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**Draft Minutes of the 16th meeting of the
European Insurance and Occupational Pensions Committee**

Brussels, 30 June 2010

Opening and welcome.

The meeting was opened and chaired by Mr Karel VAN HULLE, Head of the Insurance and Pensions Unit in the Internal Market and Services Directorate-General of the European Commission (morning session) and by Mr Elemér TERTAK, Director of the Financial Institutions Directorate in the Internal Market and Services Directorate-General of the European Commission (afternoon session).

1. Agenda

The draft agenda, as proposed by the Commission, was adopted without amendments.

2. Minutes of the 15th meeting of the EIOPC held on 31 March 2010

No requests for changes to, or comments on, the draft minutes were raised and the minutes of the 15th meeting of the EIOPC, as tabled by the Commission, were adopted.

3. Policy Proposals concerning Insolvency Law Issues in the Banking Sector – State of Play

At the EIOPC meeting of 31 March 2010, the issue as to whether there is a need for a special resolution and insolvency framework for insurance companies and a review of the Winding-up Directive 2001/17/EC² was discussed. At that meeting, Member States expressed a fear that policy proposals in the banking sector could be applied to the insurance sector without taking into account the differences between these sectors.

A Commission representative explained in detail the current policy proposals concerning insolvency law issues in the banking sector and their state of play.

It was concluded by the Commission representative that it is appropriate to await further initiatives concerning the Winding-up Directive in the banking sector, before initiating a review of the Winding up Directive 2001/17/EC.

4. Block Exemption Regulation in the Insurance Sector – Update

A Commission representative informed the EIOPC that the Commission had adopted a [new Insurance Block Exemption Regulation](#) (BER).³

The BER, which came into force on the 1st April 2010, renews two out of four categories of agreements exempted by [former BER](#),⁴ namely (i) joint compilations, tables and studies, and (ii) co(re)insurance pools, with some amendments. Certain information exchange can be justified in order to allow insurers to accurately assess risks. Pooling is also important in order to ensure that all risks can be covered. These two types of agreements justify the BER. Other types of cooperation may also be legal but it will be for insurers to self-assess that they comply with the general competition rules.

The new BER will be valid until 31 March 2017.

² Directive 2001/17/EC on the reorganisation and winding-up of insurance undertakings.

³ Commission Regulation (EC) No 267/2010 of 24 March 2010 on the application of Article 101(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector.

⁴ Commission Regulation (EC) No 358/2003 of 24 March 2010 of 27 February 2003 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector.

5. Solvency II – Recent Developments, Next Steps

i. Impact Assessment Study

A Commission representative updated EIOPC members on the status of the impact assessment work for Solvency II level 2 implementing measures.

In relation to the Impact Assessment Study that the Commission has engaged Deloitte to carry out, the Commission representative restated the main messages from the note that had been circulated to EIOPC members in advance of the meeting. The main purpose of this note was to clearly explain how the Commission's own impact assessment would dovetail with the fifth Quantitative Impact Study (QIS5) and how the Deloitte report would feed into the Commission's work. A copy of the final Deloitte report, which was received by the Commission on 2 June 2010, was circulated to EIOPC members in advance of the meeting and members were asked to submit written comments on the content of the report by 1 September 2010. These written comments would then be used to inform the Commission's own impact assessment, which would be published at the same time as its proposal for level 2 implementing measures.

A representative from one Member State raised the issue of the administrative burden on insurance companies that would result from Solvency II. This Member State highlighted that the cost of implementation may be substantial and while they were supportive of high transparency and collecting relevant information, the right balance would need to be struck between transparency and administrative burden.

A representative from another Member State sought confirmation that the Commission would not publish the Deloitte report at this stage. The Commission representative confirmed that the Deloitte report would most likely be published as an annex to the Commission's own impact assessment and would not be published now as a standalone report.

ii. QIS5

A Commission representative explained the consultation process for the Call for Advice on QIS5 and the QIS5 technical specifications. The consultation was carried out over five weeks in April and May 2010. It included a stakeholder meeting and a meeting of the Solvency Expert Group (a sub-committee of EIOPC) that was dedicated to QIS5. QIS5 was also discussed at the public hearing on Solvency II on 4 May 2010. Written comments were received from 16 Member States, CEIOPS and the seven selected European stakeholder groups. The Commission representative thanked the Member States and CEIOPS for their valuable contributions during the consultation.

The draft Call for Advice on QIS5 that was put into the consultation included changes in response to the discussion of the Call for Advice at the EIOPC meeting on 31 March 2010. The changes clarified the objectives of QIS5, the participation target and the role of national guidance. The consultation of the draft Call for Advice resulted in one additional change: the requirement to compare the outcome of QIS5 with QIS4 in the QIS5 report (paragraph CfA.30 in the consultation version) was deleted for reasons of practicability.

