actuarial association of europe

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TABLE OF CONTENT

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NEWS FROM THE INSTITUTIONS

Valdis Dombrovskis is the new Commissioner in charge of financial services. He received complementary instructions. The UK has given up its rotating six-months presidency of the Union.

The Council reestablished **the order of the Presidencies** by Council decision 26 July 2016. This is because Britain will not take up its scheduled presidency of the EU Council in 2017 but will focus on its preparations to leave the Union. As a result, Estonia's Presidency will move forward from the 1st half of 2018 to the 2nd part of 2017. The new order is as follows:

- Malta January-June 2017
- Estonia July-December 2017
- Bulgaria January-June 2018
- Austria July-December 2018
- Romania January-June 2019
- Finland July-December 2019
- Croatia January-June 2020
- Germany July-December 2020

As of 16 July, Valdis Dombrovskis, previous Prime Minister of Latvia, former MEP and vice-president of the European Commission in charge of the Euro and Social Dialogue, took over the **responsibilities** of former commissioner Jonathan Hill. Lord Hill resigned from the Commission after the UK referendum. **New Commissioner for Financial Stability, Financial Services and Capital Markets Union Dombrovskis** received in September a **complementary mission letter** from President Juncker. Just after Lord Hill left, DG FISMA published its **2015 activity report**.

The UK nominated a new candidate commissioner, Sir Julian King. The European Parliament endorsed the candidature of Sir Julian King as Commissioner for the Security Union by 394 votes to 161, with 83 abstentions, in a secret ballot. The EP must be consulted before a replacement commissioner can take office (see TFEU article 246). The Council appointed commissioner King on 19 September. As **new Commissioner for the Security Union, Julian King** will support the implementation of the European Agenda on Security and contribute to delivering an operational and effective Security Union. He will work under the guidance of Commission First Vice-President Frans Timmermans, complementing the work of Commissioner Dimitris Avramopoulos, who is in charge of Migration, Home Affairs and Citizenship.

Following the UK referendum, the Brexit task force leader Jonathan Faull, the most senior Brit in the Commission, announced his retirement as the **Brexit task force ended** end September. Until retiring, Faull will be on assignment with the Commission's Secretariat-General, helping to set up **a European Solidarity Corps**. This is a youth volunteer initiative launched by Commission President Jean-Claude Juncker that will focus on humanitarian and employment aid (see US Peace Corps).

The Juncker Commission presented its **Third Annual Work Programme** on 25 October: Delivering a Europe that protects, empowers and defends. It focuses squarely on delivery of the 10 priorities outlined in the Political Guidelines in order to address the biggest challenges which Europe faces today. This year's Work Programme (WP) proposes **21 key initiatives** (such as a framework for an EU personal pension product (legislative/non-legislative, incl. impact assessment, Art 114 TFEU)), as well as a further **18 REFIT proposals.** To ensure a focus on delivery, the Commission WP identifies **34 priority pending proposals** it has made in the past two years where swift adoption by the Parliament and Council can make a tangible impact on the ground.

In the meantime, the Commission has proposed a new interinstitutional agreement for lobbyists.

CAPITAL MARKETS UNION

The Commission has called for an acceleration of the Capital Markets Union. Several new initiatives are underway and the Prospectus and Securitization initiative are making progress.

The Capital Markets Union (CMU) is a **key building block of the Commission's Investment Plan for Europe**. It seeks to give businesses access to alternative, more diverse sources of funding. It aims to make Europe's financial system more stable and allows capital to move more freely across borders in the Single Market. CMU is due to be fully functional by the end of 2019.

On the occasion of Commission President Juncker's 2016 State of the Union address in the European Parliament, the European Commission set out the **next steps to accelerate the completion of the CMU** in a Communication titled '**Capital Markets Union – Accelerating Reform'.** It is a follow up on the **Commission Action Plan on the Capital Markets Union**. This Communication of 14 September calls for the rapid completion of the first measures proposed under the CMU Action Plan. These are, a.o., the swift implementation of the securitisation package, finding an agreement on the prospectus rules modernization, and finalisation of the proposal to strengthen venture capital markets and social investments by end 2016. The Commission also intends to take forward a programme to support the development of national and regional capital markets in the Member States. The Commission will also consider proposals for a simple, efficient and competitive EU personal pension product (see further). A mid-term review of the CMU is planned in 2017.

