

65TH EXTRAORDINARY BOARD OF SUPERVISORS MEETING VIA VIDEOCONFERENCE

DATE: 28 OCTOBER 2020 09:00 - 13:00 CET

LOCATION: N/A

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WELCOME AND INTRODUCTORY REMARKS BY THE EIOPA CHAIRPERSON

1. The Chairperson welcomed the attendees to the sixty-fifth meeting of EIOPA's Board of Supervisors (BoS).

AGENDA ITEM 1: ADOPTION OF THE AGENDA

DECISION

2. The BoS adopted the agenda by consensus.

CONCLUSIONS AND ACTION POINTS

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

UPDATE BY THE EXECUTIVE DIRECTOR

4. Following the adoption of the agenda, the Executive Director updated the BoS on few recent developments concerning:
 - (a) the staff health situation following pandemic's worsening, which also dictates to hold the remaining BoS meetings remotely, including the extraordinary BoS meeting on 19 November;
 - (b) the approval progress of EIOPA's updated Ethics and Conflict of Interest Rules that echo

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relevant EU Ombudsman's recommendations in Case 2168/2019/KR. The Management Board was asked to approve them by written procedure by 30/10/2020 cob;

(c) ACCI's ongoing assessment of potential conflict of interest of the current Chairperson after him leaving office. On the basis of the current legal framework, the ACCI established a process which will be part of a note. The note will be circulated at the beginning of November to BoS Members for information and for potential comments;

(d) the closure and outcome of the follow-up on past peer reviews. Almost all the "open" recommended actions have been fulfilled. Some of them are still open, mainly due to reprioritizations within the NCAs in relation to COVID-19, and are expected to be fulfilled soon; and

(e) on the need to continue coordinating with the ITDC and EIOPA staff to fully update the IORP registers in order to avoid reputational risks for EIOPA. BoS Members that have not done so, were reminded and invited to update the register.

AGENDA ITEM 2: RISK UPDATE BY THE RFSC CHAIR

5. The Chair of the Risk and Financial Stability Committee (RFSC) updated on the current risks. Macro risks further intensified by the second wave of pandemic already initiated in several EU countries. The Consumer Price Index (CPI) inflation remains at low level and it is forecast to decrease in the next three quarters. 10 year swap rates decreased reaching new lows. The risk of potential cliff effect with the negative impact on solvency positions when the current fiscal measures will be lifted could be expected. It was further reported on the conclusions of the last RFSC telco that was taking place on 8th October. The next meeting will be held on Friday 30th October from 10:00 till 13:00.
6. The Head of European Systemic Risk Board (ESRB) Secretariat updated on the discussion on a potential extension or amendment of the ESRB recommendation on restriction of distributions of dividends and share buy backs. The decision was postponed to the December 15 General Board until the new macro forecast will be available. The upcoming ATC meeting scheduled on November 5 will contain only a conceptual discussion.
7. EIOPA asked the National Competent Authorities (NCAs) to update on the situation in their jurisdictions via a RFSC written procedure.

DECISION

8. Not applicable.

CONCLUSIONS AND ACTION POINTS

9. BoS Members took note of the latest market developments and update on the last RFSC meeting. In particular, the second wave of pandemic that will have a negative impact on economic outlook (not revised yet) was stressed. Moreover, the continuation of decoupled asset valuation from growth forecasts and earning prospects was highlighted.

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10. The discussion on a potential extension or amendment of the ESRB recommendation on restriction of distributions of dividends and share buy backs is scheduled at the RFSC meeting on Friday October 30.

AGENDA ITEM 3: SOLVENCY II 2020 REVIEW

3.1. COMPLEMENTARY INFORMATION REQUEST

11. As had been reported on an initial basis to members at the meeting at end-September, EIOPA staff confirmed that the impact of the Solvency II 2020 review would be greater as at Q2 2020 compared with end-2019. In particular, the impact of the main proposed measures would no longer be balanced.
12. The EIOPA Chairperson stated that there was a risk to the credibility of EIOPA's advice if it were to be adjusted to secure balance in the highly specific circumstances of Q2 2020, particularly given the advice would not be implemented until about 2023 or 2024. He proposed that the central scenario for the balanced package should be economic conditions at end-2019. There should be consequential adjustments to the narrative underpinning the advice as well as technical adjustments in order to restrict the overall impact to that of the end-2019 situation.
13. The BoS supported this approach and agreed it would be sub-optimal to specify calibrations and other measures at a single point of time given current exceptional circumstances. A number of members emphasised that any revised measures and narrative should be as precise as possible, in order that EIOPA's advice remained specific.

