VERSICHERUNGSWIRTSCHAFT: The main mission of EIOPA is to ensure financial stability, consumer protection and support the insurance and pensions industry for the benefit of citizens, the economy and businesses. Has the mission been successful so far and what important role does EIOPA now play in the EU?

PETRA HIELKEMA: Over the years, EIOPA has established itself as a well-known and recognized supervisory authority. Within our legal framework, we have three distinctive roles: first, we are an advisory body to the Commission, the Parliament and the Council and we give technical advice. One of the major events during these years in this area has been the introduction of Solvency II. The second role is that we actively foster supervisory convergence and cooperation among national supervisors across the European Union based on our common European supervisory culture. Our main focus here is on cross-border services to ensure the appropriate protection of European citizens. In most cases regarding cross-border services, there are no problems. In cases where supervisory concerns arise, the cooperation amongst supervisors with the support of EIOPA enables us often to mitigate and resolve these issues. However, in a few cases where issues cannot be resolved and EIOPA believes the national supervisory authorities need to do more, we have further legal tools we can deploy with the support of our Members. In most cases this enabled us to solve issues, but unfortunately not in all.

Finally, the third role is that we represent European supervision outside of the EU. So, I am in regular discussions with the US, the UK, Switzerland, Bermuda, Japan and other non-EU countries regarding our solvency framework, but also on cases of companies operating from third countries into the EU. And this is important because in the end, insurance and reinsurance is a global industry and European citizens need to be sure that the same level of protection applies regardless where the products come from.

Since 2021 you have succeeded Gabriel Bernardino as the Chairperson of EIOPA. What is the biggest difference between your current and previous job as the head of insurance supervision at De Nederlandsche Bank?
First of all, becoming the Chairperson of EIOPA, gives you the European perspective. You also move from a day-to day direct supervision at the national level into a European supervisory role, which is more based on oversight without direct supervision of individual companies. In my role coordination with all the colleagues across the European Union is key and therefore you need to invest time to understand their markets and where their position comes from. That makes it challenging but also very interesting. In my first weeks I took the time to reach out to all the board members, like Frank Grund from BaFin and others in order to understand the markets. Furthermore, I make an effort to also visit the authorities, to be able to meet with the teams in person. I think that is one aspect that comes with the role - to represent a European market which is very diverse, but that also makes it enriching.

Did you need to read many reports to acquire knowledge about every market?
I have spent 14 years in the central bank before joining EIOPA, of which ten years were in insurance supervision. During that time I drafted Solvency II, with colleagues here in EIOPA and in the predecessor organisation CEIOPS. So I know the international supervisory community since 2008. However, that didn't mean I already knew all of the national market specificities yet. There the outreach and visits to national authorities really helped. The specificities of conduct supervision were also relatively new to me as this was not part of the mandate of the Dutch central bank. Finally, what was less visible to me at the national level is the number of cases on cross-border issues that are raised up to EIOPA's level, where we have to step in. What for me is sometimes still challenging, is the lack of supervisory powers as some cases are not solved at the level of the national supervisors and our supervisory options to intervene as EIOPA are limited.

Can you give an example?
I take a completely hypothetical case, which does not correspond to reality at all. Let's say, hypothetically, there is an insurer that has a license, for example, in Germany and sells products in the Netherlands, Luxembourg, Belgium. In this case, the home supervisor would be BaFin, and the host supervisors would be the Netherlands, Luxembourg and Belgium. For example, host supervisors find a product in their market that is really harmful for consumers and they come to EIOPA because the home supervisor, in that case that would

be BaFin, is not reacting despite complaints. I can discuss such problem with my Board of Supervisors - EIOPA and 27 national supervisory authorities. But even if our Board agrees that measures need to be taken, I still have limited tools to properly protect European policyholders. In comparable cases in the past, EIOPA has started collaboration platforms, developed to increase the cross-border cooperation, it has sent formal recommendations, and started Breach of Union Law investigations because the home supervisor didn‘t act. But unfortunately, it proved very difficult for EIOPA to ban the product or stop the sale, as a number of pre-conditions have to be fulfilled, including the requirement for the national authority to act first. It is also very difficult for EIOPA to issue a warning to consumers if the home supervisor doesn't act. That has left us in the past in a situation where we are aware of consumer detriment, but have no tools to fulfil our key task: the effective and sufficient protection of consumers.

