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Notes of a meeting between representatives of Internal Market DG and the Groupe Consultatif held in Brussels, on 15 December 2011

PRESENT:

Internal Market DG

Karel Van Hulle
Charlotte Paterson
Ramon Carrasco
Kathrin Blanck-Putz
Benoit Hugonin
Ulf Linder

Groupe Consultatif

Gábor Hanák
Chris Daykin
Malcolm Campbell
Falco Valkenburg
Ron Hersmis
Seamus Creedon
Said Younsi
Michael Lucas
Pia Skaerbak

1. Solvency II

1.1 *QIS5 follow-up*

Seamus drew the Commission's attention to potentially anomalous results from QIS 5 in relation to SCR coverage by country and in relation to the application of SCR/MCR ceiling and floor. They may follow these up with EIOPA.

1.2 *SCR standard formula calibration & USPs*

Seamus referred to the background to the standard formula calibration and our paper of July 2011 in which we suggested that USPs be allowed or required for most specialist insurers. There was reluctance by the Commission to revisit the wording of the framework Directive in respect of the scope of USPs – we will have to see whether this causes problems in relation to risk drivers other than mortality on life business. Karel was more receptive than his colleagues to the importance of having USPs for specialised firms, and he also sees USPs for catastrophe risk as a useful way of responding to regional differences. He coined the phrase 'USP means parameters specific **to** undertakings, rather than parameters specifically **from** undertakings' (own experience). The Groupe was asked to offer comments on the current draft Level 2 text in these respects.

1.3 ***Countercyclical premium and matching premium***

There was an extensive discussion on these points.

On the CCP, the Commission agreed that market prices of certain assets can exceptionally deviate materially from fundamental value and the framework should be able to compensate for this. Their case for trying to make the compensation apply to value of liabilities through the CCP is that:

- it avoids having to revisit the framework Directive; and
- it links the compensation to the duration of the liabilities.

On the other hand, if the CCP is to compensate for mis-valuation of bonds of a specific sovereign, it is likely to be extremely complicated.

On matching premium, Seamus suggested that this should not apply to liabilities with any option to liquidate for cash, and that it should be determined by reference to a representative portfolio rather than by reference to the undertaking’s own assets. Benoit questioned whether this was consistent with our preference to adjust ‘oversold’ asset values. Charlotte vigorously defended the scope of liabilities and the linkage to assets actually held, and said there was no difficulty accommodating (for example) unquoted assets in the framework. Seamus was not convinced on this point, but it is probably necessary for the Groupe to explain the pitfalls better. It was noted that this is also relevant to IORPs.

Karel pointed out that industry is working on proposals for at least the CCP, and he suggested that it would be useful for the Groupe to be involved in reviewing these. Seamus remarked that there was less resistance by industry than might have been to the matching premium.

1.4 ***Timing***

Karel confirmed that the Parliament was moving much more slowly than had been hoped. There was an implication that some slippage in the subsequent timetable was increasingly likely.

1.5 ***Sovereign Risk Working Group***

Gábor reported that the Groupe has set up a working group, based on the existing Pillar 1 Life Working Group with some members of the Pensions and IFR Committees, to develop a position paper on sovereign risk. It is planned that the paper will be ready by the Spring meetings of the Groupe, after which it will be shared with the Commission, EIOPA and other stakeholders. Karel welcomed the initiative and encouraged the Groupe to produce the paper on this topic.

1.6 ***Actuarial guidelines***

Karel reiterated his view, expressed at previous meetings with the Groupe, that ultimately the development of actuarial standards/guidelines will be the responsibility of a body other than EIOPA, as is the case with standards for the accounting profession. This body should include representatives of EIOPA, the actuarial profession and other stakeholders as well. However the time is not appropriate for this as other tasks take precedence.

3. Actuarial Standards

Chris referred to the Groupe's ongoing work on actuarial standards, in particular the approval of purpose, criteria and due process, and the development of a draft model standard on Actuarial Function reporting under Solvency II, in relation to which EIOPA has indicated no intention to issue a guideline. He emphasised that the intention was to promote consistency of practice within the profession, and to complement both EIOPA's guidelines and a generic standard being developed by the IAA. The Groupe plans to adopt the IAA standard but may need to adapt it for the specific circumstances of Solvency II. Chris explained that standards developed by the Groupe would be model standards: member associations would be expected to adopt them or adapt them to meet local requirements, or to demonstrate that an equivalent standard was already in place. He also pointed out that the Groupe is considering other possible areas which would be appropriate for the development of standards, e.g. ORSA, SFCR, but we are waiting until EIOPA produce guidelines before going any further. He emphasised that EIOPA and other stakeholders would be consulted on exposure drafts.