DECISION

14. Not applicable

CONCLUSIONS AND ACTION POINTS

15. The BoS took note that the complementary information request indicated that the impact of the Solvency II 2020 advice would be increased under the economic conditions of end Q2-2020.
16. The BoS continued to support the concept of a balanced package.
17. The BoS agreed that balance should not be overly based on the specific situation arising from the Covid-19 situation. The BoS agreed it was more reasonable to secure balance based on the economic situation prevailing at the end of 2019.
18. The BoS concluded that a clear narrative, and a specific mechanism, is needed to ensure that the impact of the advice would not overall exceed that arising from end-2019 conditions.
19. Development of the narrative and mechanism to be considered by the BoS at its meeting in November.

3.2. REVISION OF ADVICE IN LIGHT OF COVID-19

20. EIOPA staff noted that revisions were proposed to seven areas of the Solvency II 2020 review in light of the Covid-19 situation. These revisions included introduction of a floor of minus 1.25

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per cent to the interest rate risk calibration with a phasing in over five years. It was also recommended that the own funds buffer not be introduced.

21. The BoS Members supported revisions to the advice in these areas. They acknowledged that the changes were an overall package. Within the context of overall support members raised certain concerns. A number of BoS Members did not favour a floor to the interest rate risk calibration, though some others were supportive. A number of BoS Members did not support widening of the symmetric adjustment mechanism for equities, while there has been some recognition of the improvements to the volatility adjustment but considering that the risk correction factor needed to be refined. Also, several Members expressed views on the sufficient evidence to reduce the correlation parameter between interest rates and spreads.
22. Regarding the newly-proposed macroprudential tools, BoS Members broadly supported their inclusion. Reference was made to the need to link their usage to the risk profile of undertakings and also to the need to consider the legal implications, particularly regarding the distribution of dividends.

DECISION

23. Not applicable

CONCLUSIONS AND ACTION POINTS

24. The BoS generally supported revisions to the advice in light of the Covid-19 situation in the seven areas specified.
25. The BoS recognised that the revisions were part of an overall package.
26. In the context of the BoS' overall support, some members expressed concerns about specific items of the package, notably in relation to a floor to interest rate risk and the symmetric adjustment to the equity capital charge.
27. The BoS expressed broad support to the new macroprudential tools proposed. Suggestions were made to the need to link the use of these tools to the risk profile of undertakings and to the potential legal implications of restricting the distribution of dividends.
28. The revisions in light of Covid-19 to be included in the overall advice to be approved by the BoS.

3.3. INTERNAL FINALISATION OF ADVICE ON SPECIFIC CHAPTERS

3.3.1. IGS

29. The BoS broadly supported the approach taken regarding the different elements. There were, however, some discussions on the options to operationalize the home-principle approach. While some Members did not consider Option 5 as a good compromise, others were of the view that it could indeed be a satisfactory solution. To better acknowledge the different views, the Chairperson agreed to refer to Option 5 only as the compromise option.
30. Another issue discussed concerned the transition period and the role of EIOPA to assess the compliance with the harmonised features proposed in the Advice.

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31. Some Members raised some doubts about this potential role. Others stressed the need to ensure flexibility during the transition, while ensuring that the main principles of an IGS or alternative mechanisms are complied with.

DECISION

32. Not applicable.

CONCLUSIONS AND ACTION POINTS

33. The Chairperson concluded that overall the current Advice seems to strike a balance between the existing different views. Nevertheless, EIOPA should further consider the language used namely regarding the assessment of the principles during the transitional phase. The Chairperson stressed that naturally further work would be needed in the future to specify in more detail some areas, in case the European Commission (COM) takes on board the proposal.
34. On the operationalization of the home principle approach, Option 5 should be mentioned as a possible compromise option, instead of the current wording that refers to a “good compromise”.

