

SM/13/66

March 12, 2013

To: Members of the Executive Board

From: The Secretary

Subject: **European Union—Publication of Financial Sector Assessment Program Documentation—Technical Note on European Insurance and Occupational Pensions Authority Assessment**

Attached for the **information** of Executive Directors is a technical note on European insurance and occupational pensions authority assessment that was completed in connection with the Financial Sector Assessment Program (FSAP) assessment on the European Union.

It is intended that this paper will be published on the Fund's external website after the close of business on Thursday, March 14, 2013.

Questions may be referred to Mr. Enoch (ext. 35372) and Mr. Everaert (ext. 38667) in MCM.

This document will shortly be posted on the extranet, a secure website for Executive Directors and member country authorities.

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FINANCIAL SECTOR ASSESSMENT PROGRAM

EUROPEAN UNION

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS
AUTHORITY ASSESSMENT

TECHNICAL NOTE

MARCH 2013

INTERNATIONAL MONETARY FUND
MONETARY AND CAPITAL MARKETS DEPARTMENT

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GLOSSARY

AML	Anti-Money Laundering
DG-MARKT	EC Directorate General for Markets
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
EEA	European Economic Area
EReg	EIOPA Regulation
ESA	European Supervisory Authority
EIOPA	European Insurance and Occupational Pension Authority
ESMA	European Securities Market Authority
ESRB	European Systemic Risk Board
EU	European Union
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
g-SII	Global systematically important insurers
GWP	Gross written premium
IAIS	International Association of Insurance Supervisors
IMD2	Insurance Mediation Directive
IMF	International Monetary Fund
IMG	Internal Monitoring Group
IOPS	International Organization of Pension Supervisors
IORP	Institutional and Occupational Retirement Pensions
MCR	Minimum Capital Requirement
NSA	National Supervisory Authority
ORSA	Own Risk Solvency Assessment
QIS	Quantitative Impact Study

EXECUTIVE SUMMARY

The European insurance system is of global relevance, writing over a third of the global insurance premium. Over 91 percent of the European premiums of over €1 trillion (in 2011) is written in the European Union (EU) insurers.

Protracted slow economic growth and continuing low interest rate environment is putting pressure on the insurance sector. Current profits during 2011 were in the 3 percent range or negative, and solvency levels have been decreasing. Exposure to sovereign debt presents an additional vulnerability to the sector, in particular to the life industry. In addition to adverse market conditions, impending regulation adds uncertainty to the future of the industry. Besides Solvency II, initiatives like ComFrame and IMD2 will impact the investment preferences, legal structures, distribution channels as well as on the insurance business models, thus creating a high level of uncertainty on the future of the sector.

Continued delays in the implementation of Solvency II could create vulnerabilities in the insurance sector by not having a risk sensitive regime. The implementation of Solvency II is now scheduled to commence in January 2014. The Omnibus II trialogue provisionally scheduled for October 1, 2012 did not take place. The main disagreement remains around extending the long term guarantees (LTG) package, which is meant to take into account the long-term nature of life insurers' liabilities and matching assets. EIOPA was asked to run a technical assessment on the effects of the LTG package but the ToRs have not yet been agreed upon by the trialogue parties.

Compromises over valuation issues that deviate from a market consistent approach may threaten the credibility of Solvency II. Under a market consistent valuation of liabilities required under Solvency II, the use of a low interest rate discount curve for the valuation of the liabilities will be necessary in the current low rate environment. An accurate methodology on asset-liability matching needs to be developed to avoid artificial valuation effects and deviation from the market-consistent principle of the new solvency framework. A methodology for the valuation of long term liabilities that shows very strong solvency positions of insurers under current market conditions will put in doubt the market consistency of Solvency II.

Weaknesses in insurance supervision in several EU member states will remain in the absence of Solvency II. The delay in the implementation of Solvency II is important to aspect of supervision in the prudential area, valuation, disclosure and risk management, in several EU members, which will otherwise remain not compliant with the International Association of Insurance Supervisors (IAIS) principles (see recent European FSAPs). Consideration should be given to early harmonized implementation of Solvency II as much as possible, which would improve observance of IAIS supervisory principles by a number of EU member states.

The approval of internal models is a crucial step in determining the adequacy of capital levels to warrant a solvent industry. The level of expertise and amount of work required to approve internal models is imposing severe strain to the National Supervisory Authorities (NSAs). As a first step to support the NSAs in this task, European Insurance and Occupational Pension Authority (EIOPA) agreed on a work flow process to be followed by the NSAs and insurers for both pre-application and approval. However, given the relevance of the appropriateness of internal models for the capital requirements, consideration should be made to introduce a centralized oversight for the approval of internal models to use efficiently highly-qualified resources and to guarantee a consistent, elevated level of technical proficiency.

The new European system of financial supervision has only been operating for two years, but achievements have already been obtained. During the introductory and construction phase of Solvency II, EU has developed regulatory and implementing technical standards, guidelines and recommendations. In the area of contributing to a common supervisory culture, a soft approach based on peer reviews, training, and frequent engagement in the colleges of supervisors supported by the use of guidelines have been effectively taken. EIOPA's work on Solvency II equivalence certification has concluded on three countries, and transitional equivalence measures for several countries are being evaluated. The mutual understanding work with the United States supervisory regime is underway, to be completed in a few weeks. EIOPA has created a common EU voice in insurance and pension matters on selected international agenda topics such as ComFrame and global systemically important insurers (g-SII). EIOPA has become a member of the executive committee at the IAIS in 2011, and is active in its financial stability committee. EIOPA has also submitted its application for becoming an International Organization of Pension Supervisors (IOPS) Governing member in the current year.

EIOPA's engagement in its oversight role of supervisory colleges has been intense, but much work remains to be done. During the year, 69 colleges of supervisors had at least one meeting or teleconference. Important issues such as crisis preparedness were introduced, and some aspects tested; confidentiality agreement templates were developed; and best practices on group supervision are regularly presented. However, a harmonized acceptable level of group supervision in the EU remains to be achieved, which must wait for the Level 3 legislation to be in force. EIOPA's engagement in colleges should go beyond the EU and encompass the larger international groups active in Europe. For financial stability purposes, consideration should be made to assign EIOPA a supervisory role for the largest important groups.

EIOPA's role in the area of consumer protection has been proactive. The first guidelines in this area applicable to national competent authorities under the "comply or explain" scheme have been issued (on Complaints-Handling by Insurance Undertakings).

Access to information and the use of such information for monitoring, analyzing trends and preventing systemic risk, need to improve. Financial stability data are collected from the 30 biggest cross-border insurance groups. EIOPA, however, does not receive the data at an identifiable individual level, which is necessary for performing its tasks. The Internal Monitoring Group (IMG) is a key element supporting EIOPA to fulfill its crisis prevention and management duties. The IMG is a group within EIOPA and a selected group of national supervisors that is the venue where information and analysis can result in supervisory or other action by EIOPA and its members. Again, lack of detailed data hinders the effectiveness of such a group.

Operational independence could be enhanced by removing possible sources of interference. National authorities contribute 60 percent of the EIOPA budget, and the national authorities are the voting Board of Supervisors (BoS) members. Thus, BoS members may be confronted with conflicts of interest while agreeing on the implementation of EIOPA's tasks and powers that impact their own powers and responsibilities as national supervisors. This conflict could be more important in crisis management or breach of union law situations. The remaining 40 percent of the budget is also not free from possible conflict of interests, as is established in the form of a subsidy from the EU embodied in the EC Directorate General for Markets (DG-Markt) budget, but this directorate approves the standards drafted by EIOPA. Budgetary framework flexibility supporting Solvency II implementation should be considered. Given the current stage of the European insurance framework that is in the process of implementing the central solvency regime, special skills and expertise are required for the initial develop of adequate tools to properly monitor the harmonized implementation, including model approvals processes, reporting tools etc. Investing in this initial phase will required a temporary access to special expertise that may not be within the budgetary framework that currently applies to EIOPA.