Prospectus Regulation

The European Commission presented its **new Prospectus Regulation** on 30 November 2015. The draft regulation is aimed at reducing one of the main regulatory hurdles that companies face when issuing equity and debt securities. It sets out to simplify administrative obligations whilst still ensuring that investors are well informed. On 13 July 2016, the ECON committee voted on the draft report of MEP Petr Ježek, (ALDE, CZ). On 15 September 2016, the **ECON report was voted and adopted in Plenary**. As the Council agreed on 17 June 2016 **a general approach**, the Slovak Presidency started **trilogue discussions** (1st political trilogue upcoming).

Securitisation initiative

The European Commission proposed the Securitisation initiative (**COM/2015/0472**) on 30 September 2015. The initiative will allow securitisation to function as an effective funding mechanism for European markets, while still maintaining a high level of security for investors. The initiative consists of two legislative proposals. One is a proposal to create a Securitisation Regulation (STS) and the other is a proposal to amend the Capital Requirements Regulation (CR). The Council negotiations on the securitisation proposal are finalised. The ECOFIN Council approved the general approach on 8 December 2015. The Council is waiting for the EP to finish its procedure. ECON is the responsible committee for the EP on Securitisation. The STS Rapporteur is Paul Tang (S&D, NL). His draft report has been presented on 21 June. Deadline for amendments was 20 July. The amendments were debated in October. The vote in ECON is scheduled for Autumn 2016 and in Plenary on 13 December 2016. The Rapporteur for the CR proposal is Pablo Zalba Bidegain (EPP, ES). The amendments were tabled in September and debated also early October. The ECON Committee vote is foreseen for December and the Plenary vote for 17 January 2017.

Green paper on retail financial services

The European Parliament's ECON Committee adopted on 12 October an **own initiative report**, **Report on the Green Paper on Retail Financial Services** by MEP Olle Ludvigsson (S&D, SE). The report recommends new measures to help consumers choose retail financial services, protect their rights, and make it clear what their money is invested in. MEPs noted that financial services are becoming more digitalized, consumers are relying more on financial markets for their retirement savings, and retail financial products are being promoted as a source of funding in the European Union's flagship CMU initiative. These factors make it more important for consumers to have a fair, transparent and accessible market for retail financial products. As the Parliament's opinion is non-legislative, it is expected now to move to plenary for final adoption without significant changes. The report should serve as the EP's response to the Commission's Green Paper. The Commission is expected to publish its **Retail Financial Services Action Plan in Q1 2017** (see Commission's WP 2017).

European Venture Capital Funds Regulation

The Commission proposed in July amendments to the European Venture Capital Funds (EuVECA) and the European Social Entrepreneurship Funds (EuSEF) regulations. The **proposal** is aimed to improve existing legislation governing EuVECA and EuSEF. These are funds supporting young and innovative companies or enterprises with the intention of generating positive social impact. The Proposal will amend the regulations in three main ways: extending the range of managers eligible to market and manage these funds; increasing the range of companies that can be invested in by EuVECA funds; and making the registration and cross border marketing of these funds easier and cheaper. The ECON Rapporteur is Sirpa Pietikänen (ALDE, FI). The ECON vote is scheduled for 22 March 2017. A **Council Presidency compromise proposal** was published 24 October 2016.

Call for Evidence

The (first) factual overview of the contributions of the **Call for Evidence** is now available. 50 responses came from insurance and 30 from pension provision respondents. Overall, stakeholders did not dispute the reforms of recent years and many expressed support, highlighting the benefits of the new rules. But some concluded that the legislation is not sufficiently proportionate, hinders the available financing and the compliance burden is too heavy. Commissioner **Dombrovskis** stated that he will "*stick to evidenced based rulemaking by following through on the Call for Evidence."* The Call for Evidence analysis will be worked "*into upcoming reviews*".