3.3.2. PROPORTIONALITY

35. The BoS Members exchanged views on the criteria for identifying low risk profile undertakings, on the proposals on the calculation of the Best estimate and on the approach to proportionality under article 35 of the Solvency II Directive.
36. The majority of the Members agreed that the criteria to identify the low risk profile undertakings should include one criteria to assess the risk underlying the technical provisions and also on the stability of the underwriting/investment performance and the Project Group (PG) should continue to work to present proposals in the BoS in November. Qualitative criteria were not considered as adequate as they would not lead to more legal certainty for the insurance undertakings
37. The proportionate approach proposed to the calculation of the Best Estimate (BE) was welcomed but some concerns were raised. The PG should continue to work on the proposal to address the concerns raised.
38. The different options to amend article 35 of the Solvency II Directive were introduced. Majority of the Members showed reluctance to replace the “may” with a “shall” and automatically exempt the undertakings classified as Low Risk Undertakings (LRU) from quarterly reporting, even with a limitation of 5% of the market share. The quarterly monitoring is considered to be crucial for the supervisory review process and the use of the market share as a threshold would bring uncertainty to undertakings as well as they would not be able to assess by themselves if the exemption applies.
39. Other Members saw the benefits for considering Option 2 and believe that additional safeguards and clarifications could be added to improve it from a supervisory perspective. Option 2 to be further elaborated taking into account the concerns raised and present both options in the BoS in November.

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40. The EIOPA regular report on the implementation of proportionality principle was welcome.

DECISION

41. Not applicable.

CONCLUSIONS AND ACTION POINTS

42. The Chairperson concluded that there is overall support by the BoS for the work done and the compromises achieved, recognising at the same time that some further work is needed.
43. Regarding the criteria for the classification as LRU addressing the risks from Technical provisions (TP) and the stability of underwriting/investment performance the discussion should continue. If possible, and to take the nature of the risks into account, quantitative criteria should be proposed for the next BoS.
44. To support the final decision, EIOPA to continue to share information with NCAs on the undertakings that would be classified as LRU according to the application of the criteria.
45. It was clarified that specific proposals for proportionality are being proposed for captives, considering their specific business model, and in addition if they comply with the criteria of LRU additional ones may be applicable.
46. On the BE calculation, there should be a clearer narrative on the facilitation of the work of undertakings that currently have an extra burden and that undertakings and supervisors that are comfortable with the current stochastic valuation methods used should not be forced to change their approach.
47. On Pillar III, the majority prefers Option 1 but considering the importance of the proposal on this area in the context of the proportionality framework being proposed, EIOPA will further develop Option 2 to mitigate the drawbacks highlighted for final decision in November BoS.

3.4. NON-PROPORTIONAL REINSURANCE

48. BoS Members expressed their support for the proposal on non-proportional reinsurance.
49. Some Members raised doubts with regard to the concurrence with the recently published (for consultation) supervisory statement on the use of risk mitigation techniques by insurance and reinsurance undertakings. Members also suggested to develop further guidance (level 3) on the application of Adverse Development Covers (ADC) in the Standard Formula.
50. EIOPA will address these points in the final proposal.

DECISION

51. Not applicable

CONCLUSIONS AND ACTION POINTS

52. The BoS generally supported the proposal on non-proportional reinsurance.
53. EIOPA to address the points raised by the BoS in the final proposal.

AGENDA ITEM 4: EIOPA'S SUPERVISORY STATEMENT ON SUPERVISORY PRACTICES AND EXPECTATIONS ON BREACH OF THE SCR

54. The Head of Supervisory Processes Department introduced the statement on supervisory practices and expectations on breach of the Solvency Capital Requirement (SCR).
55. An amendment to Paragraph 12 was suggested to clarify the text that supervisory authorities may not require a supervisory plan when the breach of the SCR was resolved within the two months in certain circumstances. The BoS supported the amended drafting.

DECISION

56. The BoS adopted, by consensus, the Supervisory Statement on supervisory practices and expectations on breach of the SCR for public consultation, including the amendment suggested to Paragraph 12 of the document (EIOPA-BoS-20-645, 21 October 2020).

