in Insurance & Risk Management
Mr. Dariusz Stańko (until 06/2013)	PL	Warsaw School of Economics, Associate Professor Social Insurance Department; Polish Chamber of Pension Funds (IGTE), Adviser
Mr. Yves Stevens	BE	University of Leuven, Faculty of Law, Professor Pension Law; CBFA, Belgian Occupational Pension Committee (independent advisory board to the Belgian government),

President

3. EIOPA Staff Members

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

4. OPSG Establishment in 2011

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

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

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

- ten industry representatives, three beneficiaries and consumers, five users of occupational pensions services, seven employee/employer representatives and five independent academics.

As of May 2011, the OPSG has given itself its Rules of Procedure defining its internal organisational and operational rules. The Group has elected Chris Verhaegen (industry representative) as its Chair and Benne van Popta (industry representative) as its Vice-Chair.

5. Framework

a. Role and Objectives

The Occupational Pensions Stakeholder Group (OPSG) is a high level interest group providing advice to EIOPA, the European Supervisory Authority for the insurance and occupational pensions sector, on occupational pensions issues.

b. Set-up and composition

The OPSG was established in March 2011 within the institutional framework of EIOPA¹. Its 30 members are appointed for a term of 2.5 years. The composition of the OPSG is based on legal requirements as defined in EIOPA's regulation. Its members represent different categories of stakeholders across the European Union including representatives of institutions for occupational retirement provision, representatives of employees, representatives of beneficiaries, representatives of relevant professional associations and independent academics.

c. Tasks

The task of the OPSG is to submit opinions and advice to EIOPA in the occupational pension field. In particular the Group submits opinions on draft regulatory technical standards, draft implementing technical standards as well as guidelines and recommendations developed by EIOPA in this area. In addition the OPSG may request EIOPA to investigate an alleged breach or non-application of EU law, provide advice to EIOPA on its peer review activities of competent authorities and on its assessment of market developments.

¹ See EIOPA regulation and in particular Art. 37

6. Meetings

a. OPSG Meetings

The OPSG holds at least four regular meetings a year. At least once a year a joint meeting with EIOPA Board of Supervisors (BoS) and the Insurance and Reinsurance Stakeholder Group is convened in order to discuss matters of mutual interest and inform each other of the issues being discussed. Members of EIOPA Management Board attend Stakeholder Group meetings on a regular basis. During its first term the OPSG met 14 times in total in Frankfurt am Main, mostly at EIOPA premises. The following table provides details of each meeting:

Overview OPSG Meetings 2011-2013			
	Date	Type	Topics
2011	24.03.2011	regular meeting	Inaugural meeting
	31.05.2011	regular meeting	Approval of OPSG Rules of Procedure and election of Chair/ Vice-Chair
	20.07.2011	regular meeting	Draft note on proportionality; EIOPA Draft response to Call for Advice on the review of the IORP Directive
	19.10.2011	extraordinary meeting	Discussion OPSG opinion on the EIOPA Response to the Call for Advice on the review of the IORP Directive
	19.10.2011	SGs Joint Meeting with BoS	Lisbon Treaty: impact on EU decision-making CfA: review of the IORP Directive Joint Committee of the ESAs
	22.11.2011	regular meeting	Discussion OPSG opinion on the EIOPA Response to the Call for Advice on the review of the IORP Directive
	19.12.2011	Extraordinary meeting	Approval OPSG opinion on the EIOPA Response to the Call for Advice on the review of the IORP Directive
2012	28.03.2012	regular meeting	EIOPA Advice on the Review of the IORP Directive, EIOPA Quantitative Impact Study (QIS), Commission White Paper on Pensions and EIOPA Occupational Pensions Committee Work Programme
	31.05.2012	regular meeting	EIOPA Consultation on QIS, ESAs Consultation on EC Call for Advice on the review of FICOD, Discussion OPSG position on White Paper, Approval of the OPSG Work Plan 2012-2013
	4.07.2012	regular meeting	EIOPA Work Programme 2013, OPSG position on White Paper – Feedback Statement on Commission White Paper and OPSG Opinion to EIOPA QIS on IORPs II
	14.09.2012	regular meeting	EIOPA Survey on the implementation of small IORPs exemption, EIOPA Peer Reviews, debate on Usage and Usefulness of Information to Members
	28.11.2012	extraordinary meeting	Discussion on draft Report Information to members, discussion on corporate governance initiative for IORPs
	28.11.2012	SGs Joint Meeting with BoS	Reflecting visions on future of EIOPA, IRSG and OPSG summary of activities in 2012 and outlook for work in 2013, break-out sessions on interaction of Stakeholder Groups with EIOPA and Feedback on EIOPA multi-annual work programme 2012-2014

2013	14.02.2013	regular meeting	EIOPA QIS on Pensions; EIOPA Consultation on draft ITS on reporting of national provisions of prudential nature relevant to OP schemes; discussion on Pension Fund Governance; Approval OPSG Statement on Information for members of occupational pension plans
	25.04.2013	regular meeting	EIOPA Database of pension plans and products in EEA; EIOPA QIS on Pensions preliminary results; OPSG input to consumer trends information for the EIOPA Consumer Trends Report; draft OPSG Report on Pension Funds Governance; draft OPSG Opinion on the EIOPA Report on Good practices on information provision for DC schemes
	04.07.2013	regular meeting	EIOPA QIS Final Report and Discussion Paper on Sponsor support; Draft OPSG Opinion on EIOPA Discussion paper on Personal Pensions; Feedback Statement EIOPA Survey of EU practice on default investment options; Approval of Report on Pension Fund Governance; OPSG Activity Report 2011-2013

b. Subgroup Meetings

In addition to the meetings of the full Group, the OPSG convened various subgroup meetings in order to examine specific technical issues and prepare specific tasks for the entire Group. These meetings were held either in conjunction with regular OPSG meetings, in locations abroad or via other communication means such as conference calls and/or email exchanges.