Table 1. EU: Key Recommendation

Policy Action	Authority	Priority/Term
Agree on final form of Solvency II, maintaining its market consistency and risk sensitivity.	EU Council/Parliament	High/Immediate
As EIOPA's work shifts from developing technical standards, guidelines and recommendations toward monitoring, implementing and enforcing, more intrusive supervisory tools will be necessary to avoid undue delays that could result in regulatory arbitrage.	EC	High/Medium
Access to information and the use of such information for monitoring, analyzing trends and preventing systemic risk, needs to improve.	EC	High/Immediate
Introduce flexibility in the budgetary framework to support Solvency II implementation and remove sources of possible conflict of interests	EU parliament, EC	Medium/Immediate
Extend EIOPA's engagement in colleges beyond the EU and encompass the larger international groups active in Europe.	EIOPA	Medium
Enhance transparency and comparison of the solvency and resilience of the occupational pension funds across the EU with the implementation of the new occupational pension directive.	EC with EIOPA's input	High/Medium
EIOPA's stress test should move to enhance and thus harmonize the national stress testing activity with a special focus on identifying systemic risk.	EIOPA	Medium/Immediate
Given the relevance of the appropriateness of internal models for capital adequacy, consideration should be made to introduce a centralized oversight for the approval of internal models.	EIOPA	High/Medium
Harmonization of supervision through the peer review exercise should be enhanced with a challenging element from EIOPA.	EC and EIOPA	Medium

I. EIOPA ASSESSMENT¹

A. Introduction and Scope

1. **This report is an assessment of EIOPA's performance against its mandates as well as on market conditions prevailing in the insurance and occupational pensions sectors in the EU.** The review was carried out as part of the 2012 Financial Sector Assessment Program (FSAP) assessment of The EU, and was based on the regulatory framework in place, the supervisory practices employed, and other conditions as they existed in December 2012. The assessment was carried out by Dr. Rodolfo Wehrhahn, Technical Assistance Advisor in the Financial Supervision and Regulation Division, a part of the Monetary and Capital Markets Department, IMF.
2. **The assessment is based solely on the laws, regulations, and other supervisory requirements and practices that were in place at the time of assessment.** Ongoing regulatory initiatives are noted by way of additional comments. The assessor had responses to a detailed questionnaire that had been provided by EIOPA prior to the commencement of the exercise.
3. **The assessment has been complemented and supported by discussions with EIOPA, the European Commission (EC) and market participants.** The assessor met with staff from EIOPA, the EC, National Authorities and industry associations. The assessor is grateful for the full cooperation extended by all.

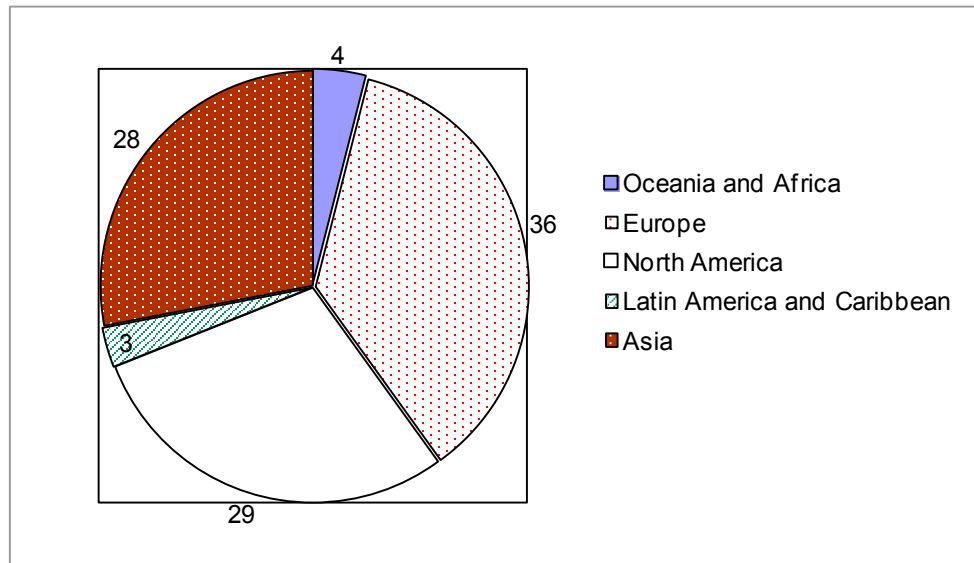
B. Market Structure

Description

4. **The European insurance industry writes over a third of the global insurance premium.** With €1,074 billion in premium written by over 5,500 European insurers in 2011, around 36 percent of the global insurance market was produced. Over 91 percent of the European premium is written in the EU, highlighting the leading role of the EU for the global insurance industry (Figures 1 and 2). During 2011, insurers paid around €1,000 billion in claims: life claims, benefits and annuities amounted to €615 billion; €100 billion corresponded to motor claims; €85 billion were health claims and over €55 billion were paid in property claims.

¹ Prepared by Rodolfo Wehrhahn.

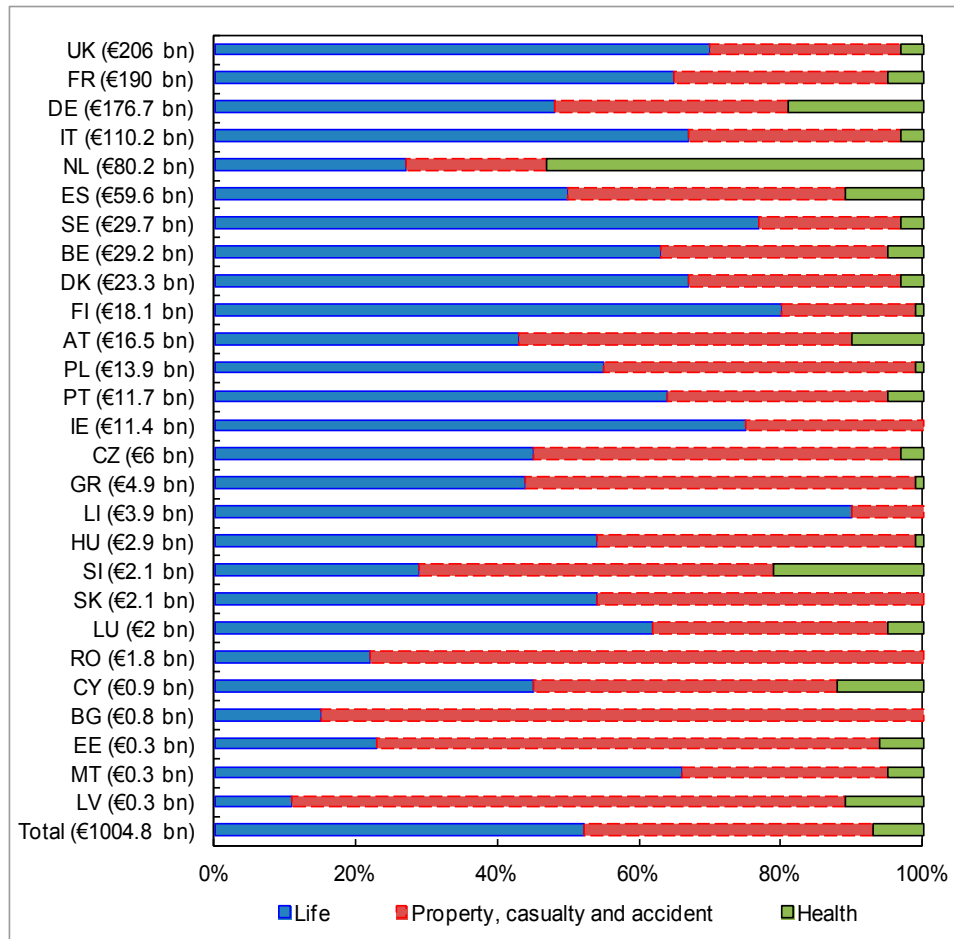
Figure 1. EU: Global Market Share 2011
(in percent)



Source: Sigma 3/2012, World Insurance in 2012.

5. **Insurance penetration is one of the largest in the world, although important differences among country members exist.** Notwithstanding the 5.9 percent drop in premium in real terms experienced in the region in 2011, insurance consumption remains high. The average expenditure per capita in 2011 on insurance of €2,767 remains one of the highest in the world. Further, with an insurance penetration of around 7.89 percent the EU shows a penetration level close to that of the G7 (8.7 percent) but remains behind Japan with 11.3 percent. However, important differences in the consumption of insurance are present among member countries for instance; The Netherlands reported insurance penetration of 13.3 percent in 2011 as compared with around the 2 percent level of Bulgaria. Also the spread in written premium is large, varying from over €200 billion in the U.K. to around €300 million in several smaller country members (Figure 2).