As a national supervisor you had more power?
Yes, as a national supervisor, in such a situation I would ban the harmful business to stop products reaching consumers and if needed withdraw the license. At the European level I am not able to do that. EIOPA has to work through all kinds of procedures to get to a recommendation – while, in the meantime, consumers are still buying these products.

Isn't it sometimes very frustrating? Especially when you know the other side.
It is frustrating that I can sometimes not protect the citizens as I would wish to. In particular cases, we would need to have more powers at the European level. We need to be able to step in, also to be able to fulfil our main task as authority. I also believe European citizens rightfully would expect the European supervisory authority to be able to step in if at the national level measures are lacking.

What would this new power structure look like?
I think European supervision can be done in different ways. Even without an ECB-type of European supervision for insurance there is still a need for solutions for cross-border issues that affect consumers in a negative manner. There is not a single supervisor in my board disagreeing with this point. If there is a situation, with a harmful product for example, and if the national supervisor doesn't act, then I would like to be able to step in immediately and issue a warning to consumers. So proper powers at the European level within the current organisational set-up would already be a step forward.

It seems unlikely that EU Member States will give EIOPA more power. It is a political issue.
Yes, it is political. Member States need to agree to do more to protect consumers at the EU level. So far, I do not see enough appetite for that. At the moment, EIOPA is doing all that is possible under its current supervisory powers. But there is a limit to our ability to act. It is a political decision whether we accept that harmful products continue to be sold to consumers in the European market even though all supervisory authorities are aware they are harmful, or we make a decision to change that.

What is a bad product for EIOPA?
We all agree as supervisors, that a bad product has way too high costs. A product of which we can all judge by the numbers, that people pay in, but will never get money out of it. So it's mostly in the life segment, but also non-life products are not an exception.

This is one of the reasons EU-Commissioner Mairead McGuinness wanted a commission ban. Did she consult EIOPA in this regard?
Yes, the Commission formally asked EIOPA to draft technical advice on the pros and cons of policy options. In this case our advice was delivered 18 months ago and usually there is less time between our advice and the Commission proposal. Clearly this took longer as there was a lot of discussion also within the Commission.

What is the position of EIOPA on the commission ban?
EIOPA did not make a choice between a ban or no ban. We have listed the pros and the cons for each scenario. Our clear line is that the key issue is not about a ban or not a ban. It is about making sure that consumers can get products that offer value for money. My clear message to industry is, don't tell me there are no issues or problems. The same applies to the supervisory side: don't tell me that on the supervisory side, everything is already up and running. So, I'm sure there are things happening in the market today that are not good and we need to fix them.

The insurance industry claims that there are no problems with the costs. They argue that financial consulting has its price.
Now it's very much focused on point of sale. But a good insurance product is not only about point of sale, it's about when you develop the product, when you make it, when you think about whom you're going to sell it to. Our point is that you need to look at the whole product cycle and be conscious during this whole cycle of value for money. It's also not just about costs, I'm not in favour of a price cap or a price limit, because there can be products that are more expensive, but really offer the return and the service that reflects that price. I'm open to products that are maybe more costly but the costs need to be proportional and explained. But I do also see products where I really cannot explain the costs.

The insurance associations remain firm in their standpoint, especially in Germany and France. Do you see that there is a space for discussion?
The Commission has been tough on the ban which has created the willingness of industry to even talk about it and to consider the lack of transparency on costs. Indeed, some other markets maybe didn't even have to raise their voice as Germany and France were strong. We believe this was not a helpful strategy, industry needs to be open to discuss about what needs to improve and commit to start working on it. And our position towards the Commission has been that it's not about a ban or no ban as long as we see improvements in the market. However, the prospect of the introduction of a ban needs to remain to ensure efforts are continued to be made. And we do need further improvement. Overall, I would say having the outlook on a ban is a positive element as it helps to trigger a real discussion on what is happening in the market.

In a nutshell, we can say that the lobby in Germany and France has prevented the introduction of the commission ban?
I think it has confirmed for those who have concerns that there must be something, otherwise you wouldn't be so loud. I think it has confirmed for those who don't want the ban that if you push hard enough, there is no ban. I'm interested in the middle. At least it is now clear that something has to change, because not everything is good in the market and that is what we need to focus on going forward.