7. OPSG Subgroups on technical issues

The OPSG formed several subgroups to organise its workload and prepare the working papers prior to their discussion with the entire group. The activities are coordinated by the subgroup leader and defined by its mandate. During its first term the OPSG formed six working groups with the following membership composition:

Member	OPSG Subgroups					
	IORP Directive	QIS	White Paper	Info to Members	Pension Fund Governance	Personal Pensions
Mr. Gabor Borza		✓				
Mr. Fritz Janda			✓			
Mr. Niels Kortleve	✓	✓			✓	
Ms. Patricia Plas		✓				✓
Mr. Joachim Schwind		✓		✓	✓	
Ms. Maria Isabel Semião					✓	
Ms. Martine Van Peer		✓	✓		✓	
Mr. Benne van Popta, Vice-Chairperson	✓	Lead	✓			
Ms. Chris Verhaegen, Chairperson	Lead		✓	✓	✓	
Mr. Allan Whalley		✓			✓	
Mr. Marcin Kawiński				Co-lead		
Ms. Baiba Miltovica			✓	✓		
Mr. Klaus Struwe			Lead	Co-lead		✓
Ms. Ruth Goldman	✓				✓	Lead
Mr. Régis de Laroullière			✓		✓	✓

Member	IORP Directive	QIS	White Paper	Info to Members	Pension Fund Governance	Personal Pensions
Mr. Philip Shier		✓				
Mr. Charles Cronin		✓			Lead	
Mr. Frank Ellenbürger						
Mr. Henri Lourdelle						
Mr. Otto Farny						
Ms. Naomi Cooke				✓		
Mr. Douglas Taylor				✓		✓
Mr. Bruno Gabellieri			✓			
Mr. Giuseppe Rocco	✓			✓		✓
Mr. Bernhard Wiesner			✓	✓		✓
Mr. Gunnar Andersson		✓			✓	
Mr. Manuel Peraita		✓				✓
Ms. Frederica Seganti						
Mr. Dariusz Stańko		✓		✓	✓	
Mr. Yves Stevens			✓	✓	✓	

8. Overview of Activities by the Stakeholder Groups

Following their initial establishment and development in the course of 2011, in 2012 and 2013 Stakeholder Groups submitted their opinions to EIOPA either, through responding to public consultations or, providing informal feedback upon draft/“work in progress” technical standards and guidelines shared by EIOPA or, responding to specific requests such as feedback on EIOPA Work Programme, Peer Review topics, or, responding upon own initiative to European Commission papers.

In 2012 Stakeholder Groups have strengthened the relationship with EIOPA by further engaging in a close dialogue with their representatives, both on a technical and personal level. Due to the heterogeneous nature of the Stakeholder Group members’ background and professional experience, the Stakeholder Groups proposed that EIOPA would develop papers for non-experts on several

Solvency II areas, where legislation was being developed. As a response, Stakeholder Groups were provided with a number of “nutshell notes”, out of which the OPSG particularly benefited from the “Introduction to Solvency II”. The nutshell notes enabled all stakeholder group members to easily understand the key elements of the new supervisory framework for insurance.

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

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

▪ **Occupational Pensions:**

- The OPSG work plan was linked to the work programme of the EIOPA Occupational Pensions Committee (OPC). This allowed the OPSG to combine efforts between the areas of mandatory response, such as EIOPA planned consultations on Pensions, including the first draft Implementing Technical Standard on reporting of national provisions of prudential nature, and the areas of OPSG own work initiative, such as information to members, Commission White Paper on the future of Pensions and Pensions Funds Governance.
- OPSG focused during the first half of their term on delivering an Opinion on the EIOPA advice to the Commission regarding the Review of IORP Directive;
- In the second half of their term, OPSG responded to the EIOPA consultation on the Technical Specifications of the Quantitative Impact Study (QIS on Pensions) of the same advice and provided feedback on the QIS Preliminary Results.
- OPSG responded to the Consultation on the first EIOPA draft Implementing Technical Standards (ITS) on reporting of national provisions of prudential nature relevant to OP schemes.
- OPSG provided an Opinion on EIOPA Discussion paper on Personal Pensions.
- Throughout their mandate, OPSG has provided feedback on supervisory convergence in the area, such as the Peer Reviews on the implementation of the IORP Directive.

▪ **Consumer Protection** – a recurring item on the agendas of the OPSG meetings throughout their term:

- OPSG provided input to EIOPA on Consumer Trends.
- OPSG developed an own initiative report on Pension Fund Governance
- OPSG developed an own initiative Report on information to members and responded with a Feedback Statement to EIOPA Good practices on information provision for DC schemes.

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

Area	Activity	Publication
Occupational Pensions	Opinion of the EIOPA Occupational Pensions Stakeholder Group regarding EIOPA Draft Advice to European Commission on the review of Directive 2003/41/EC	15.02.2012
	Feedback Statement on European Commission White Paper An Agenda for Adequate, Safe and Sustainable Pensions	10.07.2012
	Opinion regarding EIOPA Consultation Paper - Draft Technical Specifications: QIS of EIOPA's Advice on the Review of the IORP Directive (EIOPA CP 12/003)	01.08.2012
	Opinion on Public Consultation No. 12/005 on Draft Implementing Technical Standards on reporting of national provisions of prudential nature	08.03.2013
	Own initiative Statement on Information for members of occupational pension plans	14.03.2013
	Feedback Statement to EIOPA QIS Preliminary Results	20.05.2013
	Feedback Statement on EIOPA Survey of EU practice on default investment options	01.08.2013
	Opinion on EIOPA Discussion Paper on a possible EU-single market for personal pension products	01.08.2013
Consumer Protection	Feedback Statement to EIOPA Good practices on information provision of DC schemes	28.06.2013
	OPSG Input on Consumer Trends	13.05.2013
	Own initiative Discussion Paper on Occupational Pension Scheme Governance	15.07.2013
Financial Conglomerates	Opinion on the Fundamental Review of the Financial Conglomerates Directive	06.08.2012

9. Summaries of OPSG work by Area

a. Occupational Pensions Area

i. IORP Directive

Opinion regarding EIOPA draft Advice to European Commission on the review of Dir. 2003/41/EC - IORP Directive review.

In April 2011 the European Commission asked EIOPA for advice by mid-December 2011, later extended to mid-February 2012, on the EU-wide legislative framework for IORPs. Overall, this was an extremely demanding deadline for advice on the European legislative framework for the entire occupational pensions sector. It not only put EIOPA under pressure but also those who wished to participate in the consultation process.