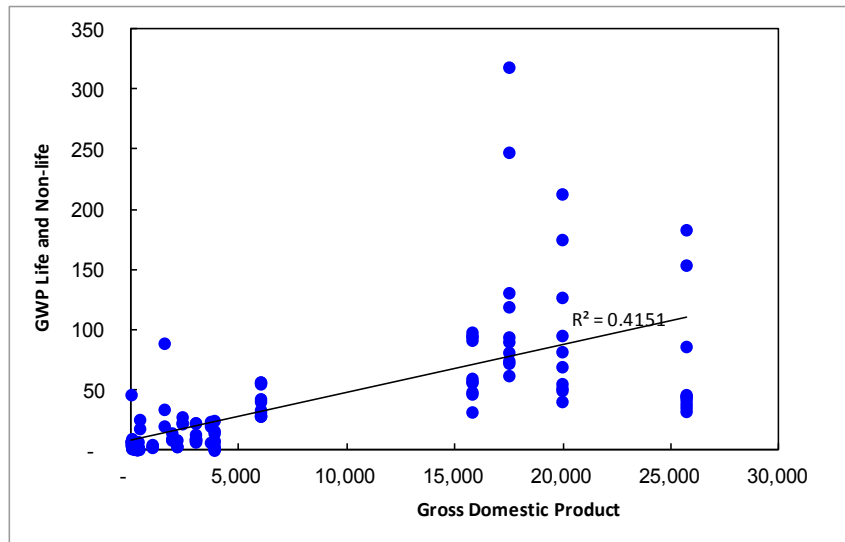
Figure 2. EU: Insurance Premium by Country 2011



Source: CEA, Key facts booklet 2012.

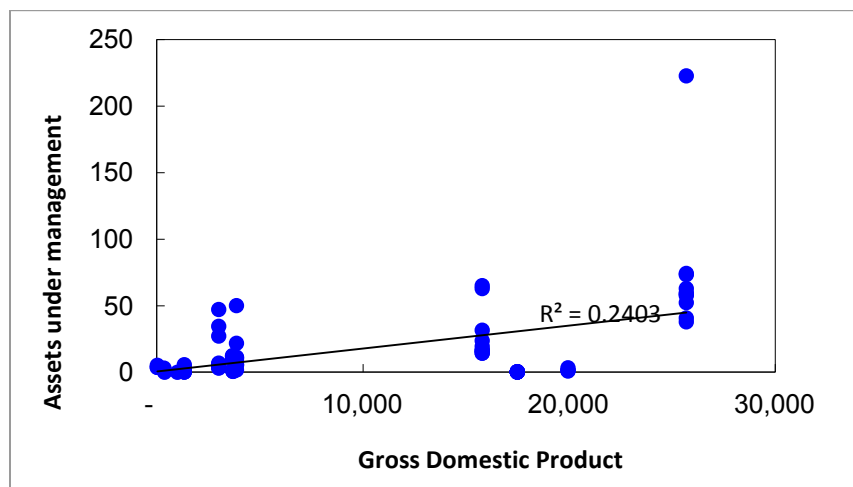
6. **The size of its top insurance corporations and occupational pension funds appears to be correlated with the GDP of their domicile country, but there are important outliers.** The size of the top insurers in a country increases with the GDP of the given country, as depicted in Figures 3 and 4 showing a correlation factor of 0.415. However, data shows important exceptional cases of insurers that are three to four times larger than the expected average size corresponding to the correlation slope. With one exception, occupational pension funds follow much closer the correlation slope to the GDP of their domicile. The presence of large insurers in relation to the GDP of their domicile country could pose a challenge to proper supervision, in particular if not sufficient resources can be deployed for the required level of scrutiny based on the relevance of such insurers for the financial sector.

Figure 3. EU: Correlation between Top Insurance Corporations and GDP of Domicile Country
(2011 €billions)



Source: EIOPA and IMF staff calculations.

Figure 4. EU: Correlation between Assets under Management of Top Occupational Pension Funds and GDP of Domicile Country
(2011 €billions)

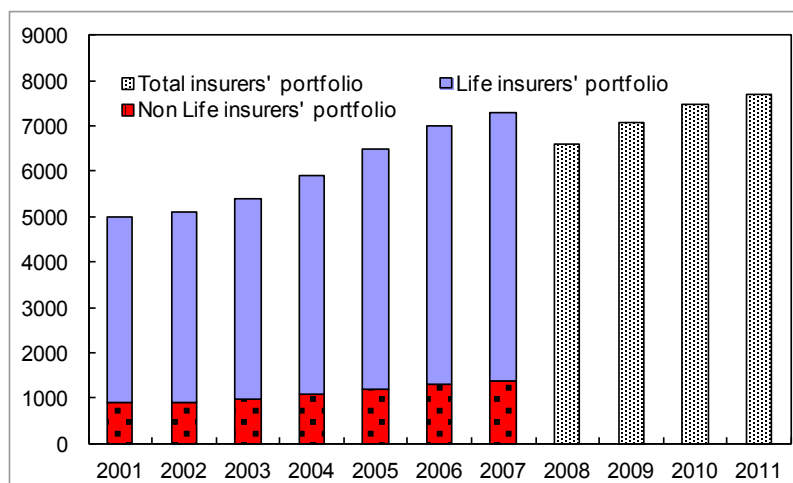


Source: EIOPA and IMF staff calculations.

7. **Insurance investments have been increasing since 2008, and reached already in 2010 the pre-crisis level.** After the significant drop in value in 2007 from €7,300 billion to €6,600 billion, in 2011 the insurance industry invested around €7,500 billion or 60 percent of the EU GDP as indicated in Figure 5. Life insurers' investments have traditionally accounted for over 80 percent of the total insurers' investments. The United Kingdom,

Germany and France together accounted for over 60 percent of all European life insurers' investments.

Figure 5. EU: Investments of the Insurance Sector
(in €billion)



Source: CEA, Key facts booklet 2012.

8. **The investments portfolio remained broadly unchanged in the last two years.** No significant change in the mix or the amount of investments occurred between 2010 and 2011, as indicated in Table 1. The majority of the investments corresponded to securities, with 44 percent (2010) and 45 percent (2011) invested in debt and fix income instruments and 39 percent invested in shares and other variable income securities, of which 26 percent corresponds to products where the policyholders bear the investment risk.

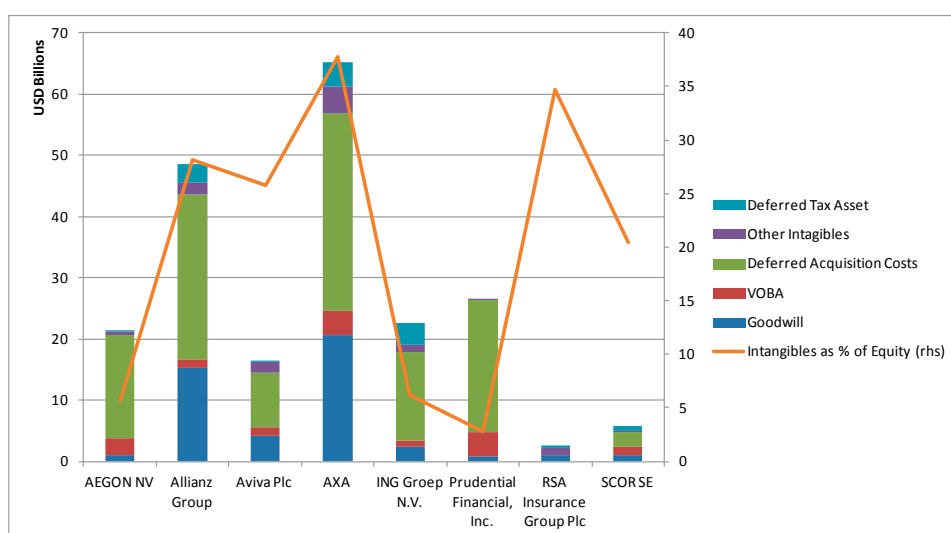
Table 2. EU: Investments of the Insurance Sector
(in €billion)

Investment	2010	2011	2010	2011
Lands and buildings (1)	137,985	136,866	2%	2%
Investments in affiliated enterprises and participating interests (2)	438,867	412,247	6%	6%
Shares and other variable-yield securities and units in unit trusts (7)	964,858	920,228	13%	13%
Debt securities and other fixed income securities (8)	3,129,558	3,209,434	44%	45%
Participation in investment pools (9)	8,795	4,857	0%	0%
Loans guaranteed by mortgages (10)	117,282	130,177	2%	2%
Other loans (11)	297,987	283,008	4%	4%
Deposits with credit institutions and other financial investments (12)	154,838	190,316	2%	3%
Deposits with ceding enterprises (13)	35,432	38,368	0%	1%
Investments for the benefit of life-assurance policyholders who bear the investment risk (14)	1,886,079	1,842,980	26%	26%
Total investment assets **	7,171,682	7,168,480		

Source: EIOPA

9. **Intangible assets remain important for several insurers with long term business making them vulnerable to increased impairments.** Intangible assets as a percentage of equity have reduced since 2008, from an EU average of just over 100 percent to around 75 percent in 2011 of total equity.² Since the recoverable value of an intangible asset is usually based on future cash-flow projections, impairments are often an indication that forecast profits of a business segment are expected to be lower than originally estimated. Impairments of intangible assets peaked in 2010 with 2.5 percent of equity and currently are down to 1.5 percent. However, current market conditions increase the risk for further significant impairments (Figure 6).