EU Macro-prudential Framework Review

One of the CMU Action Plan elements is a review of the macro-prudential framework for financial services. The current macro-prudential framework has evolved incrementally over the recent years, and this piecemeal approach has created **weaknesses in the framework** (large, overlapping toolset of available EU macro-prudential instruments, inconsistent activation of these instruments and a complex process for coordinating these measures). For this reason, a consultation was held from beginning August until 24 October, aiming at aligning the different elements of the macro-prudential framework and ensuring a more effective function. Key is to ensure that the right balance between national flexibility and community control is achieved to **enhance the stability** of the financial system as a whole and to allow EU Member States to address **specific financial stability risks**. This may involve streamlining the toolset of instruments, changing the activation procedures for these instruments, enhancing the role of the ESRB as a macro-prudential hub, and clarifying the SSM's role in the framework. A **Public hearing** on the Review of the EU Macro-prudential framework is planned for 7 November. To register, click **here**. According to the Commission's WP 2017, the strengthening of the effectiveness and efficiency of oversight at macro-prudential level might be part of the ESFS review.

Cross-border Distribution of Investment Funds

The Commission launched a **consultation** in June on the main **barriers to the cross-border distribution of investment funds (UCITS and AIF)** in order to increase the proportion of funds marketed and sold across the EU. Greater cross-border distribution allows funds to grow and become more efficient, allocate capital more efficiently across the EU, and compete within national markets to deliver better value and greater innovation. This consultation closed in October and supports the creation of a CMU, of which a key aim is to foster retail and institutional investment of investment funds. This consultation is part of the Action Plan package and builds upon the replies received from both the CMU consultation and the Commission's recent Call for Evidence on the EU regulatory framework for financial services.

SOLVENCY II

The Commission plans to review in 2018 the SII delegated regulation on selective points and has asked EIOPA for technical advice. It also plans to review the directive in 2020.

Level 1 – Solvency II

According to the **European Commission**, the Solvency II (hereafter SII) and Omnibus II (hereafter OII) directives have been **fully transposed in 27 jurisdictions**, with partial transposition communicated by the Czech Republic. According to Nathalie Berger, head of the Insurance and Pensions unit, the Commission started a **project assessing the quality of transposition** and implementation of SII in the different Member States. That project is expected to be completed in 2017 (first half).

Regarding the review of the **ultimate forward rate (UFR)** methodology, MEP Burkard Balz (EPP, DE) has made it clear that such review referred to in Article 77a of the SII Directive is out of the question and should be part of the later SII review. He reiterated the fact that the current rate was an important part of the political agreement on OII. In its end September meeting, EIOPA' s Board of Supervisors pushed the decision forward to 2017. The Commission has also indicated not to be in favor of such review as SII was only recently implemented and no full year has yet passed by.

EIOPA is prioritising the **on-going monitoring of internal models**, by working on consistency reports on the treatment of sovereign debt, the modelling of the volatility adjustment and market and credit risks. EIOPA is conscious that potential material differences due to diverse national interpretations could have a huge impact in the level playing field and policyholder protection.

Recently, commissioner Dombrovskis **said** that "*the **review of the Solvency II directive is planned for 2020**. It will focus on long term guarantee measures and assess whether these are effective in supporting long-term insurance products such as life insurance*." EIOPA's chairman Bernardino, mentioned 2021: "*The review of Solvency II should follow the structured process envisaged in the legislative texts: by 2018, the review of the Solvency Capital Requirement (SCR) and by 2021, the overall review of the regime, including the treatment of long-term guarantees*." EIOPA proposes to use the 2021 overall SII review to integrate a macro-prudential framework for insurance in SII.