Advice was sought by the Commission on the scope of the IORP directive, on certain cross-border aspects and on three other areas. Firstly, what quantitative requirements should apply to IORPs and how should these be measured. Secondly, what should be the qualitative requirements, particularly in respect of the governance of IORPs and their supervision. Thirdly, what information should be provided in respect of IORPs to members and beneficiaries, and to supervisory authorities. Attention was also given to specific features for defined contribution (DC) schemes.

The Call for Advice from the Commission in fact covered the wide legislative framework for IORPs in the context of the legislative overhaul in financial services legislation in the wake of the financial crisis. Underlying this was the issue of whether IORPs should be regulated in the same or in a similar way to other financial institutions and products, in particular the Solvency II framework for life-insurance and also the UCITS IV Key Investor Information Document.

OPSG established a subgroup to prepare the response to EIOPA and the Stakeholder Group had four meetings throughout 2011 to discuss the questions put to consultation. Written input from Stakeholder Group Members was duly taken into account by the subgroup.

The Opinion was adopted on 19 December 2011.

General approach taken:

- OPSG stressed that the primary objective of IORP Review should be to improve the security and sustainability of occupational pensions schemes across the EU while taking account of their particular nature and to balance this with the need:
 - for efficient management to enable sponsoring undertakings to continue to provide them, and,
 - for effective member outcomes in DC schemes.
- OPSG highlighted that quantitative impact studies & qualitative impact assessments are needed at every stage of the legislative process of revising the IORP Directive to avoid unintended adverse consequences

- The OPSG emphasized that the Solvency II Directive should not be the starting point of any modification of the IORP Directive. Instead and in line with EC Call for Advice, OPSG advocates developing a supervisory regime *sui generis*, taking the IORP Directive as the starting point, yet accepting the risk-based approach for supervision and management. This approach seems appropriate since there exist essential differences between IORPs and life-insurance pension products.

On some specific issues:

- **Scope:** OPSG is supportive of EIOPA's approach to keep the current scope of the IORP Directive. The Opinion advocates that occupational and workplace pensions (2nd pillar) should remain under a distinct regulatory framework vis à vis individual or personal pensions (3rd pillar) that are contracted without any interference or support from the employer.
- **Prudential law and social and labour law (SLL):** OPSG thinks that prudential regulation and SLL should mutually exclude each other.
- **Proportionality:** it is of utmost importance to prevent the net impact of supervision on the benefits being negative due to too high costs or pressure to adjust the benefits.
- **The Holistic Balance Sheet (HBS):** the OPSG thinks that the holistic balance sheet – the group rather would prefer 'holistic framework' – is intellectually attractive, but there are too many open issues to conclude whether it should be applicable to IORPs. An impact assessment and quantitative impact study are needed before any decision can and should be taken at level 1. Additionally, the concept is also very complicated and would possibly be too prudent. With the knowledge available at the time of the Call for Advice, the holistic framework is not considered suited for supervision of IORPs.
- **Valuation of assets and liabilities:** the OPSG is of the opinion that a set of common principles should apply at EU level for both the holistic framework and for the valuation of assets and liabilities, but that the responsibility for setting the detailed rules for calculating these should remain at Member State level. Discount rates should be market consistent, but be adapted for the long term nature of pensions by applying modifications, the volatility should be smoothed and the recovery periods should be flexible and sufficiently long.
- **Investment rules:** the prudent person rule should remain the basic principle and is considered as generally sufficient although default investment options for DC schemes are viewed as useful. Those rules could be different for DB from DC schemes.
- **Single Home supervisor:** OPSG is in favour of one single Home supervisor in the home state.
- **Governance:** The OPSG agrees with EIOPA's draft advice that an adequate governance framework will further advance the decision making processes of IORPs. Therefore, the OPSG supports the view that some governance elements of the Solvency II framework could reasonably and in a proportionate manner be used as a basis for developing a EU level governance system for IORPs without interfering with governance models structures that may exist at member state level.

- **Fit & Proper:** also those requirements can come under the scope of proportionality. OPSG is supportive of EIOPA's draft advice that the level of fitness required depends on the nature and complexity of the activities. If the fit and proper test is adopted such that the qualification, knowledge and experience have to be "appropriate" to enable sound management; it is also very important that where there is a board, trustee or other group of persons, who effectively run the IORP, that the adequacy test be applied to the collective function and not to each individual component. For example, on a management board, it is acceptable and indeed useful, to have a person whose area of expertise is financial, another whose is investment, another whose is administration, but that collectively the level of qualification knowledge and experience should be "appropriate".
- **Key functions:** OPSG has difficulty to see a need for additional definitions of key functions. However, if this is introduced it fully endorses the view of EIOPA that in respect of fitness, the principles of good governance must be implemented in a reasonable and proportionate manner and that this may allow for non-segregation of duties and outsourcing. It is crucial for the IORP itself which must judge whether the persons with key functions meet the fit and proper criteria.
- **Information to members:** it is essential to provide an annual, personalized statement to each member. Particularly for DC schemes it is vital to include personalized pension projections, linking the first and second pillars. OPSG agrees a pre-enrolment document is essential, written in simple and plain language, and providing the possibility to grasp an immediate idea of the pension fund and the scheme. The exact nature – whether DB, DC or hybrid – of the pension scheme should be clarified as well.

ii. Quantitative Impact Study on Pensions (QIS)

OPSG Opinion Regarding Draft Technical Specifications QIS of EIOPA's Advice on the Review of the IORP Directive: Consultation paper (EIOPA-CP-12-003).

EIOPA published the Draft Technical Specifications of the QIS on June 15th 2012. EIOPA welcomed comments from interested parties on this consultation document. The OPSG provided its opinion on July 19th 2012 (EIOPA-OPSG-12-08).

In the response to the Call for Advice, EIOPA proposed the Holistic Balance Sheet (HBS) as the central part of an European supervisory framework for pension funds.

According to the OPSG, the HBS seems to offer possibilities to take the specific characteristics of IORPs into account. But it is new and very complex. More work and analysis is necessary in order to judge if the HBS-approach is suitable as a supervisory tool. The OPSG does not believe that one Quantitative Impact Study (QIS), based on the proposed technical specifications, will provide the necessary information for drafting a new level 1 IORP Directive.