You worked in the Netherlands as a national supervisor where the commission ban was introduced. How is the experience there?
People tend to make it a very black and white discussion. But the nuanced answer is that it was not the end of the world. Consumers still buy insurance, there are still sufficient products and this is important. By introducing a ban you solve some problems, not all, and you can introduce new challenges. It is important to realize that the reason behind the introduction was a huge mis-selling scandal. I don't think that 26 countries need to go through a transition to a ban today given that such mis-selling is currently not taking place in their markets. There are other ways to deal with the fact that we need improvements in the market and I believe we can start with those first. We need a period of time to work on improvements. And if this isn't done or doesn't deliver the results, there will be the option to introduce a ban.

However, you would agree that financial advice has it price, but the costs should just be better explained.
If you're looking at an execution-only automated product with no advice, I don't even see why you would want to have a fee for ongoing advice. But if you look at insurance-based investment products, which are products that people use to save for later, there are benefits of advice. People need help to think about what they have, what they can afford and what they need. In these cases, advice is needed and cannot come for free. The key question is to sufficiently explain and justify those costs. But I believe that if they are fair, you should be able to explain them. I can fully picture that an insurer that sells a product only digital has less cost than an insurer that does it through offices and real people. I still think there's a big market out there of consumers that actually want to talk to a person and that want to come to an office. So I believe you can explain it, but we need that discussion and we need to improve there.

In Germany, the commission ban would also significantly affect structured sales organizations such as Deutsche Vermögensberatung (DVAG). But this company is not supervised by BaFin, but by the Chamber of Industry and Commerce (IHK). What do you think of this? The change in supervision was discussed in Germany, but in the end everything remained the same.
I can answer this in general. Let me say that when I started looking into markets and learned about the German market, this was an interesting finding. For me what is interesting is how to deal with the conflict of interest

as the Chamber of Commerce has a commercial interest whereas insurance intermediaries also have a duty of care towards their customers to whom they sell the products.

You would rather see such companies been supervised by the BaFin?
I cannot say it should be supervised by the BaFin. What I would say is that you would expect that such companies should be supervised by an authority that is independent from a commercial interest. There is a reason why there is so much legislation on insurance intermediaries. There are different models in Europe for supervision of prudential and conduct risks. In Germany, BaFin is responsible for both. But the fact that this part of conduct supervision on intermediaries is in a commercial environment, to me, is an interesting model.

Managers from the insurance sector are complaining that they cannot do their actual job because of the mass of regulation. Is there too much regulation?
Commission-President Ursula von der Leyen was recently speaking about cutting the red tape and set a concrete target: 25 percent of reporting obligations for companies are to be eliminated in order to make Europe more competitive as a business location. And Insurance Europe has already published a document with different suggestions from the industry how to do it. Insurers have been really occupied by the implementation of the new accounting standard IFRS 17 and are currently focussed on how to implement SFDR. It's a huge task, and it's also a task with a lot of questions still, as SFDR was produced in a short time span and depends on the CSRD, which is not yet in force. Sustainability reporting comes on top and that has perhaps been the trigger for the complaints.

So can you follow the criticism about too much regulation?
I can understand that industry thinks it's a lot. I'm not saying there's too much of it. I think that's the important nuance. And I think in order to understand whether or not it's too much, you need to do the assessment. But I'm open to doing those assessments, like we did it on Solvency II. It just needs time. Still we cannot go back to zero, especially when it comes to sustainability.

Additionally, the AI Act, the Open Data Act and the FIDA Act are coming. Has Brussels in mind that it will bother the insurance industry too?
I am confronted with texts that are not drafted with insurance in mind. It is clear there is a lack of knowledge about the business. They are also often unaware that it's already supervised. And then they somehow also need to do that. Particularly the new elements covering the digital part are coming through different channels often unaware of existing prudential or conduct rules.

And what is currently driving EIOPA? What are the most important projects?
One of the main topics currently is the climate protection gap. How do we continue to insure for flooding, earthquakes, fires?