Figure 6. EU: Intangible Assets for Selected Insurers



Source: Moody's, analysis of 2007–2011 Annual Reports of selected Moody's-rated European and Middle East Insurers.

10. **The last impact study using 2009 data confirmed that overall the industry remained well capitalized under the draft provisions for Solvency II and options tested. However, the balance sheets have deteriorated since 2009.** Between 2005 and 2010 CEIOPS conducted five pan European quantitative impact study (QIS) studies at the request of the Commission. These analyzed the impact on the insurance sector of the proposed Solvency II requirements. Most recently, in March 2011, EIOPA delivered to the EC a report on the results of the fifth QIS that covered more than 2,500 individual undertakings and 160 groups from the 30 members of the EEA. On a global level, the surplus under QIS5 was roughly 12 percent lower than the current surplus of around €400 billion. However, deterioration of the balance sheets since 2009 could have worsened this situation, and the introduction of Solvency II could call for additional capitalization.

² Source: Moody's, analysis of 2007–2011 Annual Reports of selected Moody's-rated European and Middle East Insurers

11. **Protracted slow economic growth and continuing low interest rate environment is putting pressure on the insurance sector.** Current profits during 2011 were in the 3 percent range or negative.³ Solvency levels have been decreasing as a result of the poor investment climate, and stagnated economy resulting in lower production and higher claims in several member States. The high exposure to sovereign debt presents an additional vulnerability to the sector, in particular to the life industry. The long lasting low interest rate environment prevailing in certain States as indicated in Figure 7 coincides in most cases with business models that provide long term guarantees and that currently use solvency regimes that are less sensitive to market interest rates. The change to a market consistent valuation in these markets is expected to have significant impact on the liabilities of the insurers and pension funds.

Figure 7. EU: Low Interest Rate Environment

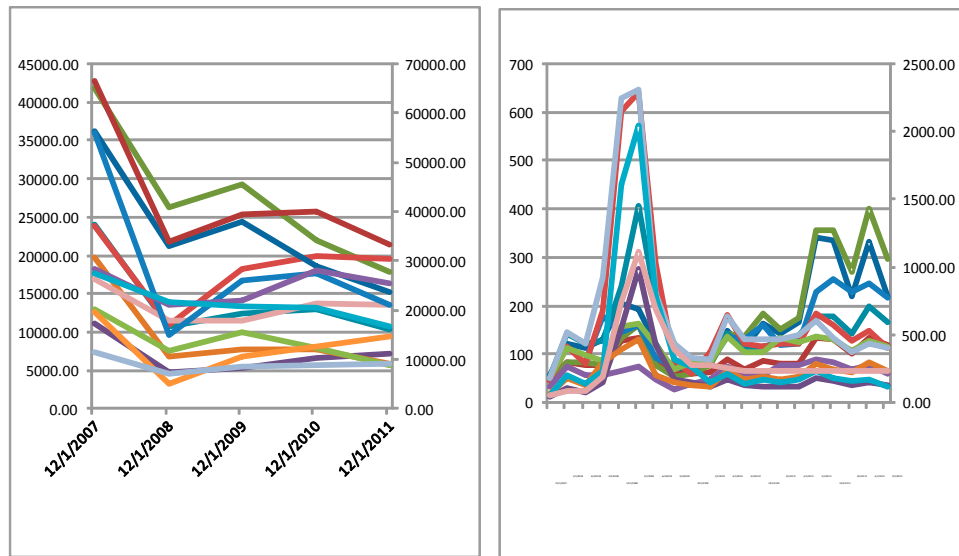


Source: Bloomberg.

12. **In addition to adverse market conditions, impending regulation adds uncertainty to the future of the industry.** Besides Solvency II, initiatives like ComFrame, and IMD2 will impact on the investment preferences, legal structures, distribution channels as well as on the insurance business models, thus creating a high level of uncertainty on the future of the sector. These negative aspects are likely reflected in the share price and credit default swap (CDS) spread observed across the industry (Figure 8).

³ CEA, Key facts booklet 2012

Figure 8. EU: Market Cap in €bn and CDS Spreads in bp of Top European Insurers 2007–2012



Source: Bloomberg.

II. INSTITUTIONAL STRUCTURE

A. Description

13. **The new European system of financial supervision has only been operating for two years.** The European Insurance and Occupational Pensions Authority (EIOPA) based in Frankfurt is part of the European system of financial supervision created on January 1, 2011 as one of the three European Supervisory Authorities (ESA) together with the European Banking Authority (EBA) in London and the European Securities Market Authority (ESMA) in Paris and the European Systemic Risk Board (ESRB) located also in Frankfurt. EIOPA has legal personality, administrative and financial autonomy and is accountable to the European Parliament and the Council of the EU.

14. **EIOPA has been assigned with oversight, monitoring and implementation roles in the insurance and occupational pension sectors.** EIOPA's stated objective is to protect public interests by contributing to the short-, medium- and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses acting within the scope of various Directives covering insurance and reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries as well as related issues not directly covered by these Directives. EIOPA participates in the two joint bodies of the three ESAs, the Joint Committee which has the goal of strengthening cooperation between the ESAs and the Board of Appeal, an independent body from their

administrative and regulatory structures that gives parties the right to appeal decisions of ESAs.

15. **The decision power resides in the Board of Supervisors.** EIOPA, like the other ESAs, is governed by its Board of Supervisors (BoS), which incorporates, with voting rights, the relevant national authorities in the field of its competence in each Member State, and includes representation, without voting rights, of the EC, the ERSB and the other two ESAs. The Management Board, a subgroup of the BoS, ensures that the ESA carries out its mission and performs the tasks assigned to it. During 2011 the Board met six times and for 2012 seven BoS meetings have been scheduled. In addition to the physical meetings, two telephone conferences with all BoS Members have been organized during this year.

16. **Regulation requires representation on the BoS, with voting rights at the level of the head of the national public authority.** One vote per Member State is allowed and where there are separate supervisory authorities responsible for the insurance and occupational pensions sectors, those authorities agree on a Common Representative. The supervisory authority responsible for the other sector has the right to participate as permanent representative at all levels of EIOPA, with equal rights and obligations, except the right to vote. A high-level alternate from its authority is allowed, in case this person is prevented from attending. EIOPA's Board of Supervisors met six times in 2011, and the meetings were attended in 19 of the cases by the appointed member and/or by the appointed alternate. In 11 cases the appointed member and/or alternate were represented by another person. Over 2011, only two Members did not participate.

17. **The ESA is represented by its chairperson who does not have voting rights in the BoS.** The chairperson is elected for a five years term that can be extended once by the BoS, following a pre-selection by the EC and confirmation by the European Parliament in public hearing. The Chairperson is responsible for preparing the work of the BoS and chairs its meetings without voting rights as well as the meetings of the Management Board but with voting rights. The Executive Director also appointed by the BoS for a similar term as the Chairperson is in charge of the management of the ESA, responsible for the budget and the annual work program implementation under the guidance of the BoS and the control of the Management Board.