The revision of the IORP Directive is a very technical exercise. Therefore, the OPSG very much welcomed the QIS. Unfortunately, the OPSG thinks that the proposed technical specifications of the QIS will not provide the necessary information required to draft a revised IORP Directive. The current

set of technical specifications leaves too much scope for interpretation. This makes the consistency of the inputs questionable and consequently the quality of the results. Furthermore, the OPSG is of the opinion that the first QIS is too technical. The first QIS should be KISS (Keep it Short and Simple) and not a QUIZ with many possible and unclear answers. Therefore, also more time is necessary for EIOPA to conduct the QIS exercises. The current time table is too constrained, both for national supervisors and the pension sector. More time and more QISs are required and will lead to higher stakeholder involvement and a better understanding by IORPs, Commission, Parliament and supervisors on how to shape the revised IORP Directive.

The OPSG raised many issues with regard to difficulties in the valuation of the various elements of the HBS. Alternatives to a HBS approach, like an ALM analysis or stress test, should be studied. This does not mean that it may not be helpful to adopt a holistic framework which takes into account the different risk mitigating instruments. This holistic framework can contribute to providing an overview of the different steering and adjustment mechanisms. However, the OPSG has serious doubts as to whether the HBS is an appropriate supervisory tool.

The OPSG also paid attention to the issue of proportionality. The costs of doing a QIS are a point of concern for many IORPs, especially if these costs lead to lower expected benefits. A large proportion of IORPs are small and provide retirement benefits on a voluntary basis, which means that increased regulatory costs will inevitably lead to a reduction in members' benefits.

In addition to these general remarks, the OPSG has answered the 23 specific questions of the consultation document.

OPSG Feedback Statement to EIOPA's QIS on IORPs, Preliminary Results for the European Commission.

Between mid-October and December 17th 2012, a Quantitative Impact Study (QIS) on Institutions for Occupational Retirement Provision (IORPs) was conducted in eight European countries. EIOPA reported preliminary result of this QIS on the 9th of April 2013. The OPSG issued a feedback statement on this EIOPA Report on 20 May 2013.

The OPSG welcomed the publication of EIOPA's report QIS on IORPs-Preliminary results for the European Commission (EIOPA-BOS-13/012). The OPSG made the following comments:

- The EIOPA report provides a good and useful overview of the relevant issues with regard to the valuation of a Holistic Balance Sheet (HBS);
- EIOPA puts forward many disclaimers to the reliability of the outcomes of this first QIS on IORPs. In OPSG's view, it is therefore not possible to come forward with an appropriate proposal for quantitative requirements (Pillar 1) in a revised IORP Directive based on this QIS;
- From the outset the OPSG has had doubts if the holistic balance sheet approach could be a useful tool for pension fund supervision. After this QIS, there are many more doubts over the feasibility of using the HBS as a supervisory tool;

- More studies are necessary in order to improve the valuation of the HBS and to test what would be the appropriate place of the HBS in a future European supervisory framework, if at all;
- The OPSG suggest that EIOPA comes up with a work programme with appropriate timelines. This programme should include which steps should be taken in the future and an appropriate chronology.
- According to the OPSG there are additional studies necessary on the following four issues:
 - Clearer definition and better understanding of discretionary benefits and benefit reductions;
 - Technical issues (improve valuation of the HBS);
 - Supervisory issues (how could and should the HBS be used);
 - Fundamental issues (the methodological approach and the current economic and financial situation).

iii. Implementing Technical Standards on Prudential nature

Consultation Paper on Draft Implementing Technical Standards on reporting of national provisions of prudential nature relevant to the field of occupational pension schemes

EIOPA issued a consultation paper on Draft Implementing Technical Standards on reporting of national provisions of prudential nature relevant to the field of occupational pension schemes (CP-12/005) on 10th December 2012. EIOPA is required under Article 20(11) of Directive 2003/41/EC, as amended by Directive 2010/78/EU, to draft implementing technical standards on the procedures to be followed and formats and templates to be used by competent authorities when reporting on the relevant provisions to EIOPA.

The Consultation Paper sets out a Draft Implementing Regulation to which the proposed template is annexed, an explanatory note and an impact assessment of the policy options considered. EIOPA asked ten questions and invited responses by 10th March 2013.

The OPSG considered the Paper and discussed a response to the questions at its meeting on 14th February 2013 and subsequently approved a formal response which was submitted prior to the deadline.

The OPSG welcomed the proposed standards as their introduction will enable EIOPA to publish national provisions of prudential nature on its website and might also help to clarify which provisions of national law are included in social and labour law. This will enable multinational companies and advisors to more easily identify the prudential regulation and social and labour law in Member States which will facilitate the consideration of cross border provision. OPSG does not expect that the development of these standards will lead to a significant increase in the number of such plans as there are other reasons why the number of cross border IORPs is low.

OPSG felt that the procedure and the frequency of reporting seemed reasonable and proportionate. OPSG agreed with annual reporting as this would avoid the information becoming obsolete which may be the case if a two-year interval is permitted.

OPSG was concerned that the level of detail in the reporting template in relation to the depth of information that should be covered is not clear, i.e. does this just cover laws and regulations or also guidelines, circulars and other information provided by competent authorities or professional standards?

The OPSG recommended that the full legislative texts be available in English for advisors and practitioners, as well as multinational companies to more easily identify the prudential regulation and Social Labour Law (SLL) in various Member States where they have subsidiaries which will facilitate the consideration of cross border provision.

The only negative impact foreseen for IORPs would be if the costs, incurred by competent authorities in reporting to EIOPA their national provisions of prudential nature relevant to IORPs every year, are passed on to IORPs.

iv. Commission White Paper An Agenda for Adequate, Safe and Sustainable Pensions

Feedback Statement on the European Commission White Paper An Agenda for Adequate, Safe and Sustainable Pensions²

The White Paper describes the pensions challenge and tables 20 initiatives from the European Commission to meet the challenge.

OPSG in its Feedback Statement issued in July 2012, points out that the competence within pensions and social policy generally is with the Member States and that some of the initiatives might be outside the Union mandate. But what matters to citizens is that the Member States on their own or with help from the Commission ascertains that citizens can get adequate, safe and sustainable pensions.