Level 2 - Delegated Regulation

The Commission has sent in July this year its **request for technical advice** on the **review of specific items in the SII delegated regulation** to EIOPA. The Commission is asking EIOPA to work on simplified calculation methods for insurers which should help make **reporting requirements easier (3 items) and on the removal of unintended technical inconsistencies (14 items)**. Advice is expected by 31 October 2017. But the Commission seems to want to use the review for other purposes as commissioner Dombrovskis said*: "We also want to use the review to identify other asset classes where capital requirements could be reduced, if the evidence supports it. For instance, we are considering whether adjustments could be made for privately placed debt and private equity."*

The additional technical advice the Commission asked last October to EIOPA regarding the potential extension of the infrastructure assets definition to "***infrastructure corporates***" has been delivered. EIOPA **answered** the Commission and gave its advice end of June 2016. According to Steve Ryan, deputy head of unit, a proposal is to be expected towards the end of March 2017.

It should be noted that the **Commission is currently preparing its review of the banking capital requirements provisions**, and should publish proposals before the end of 2016. This review will explore lowering the risk weights for infrastructure projects for banks as well as the possibility for all Member States to authorise credit unions outside the EU's capital requirements rules for banks. An impact assessment on the revision of the capital requirement legislation is in preparation.

Level 2 – ITS

The **ITS on the procedures for the application of the transitional measures for the calculation of the equity sub-module** has been adopted early September with several months of delay.

Early October, the Commission adopted the **ITS with regard to the allocation of credit assessments of external credit assessment institutions** to an objective scale of credit quality steps.

Following the amendments to the SII delegated regulation to introduce infrastructure investments and to extend the specific treatment of EuSEFs and EuVECA's to ELTIFs, EIOPA proposed to adjust the **reporting templates** in the implementing regulation for those introductions. The Commission had three months to decide to endorse the proposal of ITS. **ITS 2016/1868 amending and correcting Implementing Regulation (EU) 2015/2450** was published 20 October 2016.

EIOPA plans to release **a final update of the Tool for Undertakings (T4U)** related to XBRL reporting under SII in October 2016. **Solvency II XBRL Taxonomy** is a systematised description of all the SII reporting requirements. It was developed by EIOPA to ensure the harmonised XBRL reporting under SII. The aim of this final update is to support the first cycle of SII reporting during the complete year 2016, by covering the first annual report submission of solo undertakings and groups. The release will be based on the version of the XBRL Taxonomy published on 15 July 2016. This version captures the amendments to the SII delegated regulation that are linked to investments in infrastructure projects. EIOPA will stop supporting the Tool for Undertakings as of 1 July 2017. Insurers should move to market solutions thereafter.

L3 - Guidelines

There are **no new guidelines** released by EIOPA in 2016. There are however new entries in the **Q&A section** on the Guidelines. Answers are of non-binding nature and do not constitute professional or legal advice. They are without prejudice to the discretion of national competent authorities to decide how to comply with Guidelines.

European Solvency II law

Lieve Lowet, partner of ICODA European Affairs has compiled in one code the complete legal **European Solvency II law**. This code is available both in paper and e-book version.

Relevant Technical information for actuaries

On 8 August 2016, the Commission adopted the **Commission Implementing Regulation** (EU) 2016/1376 laying down technical information for the **calculation of technical provisions and basic own funds for reporting** with reference dates from 30 June until 29 September 2016.

The monthly versions of the **symmetrical adjustment** of the capital requirement on equities can be found **here**. The last one dates from September 2016.

New background material (technical documentation, coding, VA calculation examples…) has been published by EIOPA end September. The **latest version** of the technical information on **the risk-free interest rate term structure (RFR)** for September has been published 10 October 2016.

In EIOPA's **Annual Work Programme 2017**, a must-read, published on 6 October 2016, the Authority states that "*The introduction of Solvency II will lead to the* ***availability of undertaking specific detailed and harmonised information to EIOPA****, which will completely change the way it executes its tasks in the area of financial stability, market monitoring and data dissemination. It also entrusts EIOPA to deliver on specific tasks involving processing and analyses of large sets of data, such as the determination of the Risk Free interest Rate curves (RFR). The information framework needed for these tasks will comprise Registers, Central Repository and Business Intelligence (BI) projects*."