CONCLUSIONS AND ACTION POINTS

57. EIOPA to work on the document for public consultation, including questions to stakeholders to support the impact assessment.
58. The impact assessment to be developed ex-post the consultation.

AGENDA ITEM 5: EIOPA'S SUPERVISORY STATEMENT ON NCAS ASSESSMENT OF IORPS' SUITABILITY TO OPERATE CROSS-BORDER

59. The Head of Supervisory Processes Department introduced the Supervisory Statement setting out EIOPA's expectations on the registration or authorisation process (and on-going supervision) in respect of IORPs' suitability to operate across borders. It aims to provide clarification to NCAs on how the prudential assessment should work regardless of having a registration or an authorisation regime. As the Supervisory Statement is exclusively addressed to NCAs, a public consultation was not deemed proportionate.
60. The extent to which the elements of the prudential assessment provided in the Supervisory Statement apply during registration or authorisation and as part of the on-going supervision will depend on the IORP's business plan in respect of domestic and cross-border activities. NCAs should take a broad view of Social Labour Law (SLL) when assessing IORPs' capability to remain compliant with the SLL.
61. EIOPA will monitor how the Supervisory Statement is used in practice, in particular by NCAs with a registration regime.

DECISION

62. The BoS adopted, by simple majority voting, the Supervisory Statement on the sound practices within the registration or authorisation process of IORPs, including as regards suitability for cross-border activity (EIOPA-BoS-20-642, 13 October 2020).

CONCLUSIONS AND ACTION POINTS

63. EIOPA to proceed with the publication of the Supervisory Statement on EIOPA's website.

AGENDA ITEM 6: METHODOLOGICAL FRAMEWORK FOR STRESS TESTING IORPS: ROADMAP

64. The Head of Risks and Financial Stability Department introduced the proposal to set up a project group to develop a methodological framework for the stress-testing of IORPs. Herein, methodologies and techniques to assess the effects of economic scenarios and environmental risks on IORPs, as well as to assess the resulting risks for the financial stability and the real economy shall be developed. The work shall also cover procedural aspects and common approaches to the communication of the results. Stakeholder engagement will be important to develop the framework, which may affect the suggested timeline. Yet, the framework is expected to be approved before the initiation of the 2022 IORP stress test.
65. The BoS supported the proposed project plan and the scope of the deliverables. A concern was raised whether it is relevant to assess the effects of DC IORPs on financial stability and the real economy.

DECISION

66. The BoS adopted by consensus the project plan proposal for a RFSC Project Group on the methodological framework for stress-testing IORPs.
67. The BoS decided by consensus to set up a project group under the remits of the RFSC to develop a methodological framework for stress-testing IORPs, the deliverables and tentative timelines, as outlined in the project plan.

CONCLUSIONS AND ACTION POINTS

68. EIOPA to launch a call for candidates and the leader of the project group via a BoS written procedure.

AGENDA ITEM 7: BREXIT: INFORMATION REQUEST AND FOLLOW-UP

69. The Head of Policy Department presented EIOPA's work on Brexit and the conclusions of the 7th information request.
70. EIOPA Chairperson urged NCAs to be ready for the end of the transitional period and highlighted the need to have in place national run-off regimes.
71. Members agreed that some undertakings can be a concern.
72. COM mentioned that any work on personal data exchanges should wait for the COM decision on this area.
73. NCAs described some areas of concern regarding some undertakings and their preparation for the end of the transitional period.
74. The BoS agreed to continue the work of the Brexit Cooperation Platform.

DECISION

75. Not applicable

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CONCLUSIONS AND ACTION POINTS

76. EIOPA to continue the work of the Brexit cooperation Platform. An assessment of the more relevant individual cases should be prepared.
77. EIOPA to arrange for a discussion on preparedness at the November BoS.

AGENDA ITEM 8: AOB

78. The Chairperson briefed the BoS on the progress of the Ombudsman's inquiry in Case 1564/2020/TE involving EIOPA.
79. The Chairperson informed the BoS of the need for the BoS to discuss and advise on the process of product intervention by February 2021, with first discussion being targeted for the November BoS meeting.