The pension system has developed in different ways in the Member States. The three pillars are regarded differently and the relative importance of the three pillars differs in the Member States. OPSG welcomes the White Paper as a strategic umbrella concept for different future initiatives on pension systems from the Commission and the Member States.

OPSG stresses that for a vast majority of workers across the Member States, adequate, safe and sustainable pensions will only be possible when pillar 1 pensions are supplemented by capital based retirement schemes: pillar 2 and 3 pensions. The legislator should foster citizen's participation in pillar 2 schemes.

² An Agenda for Adequate, Safe and Sustainable Pensions, White Paper, COM(2012)55 final, 16 February 2012.

The pillar 2 pensions, occupational pensions, are at their best characterized by cooperation between employers and employees or the social partners. This cooperation should provide a market power able to get the best conditions from the market and the financial institutions.

OPSG finds it important that Member States become obliged to encourage and motivate employers, companies and social partners to introduce, maintain and develop effective occupational pension systems. Member States should support this by incentives, for example by abolishing double taxation of pensions and pension savings.

Citizens shall be able to change jobs, domicile, employer, country without being punished by reductions in their pensions or high costs out of proportion with the individual charge. Citizens should also be able to change pension schemes without disproportionate cost or disadvantage. Similarly, citizens staying in the same pillar 2 scheme for many years should not have irrelevant costs imposed because others are leaving the scheme.

OPSG recommends reconsidering the questions related to the portability with the specific aim of improving transferability without leading to unreasonable costs either for employers or employees.

Citizens meeting severe difficulties like unemployment or ill health should not be lost in the system by the double effects of periods with bad economy and reduced pillar 2 and 3 pensions.

Those who are genuinely self-employed should be able to opt for an equivalent of an occupational scheme with similar tax rules and social protection as those in formal employment.

Citizens should have the information necessary for planning the retirement for all the pension schemes they are members of, that is any pillar 2 and 3 schemes and pillar 1.

Rules on good practice or codes of good practice for providers of pensions could help maintain or develop the quality of the pillar 2 and 3 pensions. The governance systems of the pension schemes should be developed. Board members and other officers must be fit and proper and competent as responsible for pension schemes.

A constant monitoring of the development of pensions, pension obligations and pensions provisions in the Member States is important. The Commission and the Member States should follow and report on whether:

- schemes are adequate, safe and sustainable
- occupational pension schemes (pillar 2) develop
- personal pension schemes (pillar 3) develop
- changes in the pillar 2 and pillar 3 occur in response to changes in pillar 1.

The EIOPA mandate should cover all information and monitoring of pillar 2 and 3 pensions at Union level.

v. Peer Reviews

The objective of this exercise by EIOPA is to

- 1) identify the level of convergence and effectiveness in implementing regulation by Competent Authorities (CA) and
- 2) to identify best practices that can promote a higher level of convergence.

The peer review is not meant to verify the compliance with the IORP Directive.

In the OPSG meeting of 14th September 2012, EIOPA updated OPSG on its peer review work in respect of IORPs. In 2012 the focus was on the implementation of Article 13 IORP Dir., the information to be provided to the Competent Authorities (CA) and Article 14 IORP Dir., the powers of intervention and duties of the competent authorities. The best practices identified as a result of the peer review could contribute to the development of the “code of best practices” as considered by the European Commission.

The same meeting was also the moment during which EIOPA consulted OPSG about the planned peer review for 2013. In that year EIOPA had planned to focus on the implementation of the “shall” provisions of Article 9 IORP Dir. (Conditions of operation). These are those provisions where Member States do not have an option: art. 9, par. 1 (cross border activities) and par. 5 (prior authorisation of IORPs involved in cross-border activities).

OPSG discussed the item and was supportive of including art. 9, par. 1 and 5 IORP Dir. in the peer review exercise. However, the Stakeholder Group made a reservation for art. 9, par1, litt. e: “where the sponsoring undertaking guarantees the payment of the retirement benefits, it is committed to regular financing”. Since there is no general requirement for sponsoring undertakings to guarantee the payment of the benefits, there is no “shall” aspect to this. Hence this element should be excluded from the peer review.

vi. Investment options

Feedback Statement on EIOPA Survey of EU practice on default investment options

The OPSG provided feedback on the EIOPA survey of EU practice on default investment options published in April 2013. EIOPA's response to the Call for Advice on the review of IORP Directive recognised the importance of "multi-funds, default options and lifestyling that help risk control and sound development of [DC] pensions" and encourages the identification of "best practices" which might lead to EU regulation.

The OPSG noted the diversity of approaches within the EU in relation to the structure and regulation of DC provision, and suggested that it would be helpful to present the results in the form of an overview of the system in each country. The OPSG identified the following general trends:

- In most Member States (MS), member choice is offered
- Where choice is offered, there are usually 5-10 funds

- The menu is usually devised by the provider or the IORP, or by employer/social partners.
- Default options are used in about half of the cases considered
- Life cycling/lifestyling is the most common structure where a default is offered
- The numbers (actively or passively) choosing the default vary: in the UK about 80% do so, whereas in other countries it is much lower.
- In a number of Member States the supervisors are "involved" in the regulation of default funds

The OPSG supports the conclusion in the paper that the survey "highlights the diversity of the design of pensions in different Member States with regard to the use of multiple investment options, defaults and design elements such as lifestyling which makes it difficult to identify best practice in this area as it will depend on the nature of the pensions system in the Member States".

There is no indication in the paper as to next steps. Having identified the diversity of practice in relation to DC provision across the EU, it would seem premature to try to develop an EU-wide harmonised approach to investment choices/default funds, although further research in this area could assist Member States and providers of DC IORPs and personal pensions in refining their approach to such issues within the context of the existing system and regulatory structure in each MS.

vii. Personal Pensions

Opinion on EIOPA Discussion Paper on a possible EU-single market for personal pension products

On 1st August 2013 OPSG issued their Feedback Statement on the EIOPA Discussion Paper on personal pension products ("PPP"). OPSG has concentrated its responses on issues of particular relevance to the specific OPSG mandate.