Supervisory review process handbook

EIOPA is developing a **handbook of good supervisory practices under SII**. This handbook will come into life through a comprehensive training programme for national supervisors. EIOPA's chair Bernardino indicated in the Public Forum: EU-US Insurance Project on 19 October 2016 that EIOPA would **publish some parts of it next year**. Currently handbook chapters are published in EIOPA's restricted website area. The aim is to have a first 'complete' version of the Supervisory Review Process Handbook (version 1.0) once the areas of Supervisory Review Process and Own Funds are finalised. This will happen probably next year (timing still uncertain). Included are e.g. a chapter on scope of group and group supervision and ORSA (partial chapter).

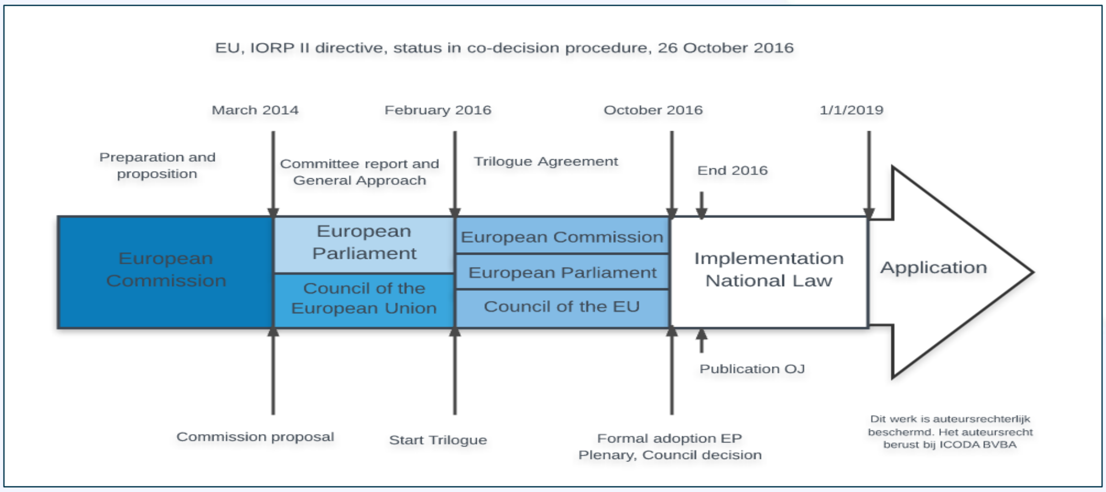
PENSIONS

The IORP directive nears its formal adoption. The Commission's thinking on an EU framework for personal pensions is further taking shape.

Occupational pensions - IORP II

At the end of June 2016, the text of the recast IORP Directive was finalised after trilogue meetings between the European Union's Council, Parliament and Commission. As such it represents a compromise between the aims and ideals of these different bodies and the individual EU Member States. A first-reading plenary vote is expected to take place on 21 November 2016. The main aim of the original Directive ('IORP I') – and a key objective of the new Directive ('IORP II'), at least for the European Parliament's rapporteur, Brian Hayes (EPP, IR) – was to facilitate cross-border pension provision. The Directive is expected to be published in the Official Journal towards the end of 2016, from which point Member States will have two years to transpose its requirements into national law. The precise date will depend on the publication date of the directive in the Official Journal. No further delegated act, RTS or ITS are foreseen in the directive.

The Commission agreed to set up a High Level Group to promote occupational pensions.



EIOPA – Working Programme 2017 on IORPs

On 4 October 2016 EIOPA produced its first Single Programming Document (SPD) in accordance with the new requirements of the European Commission. It consists of two parts. The first part sets up the direction of the development of the Authority and the relevant business strategic objectives and actions for the period 2017 - 2019. The second part outlines the tasks EIOPA is mandated to, and will perform, in the course of 2017.

In the domain of pensions, EIOPA will focus on “building on the quality and availability of data, essential for developing sound regulation that reflects the nature and needs of the sector. **EIOPA** will also play a **crucial role in the implementation of the IORP II Directive, particularly in relation to risk management, governance, information to members and beneficiaries as well as cross-border activities**. Further policy work will be undertaken in the domain of the Holistic Balance Sheet as well as for personal pensions.”