Karel commended the Groupe's work, and suggested that other stakeholders might be consulted earlier in the process of developing standards. He reiterated the view that the Commission would take a closer interest in guidelines and standards once the implementation of Solvency II was complete. He particularly encouraged the Groupe to use the ECA2012 as a forum for discussion on actuarial standards/guidelines by various stakeholders.

4. Pensions - Call for Advice on review of IORP Directive

Falco referred to the Groupe's discussions in preparing its response to EIOPA's consultation, and to industry concerns which had emerged during a recent meeting with EFRP. He summarised the key points which had been identified by our own working group, and by member associations – amongst whom it was clear that there was not unanimity of view. The main issues on the liabilities side were –

- same risk -> same capital: the principle behind Solvency in insurance but pensions can be very 'soft', and risks are not the same
- is a risk-free rate appropriate?
- discount rate should reflect conditionality
- risk appetite margin to reflect uncertainties
- risk margin on top of TPs is not necessary for pension funds
- MCR – no specific actuarial view
- SCR – need for a coherent approach to quantifying different risks involved
- level of certainty is up to social partners
- the appropriate level of information to members and beneficiaries and the transparency in terms of the value of the "pension promise"

On the asset side, Falco referred to the role of the sponsor covenant and pension protection funds and how these should be valued.

Falco described the holistic balance sheet, and its ‘building blocks’ approach. He also outlined the proposed QIS, which would be much broader than simply an actuarial exercise, and drew attention to the importance of -

- clear information on risk to beneficiaries
- proper system of governance and disclosure
- monitoring

Falco reported that the main concerns which had been identified by the industry were -

- governance and disclosure
- holistic balance sheet
    - starting point?
    - must not be seen as part of formal financial reporting
      (Falco pointed out that it was intended as an internal risk management tool)
- QIS should examine macro-economic impact of Solvency II on pension funds
- market consistency and countercyclicality/matching premiums
  (Seamus offered to advise on the latter point)
- different security levels across Member States
- investment rules – the Groupe and EFRP are generally supportive of prudent person principle

Karel noted that there was strong opposition amongst the social partners to ‘Solvency II for Pensions’ at a political level. He believed it was essential to have the Groupe’s expert opinion at a technical level, although he recognised that this may include some divergent views which reflected the diversity of pensions practice in Europe. Karel explained that EIOPA’s advice – possibly incomplete – was due by the end of February. He hoped that the Groupe would participate in the Public Hearing planned for 1 March (Falco confirmed). Thereafter the Commission was expected to develop proposals for the review of the Directive by the end of 2012.

Chris referred to the Actuarial Function and noted that the involvement of the actuarial profession was already entrenched in Pensions more than in Insurance. Karel invited the Groupe to provide data to quantify this for the QIS.

5. Age & Disability as rating factors

Chris reported that, following the ECJ decision on the use of gender as a rating factor, the Groupe had decided to prepare a position paper describing the implications if the decision were to be extended to age and disability. The paper was published on 5 December, and Karel confirmed that he had received a copy. Karel believed it unlikely that the age and disability issue would have the same outcome as the use of gender as a rating factor since there had been strong resistance from several Member States. He proposed to provide the Groupe’s paper to the Member States as background for their discussions in Council. Karel also noted that EIOPA's IRSG had set up a working group to consider the age and disability issue, and its members also had received the Groupe's paper.

6. Role of the actuarial profession in other consumer protection issues

Gábor reported that the Groupe was considering setting up a working group to examine whether the actuarial profession could have a wider role to play in serving the public interest in relation to consumer protection issues, for example -

- solvency of undertakings
- commercialisation and certification of financial products (design and pricing; is a product useful, toxic, in the interest of consumers?)
- what effects new products might have on financial markets
- transparency and fairness (e.g. disclosure, distribution of surplus)
- education of customers and intermediaries

He hoped that it might be possible to produce an initial report/position paper by the Spring 2012, which could be shared with the Commission and EIOPA. Karel encouraged the Groupe to develop this idea, which is a good fit with EIOPA's own consumer protection initiative.