OPSG recognizes that the future development and relationship between occupational pensions and PPP is of major importance in an environment of limited future availability of state subsidies in member states. OPSG believes the real test of the adequacy of the regulatory regime for both IORP and PPP products is the similarity of the outcomes in terms of adequacy of retirement provision for citizens. It noted however that nothing should be done which would disincentivise Pillar 2 occupational pensions. To that end it would be useful to develop retirement educational plans which illustrated the risk differences between occupational pension systems and PPP.

Even where the legal or regulatory regime is different, OPSG noted that consumers themselves will often not perceive the difference between a trust based and a contractual based PPP offering, between a product governed by consumer law, or one governed by social and labour law. They are not consciously "opting" for a weaker level of governance, rather this is an incidental and for the consumer a "cost" of seeking a particular retirement objective. So OPSG believes any weakness in protection as compared to the occupational regime should be avoided. Rather than concentrating on distinctions between defined benefit and defined contribution offerings OPSG felt it was more important to concentrate on where the risk was being taken – including quality, costs, charges, governance, investment choice and transfer risks.

On the specific issue of advancing a single market for PPPs, OPSG was supportive subject to solving tax barriers but felt that there are already high hurdles in terms of understanding and obtaining sufficiently transparent information, all of which would need to be adequately addressed.

On the question of the most appropriate regulatory regime OPSG believed that this should be led by outcomes. There was concern that the appropriate regulatory regime be able to adequately address issues of for example quality, governance and coverage, and it was felt US models for 401(K) could be useful here. The regulatory regime for consumer financial services currently often fails to provide the same level of good governance available through the IORP regulatory regime. If consumer services regulation is to remain in place for these products, a number of areas would need improving. Fundamentally, there should be a regulatory body protecting practice and this should be very transparent to the individual consumer. It did not seem critical to OPSG that this be the same entity which also regulates occupational schemes, although it could be, but it should be equally robust.

OPSG believes transparency and information disclosures should be up to the same standard for all types of pension scheme, to protect the beneficiaries of arrangements and would support the principles of the EIOPA recommendations on Good Practices on Information Provision for use also in the PPP environment. In the pure PPP world, much of the governance and all of the fiduciary and 'not-for-profit' protections of the occupational system are absent, and hence the customer is more vulnerable. This increases the need for high levels of consumer protection and clarity of communication and transparency.

Where an employer chooses the contract as the customer there are further questions as to whether employers are able to exercise proper demand side pressures in the market. Applying IORP-style governance requirements would alleviate this.

OPSG are supportive of layering along the lines of EIOPA recommendations for DC occupational pension schemes. It felt other imported practices from the occupational regime could include: regular individualised benefit statements; clear benefit projections under prudent assumptions; possibility of raising contributions or later retirement; access to comparative and full information on all costs and performance.

Finally OPSG pointed out that for IORP, there are requirements that those running schemes have to act in the best interests of all beneficiaries. For a PPP, the providers are commercial and ultimately have a profit motive. There clearly is therefore potential for conflict between corporate interests and the best interests of the individual consumers. So it is important to make sure there is a detailed and very comprehensive list of the principles and responsibilities of the provider. Good governance and publication of best practice initiatives could be useful here, as might be a prudent pension requirement for providers within any PPP regulatory regime.

b. Consumer Protection

i. Consumer trends

Input on EIOPA Consumer Trends Report

In April 2013 OPSG issued a statement on Consumer Trends as an input to the EIOPA Consumer Trends Report. EIOPA is obliged to investigate and report about consumer trends. OPSG was informally consulted with a questionnaire from the EIOPA Committee on Consumer Protection and Financial Innovation (CCPFI).

OPSG noted that the EIOPA definition of consumer trends could create uncertainty about what was observed. Neither the definition nor the questionnaire invited responses aimed at finding out why consumer behaviour had changed.

The questionnaire invited respondents to put to one side the significant variety in occupational pension systems. In some Member States occupational schemes are covered by Social and Labour Law giving another kind of protection to the one normally related to consumers and consumer protection. In other Member States the parameters are based on agreements between the social partners or mandatory regulated by law. The possibility of choice is often closely related to the concept of a consumer but occupational pension schemes are often a mandatory part of an employment relation with no choice.

The OPSG proposed a new approach on consumer trends with more objectives:

1. What is happening in the market? (A statistical (quantitative) version of the present definition)
2. What are the beneficiaries' concerns in relation to pensions?
3. What are the institutions preoccupations in relation to pensions?
4. What are the circumstances of beneficiaries' protection?

The main problem for consumers in all member states is:

- Will my pension savings give me the means necessary to finance the standard of living I need and expect when I retire?

Second level of concern is:

- How much will I get (before and after tax) and what will it be worth to me (including an allowance for changing needs such as healthcare)?

Third level of focus is:

- Can I do anything to improve this amount?
- Should I and can I afford to make a supplementary saving?
- Where and how should I make this supplementary saving?

The main problems for the institutions are:

- Low interest rates and financial crisis turbulence
- Solvency II, CRD IV and other regulations in the pipeline

- The high level of unemployment in many Member States
- Views about solidarity and transfer between generations differ between generations
- Governments changing the rules of the game

The actual questions can differ between Member States, but three problems for scheme members in relation to pension will be found in many Member States:

- Pension reform

Old well-known products have been closed and new ones opened. Tax and access rules have been changed.

- Corporate governance

The quality of the governance of a number of pension providers is not as good as beneficiaries/members may expect. Authorities should use their powers to improve the corporate governance of the providers

- Information systems

Providers and governments have set up a number of new information systems, but they are difficult to use. And in addition is it so that costs are relatively easy to measure but future benefits are difficult to measure or to value

OPSG offered answers to the questionnaire but stressed the importance to distinguish clearly between defined benefits (DB) schemes and defined contributions (DC) schemes because the schemes are so different in nature.

ii. Information to members

Information for Members of Occupational Pension Plans

In March 2013 OPSG issued an Own Initiative Statement on Information for Members of occupational Pension Plans.

It is stated in the considerations to the IORP Directive that "Proper information for members and beneficiaries of a pension scheme is crucial"³. OPSG decided with a view to the coming revision of the directive and the reviews, changes and proposals in other related areas to issue an own initiative statement on information for members of occupational pension plans.