18. **EIOPA's main tools to carry out its technical work consist of a number of Working Groups consisting of experts from the national supervisory authorities.** Working Groups can be Coordination Groups, Committees, Panels or Task Forces. In addition to the Review Panel, discussed below, currently several committees have been established to support the core activities of EIOPA. The following committees are operating: the Quality Control Committee, the Equivalence Committee, the Insurance Group Supervision Committee, the Internal Governance, Supervisory Review and Reporting Committee, the Internal Models Committee, The Financial Requirements Committee, the

Occupational Pensions Committee, the Consumer Protection and Financial Innovation Committee, the Financial stability Committee, Internal Monitoring Committee and the IT and Data Committee. Two task forces have been established, one dedicated to develop an EU wide Insurance Guarantee Scheme and one on Crisis Management.

19. **EIOPA applies an annual zero-based budgeting approach requiring each item of proposed expenditure to be justified ab initio with no automatic budget roll over.** The rules and process steps for budget planning of EIOPA are included in the EIOPA Regulation (EReg), the Financial Regulation applicable to the general budget of the EC and the individual Financial Regulation of EIOPA Title III, chapter 1. The EIOPA Budget planning is guided by Title II of EIOPA Financial Regulation regarding budgetary principles in a context of sound financial management. This budgetary approach aims to contribute to ensuring that EIOPA receives the appropriate annual amount to meet its annual operational objectives and that EIOPA optimizes its level of budgetary usage.

20. **A two years advance budget planning complements the zero based budgeting approach.** The Executive Director submits the draft statement of estimates of revenue and expenditure for year N+2 (February) to the Management Board and to the Board of Supervisors at the beginning of year N+1. This draft statement is built covering the business needs and activities as expressed in the annual work program for year N+2. In parallel to the draft estimate, a staff establishment plan for EIOPA is drafted and submitted to the same boards. The Board of Supervisors at its turn transmits the statement of estimates of revenue and expenditure of the Authority for N+2 to the EC, together with the draft establishment plan as per Art 63 of the EReg. After a consultation process the budgetary authority (European Parliament, Council) adopts in November the establishment plan for the Authority and authorizes the appropriations for the subsidy to the Authority. The budget is definitive following the final adoption of the general EU budget. During the process budget cuts can and have occurred requiring a change in the priorities of the agency.

21. **EIOPA has been able to attract qualified professionals while growing.** The selecting and hiring activity at EIOPA has been growing in the number of resources from 57 in 2011 to currently 87 and an additional projected growth of 114 for 2013. Currently the Chairman and CEO are supported by the director of regulations and the director of operations leading a team of 64 staff members 10 secondees and 13 contract agents. The number of staff has dropped by 10 percent in one year but it was replaced by an increased number of secondees and contract agents. It appears that work continuity and institutional knowledge did not suffer from this attrition, considered natural in the current dynamic stage of development faced by EIOPA. Staff has been trained during 2011 on an average of 0.58 days per staff member and in 2012 for 2.11 days per staff member.

22. **A tested comprehensive business continuity plan needs to be implemented.** While regular fire drills are carried out, a proper business continuity plan is not in place. EIOPA is aware of the situation and is in the process of procuring this service.

B. Main Findings and Recommendations

23. **A high level of transparency characterizes the EIOPA's actions.** EIOPA's commitment to transparency and public consultation is achieved by instituting stakeholder groups that include representatives of the industry, consumers and beneficiaries as well as academics. EIOPA has established The Insurance & Reinsurance Stakeholder Group and the Occupational Pensions Stakeholder Group each including 30 members. There are five scheduled meetings per year. During 2012, EIOPA published 13 detailed opinions and feedback documents from the stakeholder groups. A review on the effectiveness of the Stakeholder Group is currently been carried out.

24. **Operational independence could be enhanced by removing possible sources of interference.** The legal status of EIOPA is of an independent advisory body accountable to the European Parliament and the Council of the EU. However, the financing structure could hinder effective independence. National authorities contribute 60 percent of the budget, and the national authorities are the voting Supervisory Board members. Thus, BoS Members may be confronted with conflicts of interest while agreeing on the implementation of EIOPA's tasks and powers that impact their own powers and responsibilities as national supervisors. This conflict could be more important in crisis management or breach of union law situations. The remaining 40 percent of the budget is also not free from possible conflict of interests, as is established in the form of a subsidy from the EU embodied in the DG-Market budget, but this directorate approves the standards drafted by EIOPA. This situation may turn less effective the dispositions set in the EReg on the adoption of regulatory technical standard.

25. **Budgetary framework flexibility supporting Solvency II implementation should be considered.** Given the current stage of the European insurance framework that is in the process of implementing the central solvency regime, special skills and expertise are required for the initial develop of adequate tools to properly monitor the harmonized implementation, including model approvals processes, reporting tools etc. Investing in this initial phase will required a temporary access to special expertise that may not be within the payment framework that currently applies to EIOPA. Flexibility on a temporary basis in the salary scales and a swift access to external consultants will allow gaining the high level expertise needed for the creation of solid supervisory tools especially in the modeling, IT and actuarial areas. Further, should direct supervisory mandates be assigned to EIOPA, consideration on similar budgetary treatment that applies to the European Central Bank (ECB) should be made.

26. **Significant changes in the regulatory environment affecting insurance and occupational pensions are expected in the next two years.** Solvency II is scheduled to be implemented in 2014 and a revised legislation for occupational pensions should be in force. These major changes will impact the work required from EIOPA. A shift from developing technical standards, issuing guidelines and recommendations and providing opinions, toward monitoring, implementing and enforcing will be necessary. EIOPA's Human resources framework as well as its operational processes will need to be realigned to the new challenges.

C. Powers and Mandates

Description

27. **The multiyear business plan for 2012-2014 as well as the annual plan for 2013 focused on key deliverables that are aligned with EIOPA's mandates.** The tasks include the completion and monitoring of the implementation of Solvency II, the further development of supervisory colleges, consumer protection issues as well as financial stability and crisis management actions. It also focuses in adapting and further growing the internal organization to cope with the changing and growing assigned challenges. The need for a centralized efficient IT platform to allow for confidential information exchanged with national authorities is recognized and its development is accordingly planned. Some of the specific actions required to meet the new challenges are mentioned in its multi-annual working plan document for 2012-2014:

- Establishment of the operational tasks required of EIOPA under Solvency II.
- Enhancement of convergence in supervision by greater use of tools e.g., supervisory review process, Q&A.
- Use of EIOPA's existing tools for assessing the effects of regulatory changes: regulatory impact assessment.

28. **Powers granted to EIOPA appear sufficient to accomplish current tasks.** During the introductory and construction phase of Solvency II the powers residing in the agency that include the developing of draft regulatory and implementing technical standards, issuing guidelines and recommendations that need to be adopted or explained, have proven to be sufficient, albeit resulting in delays and certain inefficiencies with respect to the initial implementation plan of Solvency II. In the area of contributing to a common supervisory culture a soft approach based on peer reviews, training, and frequent engagement in the colleges of supervisors supported by the use of guidelines have been effectively taken.

29. **A framework with respect to EIOPA's action in a crisis situation has been developed.** In mid-2011 a Task Force on Crisis Management (TFCM) to develop EIOPA's institutional structures to discharge its crisis management responsibilities under Article 18 of EReg was created. The BoS adopted a core crisis management framework in December 2011. This framework sets out clear procedures for EIOPA's action in the event

adverse developments as defined in Article 18 or the declaration of an Emergency Situation by the Council.

Main Findings and Recommendations

30. **The new challenges ahead of EIOPA's work will require revisiting its current powers.** The implementation and monitoring of Solvency II will need more intrusive tools to avoid undue delays that could result in regulatory arbitrage and thus threaten to defeat the purpose of a harmonized supervisory regime in the Union. The power to collect the necessary information concerning financial institutions as provided for in Article 35 of the EReg has been challenged with respect to the level of detail. Considerable granularity in data collection appears to be fundamental to accomplishing tasks related to financial stability surveillance and emergency situations. The data collection powers need to allow for the necessary level of information gathering.

31. **In the area of promoting effective colleges of supervisors, stronger powers would help accelerate the process, since several conflicting views among the participant supervisors will emerge that require strong leadership for its efficient resolution.** These additional powers could even go as far as the supervisory responsibility of the group, including the powers to impose sanctions. The supervisory powers should at minimum cover important large groups. However, such a change might require changes in numerous laws.

32. **Further work is required in the area of crisis management to allow for efficient, swift actions by EIOPA.** With the framework on crisis management, EIOPA has created an important operational requirement. Relevant elements remain to be determined, such as the missing sectoral legislation in the case of consumer protections emergency situations. An important gap relates to the needed declaration of an emergency by the European Council that would allow for decisive effective action by the agency to combat matters affecting the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, or in those situations concerning directly applicable Union law. The possibility to allow EIOPA to act in a decisive manner without an explicit declaration of an emergency should be evaluated.