Track and Trace Your Pension in Europe

The final report of the **Track and Trace Your Pensions in Europe project** (TTYPE) to the Commission shows that a cross-border European Tracking Service (ETS) is feasible. But the success of an ETS depends on the willingness of providers and national tracking services to connect. On the basis of the findings in the final report, the TTYPE project has been **asked by the European Commission to take the project one step further towards realisation of an ETS,** building on the results of the first part of the project. Commissioner Thyssen recently **said**: “*Following pension rights accrued in different schemes in different countries remains a challenge. This is why the Commission has supported a preparatory study into the possibilities to set up a European Tracking Service (ETS). The European Tracking Service would provide mobile workers with pension information from different countries. We will follow it up by granting support to the pilot stage of its implementation.”* New partners have joined TTYPE and the new consortium has taken on this challenge.

Personal pensions

Pan-European Personal Pension Product

As part of the CMU Action Plan, the Commission is **assessing the case for a policy framework to establish European personal pensions**. The Commission aims at encouraging more savings into personal pensions to secure adequate revenues for retirement. More investment into personal pensions contributes to a stronger single market for capital through an increase in funds available to finance the economy.

First, the **Commission asked EIOPA for advice**. EIOPA's **Consultation paper on EIOPA's advice on the development of an EU Single Market for personal pension products (PPP) (EIOPA-CP-16/001)** to the Commission was closed for final comments on 26 April 2016. EIOPA's 2nd recommendation, which supplemented the opinion of 2014, came out on 4 July 2016. In the Executive summary of the advice, EIOPA states that it believes that a 2nd regime product for personal pensions is the key to unlocking a truly efficient market, matching long-term retirement savings needs with the opportunities of long-term investments by providers.

The Commission also issued a **consultation** 'Capital Markets Union: Action on a Potential EU Personal Pension Framework' on 27 July, which closes on 31 October 2016. It builds on previous work carried out by the Commission and EIOPA on personal pensions. It seeks views on how to best address the current obstacles within the personal pensions market and will contribute to assessing the feasibility of a potential EU policy framework in the area of personal pensions.

To complement the consultation, the European Commission organized a **Public Hearing on Personal Pensions: Towards a pan-European pension product?** in Brussels on 24 October 2016. The objective of the hearing was to give an opportunity to stakeholders to discuss the issues that prevent the uptake of personal pensions and provide practical suggestions to overcome existing barriers. Vice-President Dombrovskis delivered the opening keynote speech and stated: '*All this work, in particular our analysis of the responses to our consultation and today's hearing, will give us* ***the grounding we need to take this project forward****. It will enable us to establish whether legislation is necessary, and if so, the shape it should take. Our focus will be to find simple and flexible solutions for customers and providers, and support the take up of safe personal pensions across the EU as a* ***complement - not a replacement - to state and workplace pension schemes****. We want to build on existing proven successes which support investment – like UCITS.*' And '*Our analysis will also draw on (EIOPA's) technical advice on the opportunities to develop our personal pensions market and a pan-European product. We will take account of the work in progress to comprehensively assess retail investment markets to get a clearer picture of all consumer investment products and, working with industry, identify ways to improve outcomes for consumers.*' Multiple comments were made on taxation barriers, the potential need for a decumulation part, absolute fee and cost transparency or even a cap, the need for a solid supervision, … In its 2017 WP, the Commission proposes among its **21 key initiatives** a framework for an EU personal pension product (legislative/legislative).

INSURANCE DISTRIBUTION DIRECTIVE

Preparatory work on the technical rules of the Insurance Distribution Directive (delegated acts, ITS, guidelines) makes progress.

The insurance distribution directive (**IDD**), **to be transposed no later than 23 February 2018**, regulates the way insurance products are sold. It lays down requirements regarding the information to be given to consumers before signing an insurance contract, conduct of business and transparency rules on distributors, and clarifies procedures and rules for cross-border business. It also contains rules for the supervision and sanctioning of insurance distributors in case of breach of the Directive's provisions. The IDD is a **minimum harmonisation Directive**. '*In other words, Member States, as they transpose the Directive into national law, cannot do less than what is required under the Directive but they may introduce additional measures if they deem it necessary to ensure the protection of consumers in their market.*' (**BIPAR**).