Each Member State has, according to Article 11 of the Directive on IORP, set up rules on information to members and beneficiaries but the rules vary substantially and the requirements for information are not regarded as adequate in all Member States.

Citizens in modern society are expected to be able to make decisions about their economic situation as informed judgements. A prerequisite for this is that citizens are well informed about all the economic relations for themselves and their families. Pension savings in occupational pensions and other private pensions are for most people their biggest 'investment'.

³ Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the Activities and Supervision of Institutions for Occupational Retirement Provision, consideration no. 23.

A dilemma for pension providers is that the cost of information is very high and it is difficult to find the optimum point balancing the quality of information and the cost of information.

A further, very real challenge is that many citizens neither read the information they receive nor do they search for information. Even for those who do, many do not respond appropriately on the basis of that information.

OPSG recommends a multilayer approach and lists information that should be sent to or made available to members. The basic information is described and the content of a Basic Information Document is presented.

The layers of the multilayer approach could be:

- Basic information. The basic information document.
- General information about the scheme, the governance etc.
- Individual information. Updated individual information.
- Combined pension information. All types of pensions, pillars 1, 2 and 3.

Information must:

- Be transparent – plain and simple
- Be fair and not misleading
- Disclose value for money – all costs and charges shown
- Disclose governance
- Disclose a representation – how is the member interest protected
- Disclose clearly when there is a choice
- Disclose risk

Good Practices on information provision for DC schemes

In June 2013 OPSG issued a Feedback Statement to the EIOPA Report⁴ on Good practices on information provision for DC schemes.

OPSG finds information to members of pension plans to be of the utmost importance. The EIOPA report on good practices on information provision for DC schemes is an important contribution to the development of the coming legal framework for occupational pensions and private pensions at European level and in the Members States.

The purpose of information to members is changing from a formal legal purpose to a new approach saying the legal purpose is not sufficient, what members need first and foremost is “key information” for the decision-making.

Members of pension schemes – the non-professionals - are increasingly demanded to make decisions that used to be taken by the professionals managing the schemes.

⁴ Good practices on information provision for DC schemes – Enabling occupational scheme members to plan for retirement. EIOPA-BoS-13/010 24 January 2013.

OPSG finds the question of responsibility of crucial importance in this change. The pension provider is responsible for the structure of a pension scheme and for the majority of decisions that are made. The pension provider is also responsible for asking members to make the decisions that members must make and the decisions that members can make.

The information should also make it possible for members to make relevant decisions outside the scheme. That includes decisions on supplementing a DC scheme or a DB scheme by taking up personal private pensions.

The EIOPA recommendation to use an approach focusing on members' key questions and engage members in the decision making is not an invitation to change of responsibility. The pension provider remains the main body responsible for the pension product and delivery of the pension the main obligation; information is an additional but necessary service.

If members do not make the important decisions providers should consider to change the model, so that members only have to make the decisions that the provider can move the members to make. The challenge is that too many members don't ask questions and many members have low financial capability and a need for financial education.

The standardised UCITS Key Investor Document (KID) can be adequate for UCITS. For pensions a flexible approach based on proportionality is necessary, a standardised basic information document can be a part of this⁵.

Information must be reliable. Many DC occupational pension schemes are managed by specialist profit making companies, this means many scheme members and potential members, do not perceive the information provided by the firms as unbiased. This means there is also a need for some of the information to be prepared by national authorities.

Finally, OPSG recommends that the collection of good practices in the EIOPA report be further developed to a tool kit that other authorities and other pension providers could use when developing their own systems.

iii. Pension Scheme Governance

Own initiative report – “OPSG discussion paper on occupational pension scheme governance”

At the OPSG meeting on 14th February 2013, it was proposed and adopted to form a subgroup of the OPSG to investigate the governance of occupational pension schemes in the EU. The purpose of the subgroup was to offer a generic governance structure for European schemes and to consider the minimal functional structure that gave adequate protection to members and beneficiaries, as well as giving advice on these issues.

The subgroup tackled the task by adopting a multi-layered analytical approach. Firstly group members analysed the existing structures within their own Member States. This analysis became the main source of reference in the document and is presented in the appendices. The second stage

⁵ See the OPSG Statement on Information for members

required the group to work in two clusters, comparatively examining the structures of three Member States (six in total) highlighting their respective strengths and weaknesses. At the third stage the subgroup defined pension schemes – in general – as taking a four form functional pattern: non-executive (representatives of the employer, members and beneficiaries), executive (strategy and operations), integrity (actuary and audit) and services (investment management, benefit administration and payments, risk management and so forth). Finally the group collectively worked towards the creation of a generic governance structure, using the four form structure, and considered what could be pared back for the purposes of a proportionate regime.

The subgroup's recommendations are numerous, but can be summarised under the four form function theme.

- The non-executive should fairly represent the interests of the employer, members, deferred members and beneficiaries (the stakeholders). They should have a fiduciary obligation to scheme members and beneficiaries. This function should have the scope to scrutinise every aspect of the pension scheme and must be totally accountable to the stakeholders, through reports and presence at the general meeting. Members and beneficiaries must be considered equally. To be effective the non-executive function must fulfil standards of fitness and propriety. The non-executive should appoint and approve reports from the auditor, the actuary and key members of the executive; they should also set or approve their respective remuneration or fees.
- The executive function, provides the strategic direction, oversees the day-to-day management and organises the scheme's administration and functions. The executive should consult the non-executive on all significant decisions. The executive function needs to contain all aspects of professional knowledge and experience in order to effectively fulfil its duties.
- The integrity function, as its name suggests, plays a vital role in protecting the interests of the stakeholders, by reporting on, commenting and certifying upon the underlying assumptions of the pension promise (where this is a feature) and the financial activities of the IORP. Professional integrity, independence, knowledge and experience are key requirements for the people or organisations that serve these respective roles. The integrity function works with the executive and service functions, but reports to the non-executive.
- The services function contains all the parties that provide services to the scheme. These can be internal or external resources depending on the size of the scheme and the direction of the executive. The executive must provide the service function with precise service agreements, which should be reviewed, by the executive, on a regular basis.