DECISION

80. Not applicable

CONCLUSIONS AND ACTION POINTS

81. The Chairperson reminded the BoS about the Extraordinary BoS meeting taking place on 19 November 2020 for the election of the new EIOPA Chairperson. EIOPA is finalising the meeting details and the time table and the agenda will be communicated to the Member in the days to come.
82. The Chairperson reminded the BoS Members to attend the joint BoS-SHG meeting scheduled on 25 November 2020.

ANNEX: LIST OF DECISIONS ADOPTED BY WRITTEN PROCEDURE FROM 30.09.2020 TO 28.10.2020

BOS-2020-76

83. Decision adopting the pilot dashboard on insurance protection gap.

BOS-2020-78

84. Decision adopting the Minutes of the 64th Board of Supervisors Meeting

Participants at the Extraordinary Board of Supervisors Meeting via videoconference**28 October 2020****Chairperson:** Gabriel Bernardino

<u>Country</u>	<u>Voting member/ Alternate</u>	<u>Accompanying Experts</u>
Austria	Peter Braumüller	Gerlinde Taurer
Belgium	Jean Hilgers/ Dieter Hendrickx	Geoffroy Herberigs
Bulgaria	Vladimir Savov (PoA)/[-]	
Croatia	Ante Žigman/Ilijana Jeleč	
Cyprus	[-]/Nicos Koullapis	
Czech Republic	[-]/ Jiří Kalivoda	
Denmark	[-]/ Per Plougmand Bærtelsen	
Estonia	Siim Tammer/[-]	
Finland	Anneli Tuominen/Teija Korpiaho	
France	Patrick Montagner	
Germany	Frank Grund/ Thomas Schmitz-Lippert	Petra Faber-Graw
Greece	Ioanna Seliniotaki/Ioannis Chatzivasiloglou	
Hungary	[-]/Ferenc Szebelédi	
Ireland	Andrew Candland (PoA)/ [-]	Zita Culliton
Italy	Alberto Corinti/ Alessia Angelilli	
Latvia	Santa Purgaile/Dina Mikelsone	
Lithuania	Renata Bagdonienė/Mindaugas Salcius	
Luxembourg	Claude Wirion/ Yves Baustert	Valérie Scheepers
Malta	Ray Schembri /Luciano Micallef	
Netherlands	Else Bos/Petra Hielkema	Véronique Hijl
Poland	Damian Jaworski/ Mariusz Smętek	
Portugal	Margarida Corrêa de Aguiar/Hugo Borginho	Ana Byrne
Romania	Valentin Ionescu (PoA)/[-]	Beatrice Verdes
Slovakia	Júlia Cillíková/Lucia Štefunková	Zuzana Kardošová
Slovenia	Goraz Čibej/ Mojca Rome	
Spain	Sergio Alvarez /Francisco Carrasco Bahamonde	
Sweden	Åsa Larson/[-]	

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<u>Country</u>	<u>Permanent Representative/ Alternate</u>	<u>Accompanying Experts</u>
Belgium	Henk Becquaert	
Ireland	[-]/Andrew Nugent	
Italy	[-]/Ambrogio Rinaldi	

<u>EEA EFTA Country</u>	<u>Non-Voting Member/ Alternate</u>	<u>Accompanying Experts</u>
Iceland	[-]/Rúnar Guðmundsson	
Liechtenstein	Alexander Imhof/[-]	André Hoffmann
Norway	Ann Viljugrein/[-]	Brita Hrenovica

<u>Institution</u>	<u>Non-Voting Member/ Alternate</u>	<u>Accompanying Experts</u>
European Commission	[-]/Didier Millerot	
ESMA	[-]/[-]	Roxana de Carvalho
EBA	[-]/[-]	Tijmen Swank
ESRB	Francesco Mazzaferro	
EFTA	[-]/[-]	Marco Uccelli

<u>Observers</u>	<u>Representative</u>	<u>Accompanying Experts</u>
N/A	[-]	

EIOPA Staff

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Head of Policy Department	Justin Wray
Head of Risk and Financial Stability Department	Dimitris Zafeiris
Head of Oversight Department	Patrick Hoedjes
Head of Supervisory Processes Department	Ana Teresa Moutinho