D. Cooperation and Information Sharing Across Sectors

Description

33. **The three ESAs cooperate through the Joint Committee to ensure consistency in their activities.** The Joint Committee was established on January 1, 2011 to strengthen cooperation between the EBA, ESMA and EIOPA. The Joint Committee works in particular in the following areas: supervision of financial conglomerates; accounting and auditing; microprudential analyses of cross-sectoral developments; risks and vulnerabilities for financial stability; retail investment products; and measures to combat money laundering. In

addition the Joint Committee also plays an important role in the exchange of information with the ESRB, in developing the relationship between the ESRB and the ESAs and to contribute aligning the rules of procedure for the ESAs.

34. The Joint Committee operates through four subcommittees:

- The Subcommittee on Financial Conglomerates prepares the ESAs' response to the review of the Financial Conglomerates Directive (FICOD). In addition the Joint Committee publishes on their respective websites, the list of groups identified as financial conglomerates and their relevant competent authorities, as required under the FICOD.
- The Subcommittee on Cross-Sectoral Developments, Risks and Vulnerabilities produces the joint cross-sectoral risk reports for the biannual meetings of the Economic and Finance Committee – Financial Stability Table, and contributes to the half-yearly ESAs' risk assessment reports submitted to the ESRB.
- The Subcommittee on Anti-Money Laundering (AML) identified discrepancies in Member States' supervisory practices relating to the identification of the ultimate beneficial owner and the application of simplified due diligence measures under the third Anti-Money Laundering Directive, which may create gaps in the EU's AML/counter terrorist financing regime.
- The Subcommittee on Consumer Protection and Financial Innovation has been set up recently and will be working on cross-sectoral consumer protection and financial innovation issues, such as financial literacy and education initiatives, to ensure consistency across the different financial sectors. In this respect three joint sub work streams have been put in place for packaged retail investor products, product oversight and governance and consumer protection.

Main Findings and Recommendations

35. The Joint Committee needs to raise its profile. While the results obtained by the Joint Committee are commendable, as the roles of the three ESAs continue to diverge, with the introduction of the banking union, the new role for the ECB, the supervisory role on credit agencies for ESMA and the implementation of Solvency II, coordination will become more difficult. The establishing of an annual working plan, the development of its own website and participation at the Joint Forum are recommended are measures that could facilitate the maintenance of an appropriate level of cooperation. The creation of a permanent Secretariat should be evaluated.

E. Systemic Risk and Stress Testing

Description

36. **EIOPAS mandates include working with the ESRB on identification, measurement and response to systemic risk.** The role of EIOPA in the systemic risk prevention, monitoring and response is defined as a supporting role to the ESRB, as stated in Article 23(1) and Article 17 of Regulation (EU) No 1092/2010.² Due consideration to international approaches, including those established by the Financial Stability Board (FSB), the IMF, the IAIS and the BIS, are required. EIOPA's work in this area includes the development and coordination of effective and consistent recovery and resolution plans, procedures in emergency situations and preventive measures to minimize the systemic impact of any failure of insurers or occupational pension funds.

37. **EIOPA has been engaged in a process of regular, structured dialogue with NSAs during the recent financial turmoil.** The IMG is a key element supporting EIOPA to fulfill its crisis prevention and management duties. The IMG is a group within EIOPA comprising selected members from national supervisors that meets several times annually supplemented with ad hoc conferences. The group is the venue where information and analysis can result in supervisory or other action by EIOPA and its members. The IMG by drawing together analytical and other information available to other EIOPA working groups assesses the needs of responses and/or prepares proposals for action that are put to the EIOPA Board of Supervisors for decision. Among the key activities carried out by the IMG during the last year is the introduction of a bimonthly qualitative survey on significant balance sheet changes, exposures to sovereign and bank risk, liquidity risk and cash-flow risks among other themes.

38. **Stress testing is one of the explicitly indicated tools to be used by EIOPA for crisis prevention.** In accordance with Article 32 of EReg, EIOPA uses stress testing as a tool to assess the resilience of financial institutions Union-wide. In particular the systemic risk posed by financial institutions is evaluated under adverse market developments. Also, consistent use of stress testing across the NSAs is part of its mandate. For the 2012 exercise covering 50 percent of all national markets measured by gross written premium (GWP), almost all risk drivers were included for the stress scenarios and stress levels were determined based on historic distribution analysis. The stress levels are approved by EIOPA's BoS. Under strong leadership exercised by EIOPA the stress test was launched. Results of the individual industry submissions were validated by the NSAs first and then again by a central validation team made up of NSA and EIOPA experts. The final report is approved by the BoS. Disclosure of the results has been on aggregated basis.

Main Findings and Recommendations

39. **Access to information and the use of such information for monitoring, analyzing trends and preventing systemic risk, needs to improve.** Financial stability data are collected from the 30 biggest cross-border insurance groups including three Swiss groups and some of the solo institutions above a certain threshold GWP. EIOPA, however, does not receive the data on an identifiable individual group level that would be necessary for performing EIOPA's tasks. Furthermore, EIOPA does not have direct access to any national supervisory data, although data are submitted to EIOPA upon request (for example, data related to financial stability and crisis prevention). EIOPA should be granted the power to request supervisory data for any institution on a timely basis.

40. **EIOPA's stress test under a Solvency II regime should focus on EU-wide systemic vulnerabilities.** Current use of stress testing by EIOPA has been on analyzing the effect of shocks adversely affecting the traditional insurance vulnerabilities such as mortality, lapse and market exposures. Also, a strong emphasis has been put on supporting the development of Solvency II through the series of qualitative impact assessments. Once the new solvency regime is in place, EIOPA's stress test should move to enhance and harmonize the national stress testing activity with a special focus on identifying (cross-border) systemic risk. This will require considering single and multiple shocks affecting the relevant variables in the areas of financial market structure, interactions, regulation and supervision responsible for the fallacies of composition, i.e., situations where the sum of the individuals does not describe the behavior of the whole group. Such stress tests should incorporate systemic feedback effects under macroeconomic scenarios, as well as allowing for contagious shocks to spread rapidly through the whole financial sector.

F. Harmonizing Supervisory Practices

Description

41. **From March 2010 to April 2010 EIOPA's predecessor CEIOPS carried out a survey of the level of preparedness of insurance supervisors with reference to the implementation of Solvency II.** From the 27 supervisory authorities that answered the questionnaire, 11 are small supervisory authorities (with less than 40 employees dealing with insurance), 11 are medium-sized supervisory authorities (with 40-100 employees dealing with insurance), and five are larger supervisors (with more than 100 employees dealing with insurance). The number of staff varies widely from 25 to over 3300, depending on the market size as well as the level of integration of the supervisory authority. As to the number of supervised insurance and reinsurance undertakings subject to Solvency II the range is also wide: from 10 up to 625.

42. **The review panel as a tool to harmonize supervision has not been used extensively.** To monitor and enhance supervisory convergence within the European

Economic Area (EEA), the BoS established a Review Panel. The panel is a permanent group comprising representatives of the NSAs with the necessary independence and objectivity, seniority, knowledge of the community legislation and EIOPA measures, and expertise in supervisory practices to guarantee the credibility and the effectiveness of the peer review mechanism. The last peer review and so far only one completed dates back to 2009 and comprised the application of the provisions of information exchange and supervisory cooperation in the context of the General Protocol, the Budapest Protocol and the Helsinki Protocol. Only after a long period of time, the peer review activity has been revived. EIOPA has recently started peer reviews in the area of internal model application, supervision of branches and on a few articles of the occupational pension directive.

Main Findings and Recommendations

43. **The evaluation of NSAs in their ability to implement the forthcoming solvency regime should take priority.** The differences in resources existing among the NSAs present an important challenge to EIOPA's supervision harmonization efforts. Also a peer review of the stress test practice is recommended.

44. **Harmonization of supervision through the peer review exercise should be enhanced with a challenging element from EIOPA.** The peer review panel issues best practices that need to be adopted or explained by the NSA, EIOPA's independence and strong European view would add value to the process and accelerate supervisory harmonization by playing a role that goes beyond that of the secretariat as currently is the practice and owned the process.