With respect to proportionality the Portuguese model provides a functioning system that is in operation. Here the whole process of managing the scheme is contracted out to a management entity, which provides the executive and service functions. Whilst in Portugal the management entity appoints the actuary and auditor, we recommend that these positions are appointed by the non-executive function (the monitoring committee as it is called in Portugal). As stated above the effectiveness of the non-executive function rests on its collective knowledge and understanding of the strategic management of a pension scheme. Therefore, members of this function must be able to demonstrate competence before the national regulator on their fitness and propriety to serve in

this function. These skills are indivisible and determine the minimum governance efficient size for a pension scheme.

c. Financial Conglomerates

OPSG opinion on the fundamental review of the Financial Conglomerates Directive

On 6th August 2012, OPSG issued an Opinion on a joint consultation launched by the three ESAs – EIOPA, ESMA and EBA – on their proposed response to the European Commission’s Call for Advice on the Fundamental Review of the Financial Conglomerates Directive (FICO). The three ESAs were asked in April 2011 by the Commission to focus in particular on the scope of application of the Directive, especially the inclusion of non-regulated entities; internal governance measures; supervisory empowerment of the original Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate. The advice constituted a particularly sensitive topic for the OPSG, as one of the main questions regarding the scope of the Directive involved the possible inclusion of IORPs within the definition of “Financial Sector”, thus enlarging the scope of articles 2(4) and amending article 3 accordingly in the FICO Directive.

The OPSG opposed the recommendation of the proposed response from the three ESAs, arguing that it was inappropriate for IORPs to be supervised under the FICOD Directive for a number of reasons. For instance, IORPs are already regulated and supervised under the “IORP” Directive 2003/41/EC, which is under review by the European Commission. Incorporating IORPs in the supplementary supervision of a financial conglomerate bears the risk of overlapping the existing regimes. Furthermore, the OPSG stated that IORPs are “not for profit” organizations, established on the basis of a social agreement, and implying the direct participation of social partners or employee representatives. Additionally, occupational pensions are part of an employee’s total remuneration package and are not financial products. Therefore, incorporating IORPs in the definition of “financial sector” is not appropriate.

Finally, the OPSG also specified that many risks addressed by the FICO Directive, such as double gearing, excessive leveraging, are already adequately covered by the existing IORP Directive 2003/41/EC.

10. EIOPA Support

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

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

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

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

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

11. Self-assessment by OPSG members

EIOPA has inquired with OPSG members how they had viewed their first experience with being a member of the Stakeholder Group by means of a self-assessment questionnaire.

There were 20 respondents out of 30 surveyed. Most questions received a response and there were three questions that received an insignificant number of responses: measurement of OPSG work outside EIOPA, follow-up & minutes and the resources available for reimbursement and assistance to selected members.

Overall, the assessment by the members is very positive.

All different categories expressed satisfaction with their OPSG experience. Also the composition of OPSG was seen as excellent and balanced "because all stakeholders are represented, very different points of view are given which is valuable to enlarge one's own opinion".

Members were fully satisfied in particular about: preparation of the meetings, documents provided (not the timing though), EIOPA administrative and logistical support, effectiveness of subgroup leads role and content of OPSG papers submitted.

Members were satisfied all together about: nutshell note, explanations provided by EIOPA staff, technical expert support, involvement of members in subgroups and OPSG in general, working with subgroups.

Members are critical as to: timeliness of documents provided, transparency of EIOPA internal decision making process.

Improvement is deemed necessary as to: timing of public consultations and resources available for selected members (beneficiaries, trade unions, academics) and timeliness of payment of reimbursements.

The duration of the mandate was seen as insufficiently long by almost half the respondents. This may be explained by the fact that it was the very first OPSG formation and that both EIOPA – after transformation from CEIOPS – and the Stakeholder Group had to find their feet in the new legislative framework.

12. Conclusion/Outlook

For the next mandate of OPSG the focus will still be on the review of the IORP Directive because further, complex work has to be done on the quantitative pillar 1 of the new supervisory framework for IORPs. OPSG welcomes the decision of Commissioner Barnier to limit the upcoming legislative proposal to pillars 2 (governance) and 3 (transparency). It has brought clarity to the debate. Work can now continue in two different time frames but with the same objective: to provide safe and sustainable occupational pensions.

It would be sensible to formally extend the mandate of EIOPA and OPSG to all work related to personal pensions since pensions are a specific policy area that deserves a specific supervisory framework with adequate beneficiary/members' protection.

The working procedures of OPSG can still be improved. It should be said that the group required at the outset, some time to find its feet how to work effectively, linked also to the challenges in the set-up phase of the Group and of EIOPA. Despite the limited resources EIOPA could make available during this period for the support of the Stakeholder Groups, they were highly dedicated. As a matter of fact, it would be of great help to the OPSG and its subgroups if EIOPA would be willing to interpret "adequate support" - as stated in the Regulation- as including also an advisor support. OPSG looks at related examples across the EU and in most of the cases the secretariat of the committee includes in its remit, the first drafting of positions based on oral or written input taken at and in between meetings.

To allow for this, and also for the enlargement of the mandate to “personal pensions”, it seems sensible to allocate to EIOPA a budget increase that is commensurate to those tasks. Our impression is that EIOPA staff is being constantly overstretched although the quality standards at EIOPA for general support work as well as for technical notes and presentations are of a high standard. It would add value to empower EIOPA with a separate budget line allowing the authority to manage it autonomously. In doing so, the European legislator would underline the independence of the European Supervisory Authorities (ESAs) which seems apposite if the European system of financial supervision is bound to be effective.

Tight or even over-challenging deadlines are a point of contention. If timelines are overly ambitious, they lead to underperforming processes as the necessary research and debate cannot be conducted. This may end up in superficial papers lacking detail and in-depth analysis. If policy decisions are going to be based on such inputs, the risk of making misguided choices is high.

This is all the more important because pensions policy will continue to be at the centre of European policy debates in the context of an ageing society during a longer period of budgetary constraints and low growth environment. At the moment there is no overall EU-pension system nor a model towards which Member States have agreed to converge. On the contrary, there is a high degree of diversity in the pension systems. One could wonder whether it would not add to the sustainability of the pension systems overall in the EU if a such a model could be discussed. This could re-launch the debate about a revamp/update of the three pillar system to preserve future generations from impoverishment.

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