The Commission representative set out the changes made to the QIS5 technical specifications. The general approach of the Commission services was to align the technical specifications with the draft implementing measures that were discussed once or twice with Member States in the Expert Group on Insurance Solvency. A list of main changes was presented. Member States and Commission representatives discussed the changes to the technical specifications.

iii. Preparedness of Insurance Supervisors to Implement Solvency II

During the CEIOPS Members' Meeting of 25 and 26 March 2009, the Convergence Committee received a mandate to carry out a mapping exercise of the preparedness of supervisors for Solvency II. The aim of the exercise was to gather information on the current level of preparedness of insurance supervisors with regards to the implementation of Solvency II, to exchange best practices and to move gradually towards the implementation of Solvency II by the end of 2012. The mapping exercise was not a peer review: any purpose of assessing single supervisors was excluded, thus no benchmarks have been introduced.

The Convergence Committee developed a questionnaire, based also on the inputs received from the Chairs of the Solvency II Expert Groups. The questionnaire covered both changes already made and expected to supervisory methodology, organisation or staff in anticipation of the coming into force of Solvency II. The questionnaire was sent to 30 CEIOPS' Members and Observers supervising insurance companies whilst 28 supervisory authorities replied to the questionnaire.

6. Green Paper on Pensions: Presentation by Commission Services and First Exchange of Views on MARKT Issues

A Commission representative mentioned that the publication of the Green paper on pensions had been delayed. The release was scheduled for 7 July 2010. The EIOPC was also informed about the meeting of the *Group of Commissioners for pensions* that had met for the first time on 17 June 2010. The Group was very supportive of the Green paper. The discussion indicated that the Green paper should strengthen gender issues, health issues and possibly the reference to automatic adjustment of the retirement age to longevity. The Commission representative invited Member States to encourage national reflections on pension reforms.

A conference on the Green paper is scheduled for 29 October 2010 (tbc) and the consultation is expected to end on 15 November 2010 (tbc).

The Commission representative further mentioned that soon after the end of the Green paper consultation, DG MARKT will seek to initiate the review of the IORP Directive 2003/41/EC.⁵ This could possibly lead to a discussion of a draft Call for Advice to CEIOPS in the next EIOPC meeting (tbc). More general follow-up to the Green paper - e.g. a White Paper or a Commission Communication - will be discussed with DG EMPL and DG ECFIN in due course.

The Chairman reminded EIOPC members that the Green paper respects the subsidiarity principle. The Commission does not take a view about the choices of Member States in the organisation of their pension system.

A representative of one Member State expressed its interest in the debate that will be launched by the Green paper. It was noted by her that the Commission is expected to work on the Solvency rules for pension funds to avoid possible regulatory arbitrage between the Solvency I regime applicable to IORPs and the Solvency II regime that will be applicable to insurance undertakings in 2012. The Commission representative mentioned that one of the questions in the Green paper is meant to address precisely this concern.

7. State of Play concerning the White Paper on Insurance Guarantee Schemes

A Commission representative informed EIOPC members that as part of its work on strengthening consumer protection in the internal market, the Commission will adopt the White Paper on Insurance Guarantee Schemes (IGS) on 6 July 2010 (postponed to 12 July 2010). Simultaneously, the Commission will launch a public consultation on the specific design features proposed. This initiative is part of a broader package including Commission proposals for

⁵ Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision.

amendments of the Deposit Guarantee Schemes Directive and the Investor Compensation Schemes Directive. The White Paper will set out a coherent framework for the direction of EU action on IGS protection of policyholders and beneficiaries, in order to guard against the need for taxpayer involvement in the event of insurance failure. In particular, it proposes introducing a Directive in order to ensure that IGS exist in all Member States and that they comply with a minimum set of design features.

The Commission's representative highlighted that all interested parties including Member States will be invited to submit comments and to provide further input on the options identified by 30 November 2010. The Commission will carefully evaluate the feedback received and take it into account when coming forward with a legislative proposal. It is intended that work on the proposal will start immediately after the end of the consultation period and it is envisaged that a legislative proposal will be tabled in the course of 2011. This proposal will be accompanied by another impact assessment.

A representative of one Member State warmly welcomed this initiative, stating that her government very much supports the establishment of a harmonised framework on IGS protection at EU level.