G. Supervisory Colleges and Group Supervision

Description

45. **In the area of group supervision, EIOPA's tasks go beyond pure regulatory work.** Following Article 242 of Directive 2009/138/EC, EIOPA is required to contribute in the proper functioning of colleges of supervisors; the assessment of the benefit of enhancing group supervision and capital management within a group of insurance or reinsurance undertakings, including possible measures to enhance a sound cross-border management of insurance groups, in particular in respect of risks and asset management; and may report on any new developments and progress concerning practices in centralized group risk management and functioning of group internal models including stress testing, intra-group transactions and risk concentrations; a harmonized framework for asset transferability, insolvency and winding-up procedures which eliminates the relevant national company or corporate law barriers to asset transferability; and an equivalent level of protection of policy holders and beneficiaries of the undertakings of the same group, particularly in crisis situations.

46. **During 2011, 89 insurance groups with cross-border undertakings were registered in the EEA.** During the year, 69 colleges of supervisors had at least one meeting or teleconference. A total of 14 national supervisory authorities acted as group supervisors to organize the events. During the setup phase in the first year after its establishment, EIOPA attended supervisory college meetings and/or teleconferences of 55 groups. Important issues like crisis preparedness were introduced and some aspects tested, confidentiality agreement templates were developed and best practices on group supervision are permanently presented.

Main Findings and Recommendations

47. **EIOPA's engagement in its oversight role of supervisory colleges has been intense, but much work remains to be done.** A harmonized level of group supervision in the EU remains to be achieved when the Level 3 legislation is in force. EIOPA's engagement in colleges should go beyond the EU and encompass the larger international groups active in Europe. For financial stability purposes, consideration should be made to assign EIOPA a supervisory role for the largest important groups.

H. Consumer Protection

Description

48. **EIOPA has been proactive in the area of consumer protection.** Promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market is a stated objective of EIOPA. The first guidelines in this area applicable to national competent authorities under the "comply or explain" scheme have been issued on Complaints-Handling by Insurance Undertakings. Further, a report on Good Practices for Disclosure and Selling of Variable Annuities as a tool to promote common supervisory approaches and practices has been published. A consumer strategy day takes place annually where consumers, industry and the NSAs discuss current issues under EIOPA's leadership.

49. **An initial report on consumer trends has been recently published.** EIOPA does not yet collect statistics on the number or type of insurance complaints received from national competent authorities of Member States however, based on trends information collected from the NSAs, it has presented its first initial consumer trends overview. Three main trends were identified:

- Consumer protection issues around Payment Protection Insurance (PPI).
- Development of unit-linked life insurance.
- Increased use of comparison websites by consumers.

In addition, EIOPA's intention is to publish regular reports on consumer trends using a recently adopted enhanced methodology based on quantitative and qualitative data collection, including number and type of insurance complaints received.

50. **EIOPA is engaged in the revision of the Insurance Mediation Directive (IMD2).** The proposal provides that "all information, including marketing communications, addressed by insurance intermediaries and undertakings to customers or potential customers should be fair, clear and not misleading." The IMD2 proposal also sets the expectation that EIOPA develops periodically guidelines for the assessment and supervision of practices of tying an insurance product to an ancillary service or bundling an insurance product together with an ancillary service. Under the current text of the legislative proposals on packaged Retail Investment Products and the IMD2, EIOPA is further expected to work on delegated acts ensuring that information about products is adequately disclosed and products are sold in a fair way to consumers e.g., in terms of ensuring suitability of the product to the customer and mitigating conflicts of interest. EIOPA is in a position to highlight the particular aspects of insurance products and insurance distribution practices when cross sectoral discussions take place.

51. **EIOPA's Task Force on Insurance Guarantee Schemes has published two reports, the Report on the Cross- Border Cooperation Mechanisms between Insurance Guarantee Schemes in the EU in 2011 followed by the Report on the Role of Insurance Guarantee Schemes in the Winding-Up Procedures of Insolvent Undertakings in the EU/EEA in 2012.** The first report is a mapping exercise of existing cross-border cooperation mechanisms resulting in five recommendations. The findings of the second report highlight the lack of harmonization in areas such as the ability to transfer portfolio, the lack of a pre-warning system in place for when insurance undertakings are in difficulty and the role of the supervisory authority when insurance undertakings become insolvent.

Main Findings and Recommendations

52. **EIOPA's powers to restrict or ban certain products are limited.** Warnings on, as well as prohibitions and restrictions of, certain financial activities can be issued by EIOPA should these pose a serious threat to stability and effectiveness of the financial system. This power, however, can only be used if cross sector legislation is enacted setting out the specific cases and conditions under which EIOPA would be able to issue such temporary prohibitions and restrictions. A permanent prohibition or restriction of certain financial activities would require the Commission's authorization. A framework for effective monitoring of products with potential impact on financial stability and severe impact on consumers should be established as a first step to justify any prohibitions.

53. **EIOPA's initial findings on existing guarantee schemes show an urgent need of harmonization.** EIOPA's Task Force on Insurance Guarantee Schemes has published two

reports, the Report on the Cross- Border Cooperation Mechanisms between Insurance Guarantee Schemes in the EU in 2011 followed by the Report on the Role of Insurance Guarantee Schemes in the Winding-Up Procedures of Insolvent Undertakings in the EU/EEA in 2012. The first report is a mapping exercise of existing cross-border cooperation mechanisms resulting in five recommendations. The findings of the second report highlight the lack of harmonization in areas such as the ability to transfer portfolio, the lack of a pre-warning system in place for when insurance undertakings are in difficulty and the role of the supervisory authority when insurance undertakings become insolvent.

I. Occupational Pensions

Description

54. **EIOPA's response on the call for opinion of the proposed new directive on occupational pension funds highlights the needs for transparency in the level of protection and modernization of the regime.** In around 500 pages, EIOPA's response evaluates the advantages of enhancing transparency through improved harmonization on the reporting, stricter requirements on governance and risk management similar to the second pillar of Solvency II and the use of a holistic balance sheet approach to measure the solvency position of the different Institutional and Occupational Retirement Pensions (IORPs). A QIS of IORPs on the feasibility of a holistic balance sheet valuation regime as well as on the different options proposed by EIOPA are currently being tested and the results are expected in the summer of 2013.

Main Findings and Recommendations

55. **The initial purpose of the new IORP Directive to remove impediments for the creation of a single market has been relegated in favor of creating more comparability on the solvency and resilience of the different IORPs.** The lack of demand for cross-border activity, with a handful of IORPs currently providing cross-border pensions, as well as considering that important aspects that impact cross-border activity in this sector, like labor, social and tax laws remaining within national decision, has moved the focus of IORP Directive towards enhancing transparency of the level of resilience of the different IORPs. Greater transparency and a holistic balance sheet approach that takes into account both implicit and explicit guarantees of the sponsors will allow comparison of the various IORPs throughout the EU. This comparison is recognized as an important step towards the creation of a single market. Given the complexity of the current solvency regimes in the different jurisdictions, the results of the QIS exercise will need to be a first step before a final sound valuation methodology can be introduced.

J. Solvency II

Description

56. **Over 75 percent of the supervised insurers producing around 85 percent of the EU insurance premium will need to comply with Solvency II.** Based on the last QIS exercise, of the 4753 supervised entities, 3680 are expected to be covered by the solvency II directive, i.e., write premium larger than €5 million or have technical reserves in excess of €50 million. These entities are responsible for over 95 percent of the aggregate technical reserves. The fact that several EU members have delegated most of the necessary updating of their existing national solvency regime to the efforts undertaken by EIOPA has increased the relevance of the proper and timely implementation of the new solvency regime for Europe.

57. **The impact study highlighted the areas in which further work was needed.** This was then initiated by EIOPA as follows: definition of contract boundaries in the valuation of technical provisions; the need to reduce complexity in certain areas; developments in the calibration of catastrophe risk; and the treatment of long-term guarantees in the context of Solvency II.

58. **EIOPA is currently developing draft standards and guidelines in the following areas:**

- Solvency capital requirements for the standard formula as well as for internal model users; own funds; valuation of technical provisions; valuation of assets and liabilities.
- Group supervision.
- Supervisory transparency and accountability, reporting and disclosure, external audit.
- Governance and own risk solvency assessment (ORSA).
- Supervisory review process; capital add-ons; extension of recovery period ('Pillar 2 dampener'); finite reinsurance; special purpose vehicles.