Well, insurers want to close the gap but people can't afford the expensive premiums.
My point here is, and this is going to be a process, that our system needs to change its mindset. EIOPA has produced a paper on this together with the ECB. What currently is happening is that insurers say this risk is too large. I can only insure it at very high prices and if not, I will get out of the market. Consumers think, well, I can't afford it, I won't take the insurance. Does that mean that this risk will not materialise – that it won't happen? No, of course it will happen, but then insurers and consumers will not be ready. So, who gets to foot the bill in the end? The public? The taxpayer?

What is your solution?
First, we need to make sure that the public understands that they have a role to play, which means they have to adapt. You can mitigate risks, for example, don't build houses in areas where there is a high risk of flooding. Most of the houses were rebuilt in the same space. Take measures against the impact of flooding so that the damages are lower. Then get insurance for a certain part. The systems in France and in Spain clearly say the first X percent of damages will not be covered by public government, by public money. So also let government make it very clear that this first part is not going to be covered by public money. Then have insurance play their role. I believe they can play a bigger role than they are currently doing. Furthermore, we need to work on cat bonds, SPVs, financial products that can provide further support. And only then you move into public private partnerships. What is currently happening is that everyone in that ecosystem is pushing the risk to someone else.

That everyone is playing their specific role seems unrealistic.
If we‘re not careful, all will end up with the state. And then everyone pays. And it‘s going to be in a chaotic way. In the end this will take longer and will be more costly. So from an economic efficiency perspective it is better when all the players take their role, but there is a first mover disadvantage. This requires collective solutions. You see more and more examples at municipal level where funds are created to support people safeguard their house, mitigate risks and then have a risk pooling. In our paper with the ECB we propose an EU pool to create capacity based on the French and the Spanish example.

What about the project closing the pension gap?
More than 20% of Europeans will live in poverty at old age. We're an ageing continent and that is a problem. What we need is a dashboard, an overview at EU level, at national level and at an individual level for citizens. To know, how much will be available for old age provisioning – from the state pension, from the occupational pensions and private pension funds. We need transparency at every level. We have no access to the first pillar data as that is covered by social and labour law. And then at the same time, social and labour doesn't have access to the data on occupational and private pensions. So, in the end no one has the full picture, at least not at the national and European level. We need the overview because then we know where the problems are and we can develop mitigation plans to protect pension beneficiaries.

Why has the pan-European Personal Pension Product (PEPP) failed?

PEPP is actually a very good idea. It's a digital product that is really simple and it was designed for ordinary consumers. You pay in and you get a payout when you retire. And the most beneficial part is if you can change jobs and move from one country to another, and the product moves with you. You continue saving in the same pot.

Unfortunately, the PEPP has not taken off yet. Why is that? First of all, if people want to save additionally, they have to have the money. We are in the middle of cost-of-living crisis and part of this is a GDP problem. The second reason is related to tax benefits - in many countries, the PEPP is not treated the same as other products. The final reasons are the current cost cap, there are cost for making sure that the product works in each country and the pension law in each country is not harmonized. So, we have different rules in place and this is challenging for providers. However, PEPP will be a topic to consider for the new Commission.

So far we have talked about what insurers, politicians and supervisors need to do. What about the personal responsibility of the customer? You see that the customer is also in part responsible to look into his future financing or buying the right products?

There is a complete information asymmetry between the intermediary, the insurer and the customer because the customer will always know less. Not everything can be solved with literacy and education. But I think in the end the duty of care is with the intermediary and with the insurer. Of course, on the insurance side, you can empower consumers and I go back to the example of natural catastrophe risk where the position of the government is clear: consumers need to buy the insurance because the state will not pay for it.

The pension dashboard can be also a way to empower consumers. For example, if I go online with my tax ID in the Netherlands, I get the clear overview and I can see how much I can expect at the time I will retire. Such dashboard gives you an idea where you are today and you are able to see whether or not it's enough.

Last question: Julia Wiens will succeed Frank Grund. Have you reached out to her yet?
Not yet, no. But I look forward to meeting her. I'll be happy to have another woman on the Board of Supervisors. We need more diversity in insurance, in particular in Germany.

On this occasion, let me thank Frank who is leaving BaFin at the end of this month. He was a very good voice from the German supervisor. At the same time, he was always open for dialogue and to find solutions that work for Europe. He was also very supportive in the international dialogue. He will be truly missed.