8. Update on the Revision of the IMD and State of Play concerning the PRIPs' Initiative

A Commission representative provided an update on the main aims with regard to the revision of the Insurance Mediation Directive 2002/92/EC⁶ (IMD). In this respect, he referred to the letter of Director-General Jörgen Holmquist sent to CEIOPS on 27 January 2010, requesting technical advice on several priority areas of the IMD revision. He highlighted the very complex nature of the issues discussed with CEIOPS and thanked CEIOPS for the very good collaboration.

The Commission representative explained the timetable of the future IMD: the public consultation is scheduled for early October 2010. For consistency and efficiency reasons, coordination will need to be ensured between the public consultation on the IMD2 and the planned public consultation on PRIPs. The date for the public hearing is fixed for 10 December 2010. The Commission representative recalled the legislative proposal revising the current IMD which has been postponed to 2011.

The Commission representative also highlighted the major challenges to be faced with under the IMD2. The Commission services want to include direct sales under the scope of the IMD. In this context, the Commission services remain realistic and intend to decrease administrative burden. The Commission representative expressed the need to align the IMD revision process and the PRIPs initiative.

Representatives of two Member States asked about the scope of the PRIPs initiative and as to whether it has already been designed. A representative of another Member State asked about the scope of the future IMD, i.e. as to whether entities selling insurance products as an ancillary activity would be covered by the future IMD. A representative of another Member State expressed their support concerning information disclosure rules and giving better choice to consumers when selling insurance products.

The Commission representative recalled the ongoing discussion in the frame of the 3L3 Task Force on PRIPs and CEIOPS. He referred to the contribution of CEIOPS and emphasized the complexity of several PRIPs work streams. He recalled those questions posed by the Member States are under discussion and will be clarified soon.

⁶ Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation:

9. Methodology for the Review of the Minimum Amounts Referred to in Article 9(1) of the Motor Insurance Directive 2009/103/EC (*markt.h.2(2010)90319*) – For Adoption

The Methodology for the Review of the Minimum Amounts Referred to in Article 9(1) of the Motor Insurance Directive 2009/103/EC (*markt.h.2(2010)90319*) was adopted.

10. Annual Review of the Amounts of the Minimum Guarantee Fund (Reinsurance Directive) (*markt.h.2(2010) 313023*)

A Commission representative informed EIOPC members about the annual review of the guarantee fund for reinsurance undertakings and captive reinsurance undertakings, as required by Article 41 of the Reinsurance Directive 2005/68/EC,⁷ which was conducted in accordance with the methodology adopted by the EIOPC at its 8th meeting.

The EICP has increased by 3.72% during the review period (10 December 2007 – 10 December 2009) and consequently no changes are required.

11. Any Other Business

i. Omnibus II

A Commission representative updated EIOPC members on the status of the draft proposal for Omnibus II. The draft proposal included amendments to the Solvency II Framework Directive and dealt variously with empowerments for binding technical standards to be developed, areas for binding mediation, and "Lisbonisation" of the level 2 empowerments to turn them into delegated act empowerments as well other miscellaneous amendments. The draft proposal was in inter-services consultation and once further progress had been made to finalise Omnibus I and the supervisory architecture package it was envisaged that the Omnibus II proposal would be finalised and tabled as soon as possible after the summer.

A representative from CEIOPS asked if details of the areas envisaged for binding technical standards by the draft proposal could be sent to CEIOPS on the understanding that this was for CEIOPS' work planning purposes and would not be disclosed further.

ii. Solvency II Equivalence

A Commission representative updated EIOPC members on the current status of the work in relation to Solvency II Equivalence. EIOPC members were asked in May 2010 for written comments on the Commission's proposed Call for Advice ("CfA") to CEIOPS. The Commission representative briefly outlined the changes that had been made to the CfA in response to the written comments received.

A representative from CEIOPS stressed the need for the equivalence assessments to be carried out in a sound way using Solvency II as the reference framework. However, it was also stressed that CEIOPS would need extra resources in order to be able to carry out these assessments.

A representative from one Member State highlighted the importance of prioritisation given the number of potential third country candidates that could be included in the first wave. It was noted that for some third countries a roadmap should be developed setting out how that third country could migrate to a solvency regime that would meet the criteria for Solvency II equivalence within a realistic timeframe. This was reiterated by another Member State. Finally, a CEIOPS representative agreed on the need for prioritisation; noted that equivalence discussions

⁷ Directive 2005/68/EC on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

involved both political and technical aspects; and stressed the importance of conveying the right message internationally – equivalence is not about imposing the Solvency II regime on third countries, instead it is an assessment of whether policy holder protection is comparable.

Next meeting

No further points being raised, the Chairman closed the meeting.

The Chairman announced a tentative schedule for the 17th EIOPC meeting being in the week of 26 November 2010.