59. **The implementation of Solvency II is now scheduled to come into force in January 2014.** The Solvency II Directive text is under revision by the Omnibus II Directive, which is currently in the phrase of trialogue discussions between the Council, Parliament and Commission with the aim of reaching an agreed text. The Omnibus II trialogue provisionally scheduled for October 1, 2012 did not take place. The main disagreement remains around extending the long term guarantees (LTG) package (especially the Matching Adjustment) to cover a wider range of products. A recent Directive (2012/23/EU) has been published as an interim measure to specifically revise the date of transposition and entry into force of the Solvency II Directive to June 30, 2013 and January 1, 2014 respectively. However, whilst the Omnibus II Directive remains a matter for discussion, the implementing measures (or delegated acts) remain in draft form with the Commission.

60. In July of this year EIOPA was requested by the trialogue parties to conduct an impact assessment on the long-term guarantee aspects of the Solvency II package.

EIOPA is requested to run a technical assessment that collects both qualitative and quantitative information from insurance and reinsurance undertakings and supervisory authorities on the effects of the LTG package. EIOPA was to launch the exercise on October 15, 2012. Insurance and reinsurance undertakings would have eight weeks to provide the quantitative and qualitative information requested to their national supervisory authorities. The final report was targeted to be provided to the co-legislators by March 31, 2013 by the Commission based on the findings of EIOPA's technical assessment. However the ToRs have not yet been agreed upon by the trialogue parties.

Main Findings and Recommendations

61. The preparation for the implementation of Solvency II is the central task for EIOPA. While there are other areas of action where EIOPA's involvement is required and resources have been dedicated to fulfill them, the lion's share of its activities focuses in the readiness for the implementation of Solvency II. Fundamental changes are needed in the supervisory methodology, tools and procedures, in all the different areas of insurance supervision – quantitative requirements (Pillar I), qualitative requirements (Pillar II), supervisory reporting and public disclosure, group supervision - in nearly all national supervisory authorities.

62. Weaknesses in insurance supervision in several EU member states will remain in the absence of Solvency II. The delay in the implementation of Solvency II is critical as important aspect of supervision in the prudential area, valuation, disclosure and risk management, in several EU members States will remain not compliant with the IAIS principles (as evidenced by recent FSAPs) in the absence of Solvency II. Consideration should be given to harmonized early implementation of as much as possible of Solvency II that would allow more supervisors to raise their standards.

63. The approval of internal models is a crucial step in determining capital adequacy to warrant a solvent industry. The level of expertise and amount of work required is imposing severe strain to the NSAs. EIOPA agreed on a work flow process to be followed by the NSAs and insurers for both pre-application and approval. EIOPA has been holding monthly meetings open to operational supervisors from all member states to discuss particular issues related to pre-applications and the review of internal models. EIOPA has also held meetings with the main external stakeholders concerned with internal models, including undertakings, consultations and external providers. Following these discussions with external stakeholders, in May of 2012, EIOPA issued an Opinion on the use of External Models. Consideration should be made to introduce a centralized oversight for the approval of internal models to use efficiently highly-qualified resources and to guarantee a consistent, elevated level of technical proficiency.

64. **Important discussions on the final form of Solvency II are taking place, with a main focus on the proper treatment of long term liabilities.** Under a market consistent valuation of liabilities required under Solvency II, in a low rate environment the use of a low interest rate discount curve for the valuation of the liabilities will be necessary. The impact on the solvency position of insurers under Solvency II will be negative, and accurate consideration on asset liability matching needs to be developed to avoid distortionary or non-credible effects. However, such adjustments on the discount curve for the asset-liabilities matching need to be carried out without reducing the market consistent principle of the new solvency framework. Adopting rules for the valuation of long term liabilities that exaggerates solvency positions of insurers under current adverse market conditions will weaken the credibility of Solvency II as a market-consistent solvency regime.

K. Solvency II Equivalence and International Representation

Description

65. **EIOPA's work on Solvency II equivalence certification is intense and relevant.** The Solvency II Directive gives the EC the authority to decide on the equivalence of a third country's solvency and prudential regime. EIOPA provides advice to the EC on this matter. Such work promotes open international insurance markets and reduces regulatory burden whilst simultaneously ensuring that policy holders are adequately protected globally. EIOPA equivalence assessment include desk and on site work and has been carried out for the Swiss and the Bermudian supervisory system under Article 172 (reinsurance supervision), Article 227 (inclusion of related third country insurance and reinsurance undertakings in group solvency calculation) and Article 260 (group supervision); and for the Japanese reinsurance supervisory system under Article 172. While EIOPA's assessment has concluded, it will need to revisit its advice once the final Level 2 implementing measures including the Equivalence Criteria are published.

66. **Transitional Equivalence measures for several countries are also being evaluated.** Where a third country's solvency and prudential regime is currently not able to satisfy the equivalence criteria in full, but will be in a position to do so once the relevant changes to the regime have been made transitional equivalence measures are developed. Transitional Equivalence measures as to professional secrecy and gap analysis against the Solvency II framework of the supervisory regimes in the following countries are currently being developed: Chile, China, Hong Kong, Israel, Mexico, Singapore, and South Africa.

67. **The mutual recognition work with the United States supervisory regime is underway.** In early 2012, the EC, EIOPA, the National Association of Insurance Commissioners and the Federal Insurance Office of the United States Department of the Treasury agreed to participate in a dialogue and a related project to contribute to an increased mutual understanding and enhanced cooperation between the EU and the United States to

promote business opportunity, consumer protection and effective supervision. The Steering Committee agreed upon seven topics fundamentally important to:

- professional secrecy/confidentiality;
- group supervision;
- solvency and capital requirements;
- reinsurance and collateral requirements;
- supervisory reporting, data collection and analysis;
- supervisory peer reviews; and
- independent third party review and supervisory on-site inspections.

68. **Seven technical committee reports have been jointly drafted.** Following the end-September 2012 public release of the reports for interested party analysis and comments, conclusions will be reached by the Steering Committee on each of the seven topics. The project is scheduled to come to a conclusion by December 31, 2012. Further work on resolution is foreseen.

69. **EIOPA has been engaging in creating a common EU voice in insurance and pension matters.** Achieving a common EU view on selected international agenda topics such as ComFrame and g-SII was initiated through establishment and functioning of an “internal” Network with representatives from NSAs. EIOPA has become a Member of the executive committee at the IAIS in 2011 and is active in its financial stability committee. EIOPA has also submitted its application for becoming an IOPS Governing member in the current year.

70. **EIOPA has an important role representing the insurance sector in standard setting bodies in the fields of accounting and auditing.** EIOPA is an official observer and active participant at EFRAG (European Financial Reporting Advisory Group) meetings as well as at ARC (Accounting Regulatory Committee) meetings. On an on-going basis EIOPA is involved in exchanges of views and interacts with FEE (Federation of European Accountants) and the IASB (International Accounting Standards Board). EIOPA also follows discussions within the accounting experts group at IAIS and maintains contacts with the United Kingdom FRC (Financial Reporting Council), the German DRSC (Deutsches Rechnungslegungs Standards Committee), the U.S. FASB (Financial Accounting Standards Board) and IFAC (International Federation of Accountants). In addition, coordination among the accounting and financial reporting areas of the other ESA takes place through the Joint Committee. Also discussions with the EC’s DG Internal Markets Unit F3: Accounting and financial reporting as well as Unit F4: Audit.

Main Findings and Recommendations

71. **EIOPA’s representation role in international fora should increase.** The actions taken in promoting a common European voice at the IAIS on key topics has been helpful in

supporting the international agenda of achieving convergence of solvency and supervisory practices as well as for designing a cross-border resolution framework. EIOPA's access to important documents of the FSB and other international bodies should be allowed. The participation at IOPS Governing board should have a strong priority.

72. **Current accounting treatment of assets and liabilities in the EU diverges.** The comparison of the financial position among insurers in different jurisdictions is severely affected by the different supervisory accounting regimes. This problem is of particular relevance when assessing the financial position of cross-borders active insurance groups. The implementation of Solvency II will address this issue for EU operating groups. However, for internationally active insurers, comparison of solvency regimes will remain difficult because the liabilities valuation under Solvency II and International Financial Reporting Standards currently show important differences. EIOPA's representation in the standard setting bodies in the fields of accounting and auditing should be leveraged to gain convergence or at least higher transparency in the treatment of liabilities.