To support the IDD's implementation, the European Commission and EIOPA are empowered to draft **technical rules to supplement the Directive in a number of areas**. These areas are product

oversight and governance (POG) (article 25 IDD), conflicts of interest (articles 26-27 IDD), inducements (article 29 IDD) and assessment of suitability and appropriateness of insurance-based investment products (article 30 IDD). EIOPA is invited to provide final Technical Advice to the Commission on these areas by February 2017. It consulted stakeholders during the last months.

Box 1: EIOPA and POG

Recently, POG has been a **key focus** of EIOPA, especially in the run up to the Insurance Distribution Directive. POG rules relate to internal approval processes, the identification of target markets for each product together with regular reviews of the products. EIOPA started working on delegated acts on POG via its **Preparatory Guidelines** on Product Oversight and Governance issued in April 2016. These preparatory guidelines are now included in the **consultation on the draft delegated act.**
Besides delegated acts (expected) and preparatory guidelines, **more can be expected**: "EIOPA stands ready to develop Level 3 guidance as a follow-up to ensure a Union-wide consistent approach to the detailed implementation and application of such POG arrangements.
Moreover, further investigations into the functioning of such arrangements and the cultural change POG will bring about in board rooms of industry is foreseen. Such further analysis may be undertaken jointly by staff responsible for conduct regulation and supervisors together, ensuring the necessary expertise and insight to assess compliance." (see EIOPA's Annual Work programme 2017).

Thus, a **consultation on its CP (consultation paper) on Technical Advice on possible delegated acts concerning the IDD** took place and was closed in October, and over 50 answers were received. Stakeholders underlined that '*it is crucial that the delegated acts that will be developed by the European Commission respect the framework that has been* *agreed by the co-legislators at Level 1*' (Insurance Europe), that '*given the substitutability of products covered by IDD and by MiFID II, the starting point should be alignment between the two sets of requirements unless differences in the Level-1 texts exist and there are clearly justifiable reasons for reasons of investor protection to create diverging approaches'* (EFAMA), and that '*the excessively detailed nature of some of the draft proposals which were made by EIOPA in relation to the IDD delegated acts(1) will act as an obstacle to achieving these key objectives'* (BIPAR). The British Institute and Faculty of Actuaries (**IFoA**) and the German Association of Actuaries (**DAV**) also replied.

To prepare an ITS in line with article 20 IDD, EIOPA issued on 1 August 2016 a **Consultation Paper** on the **draft ITS** standardising the presentation format of the **Insurance Product Information Document (IPID)**. The IPID will be provided to the customer prior to the conclusion of a non-life insurance contract and is required by the Directive . The draft IPID has been the subject of 2 phases of consumer testing in Germany, Spain, Romania and the United Kingdom. The consultation period closed on 24 October 2016. EIOPA is required to finalise its IPID proposals and submit them to the European Commission by 23 February 2017, for possible adoption after that.

The IDD also foresees in the development of **guidelines** for the assessment of **insurance based investment products (IBIPs)** "*that incorporate a structure which makes it difficult for the customer to understand the risks involved*" the so-called complex products. The deadline for the development is 23 August 2017 (Article 30(7) IDD). As a first step, EIOPA has been asked to seek the views and input of stakeholders on the scope of the Guidelines and the types of IBIPs that may be relevant for this scope. It did so via a very short online survey which closed 25 September 2016. EIOPA received **10 responses** including from the German Association of Actuaries.

CONSUMER PROTECTION

The European Commission and the ESAs remain committed to consumer protection. There is as of yet no amended RTS on PRIIPs. Supervisors are confronted with many new challenges.

In his first speech to the ECON Committee, Vice President Dombrovskis stated that '*Giving consumers more choice and better quality in retail financial services **will remain a priority** of the Commission*'. Also in **September**, he repeated this mantra: "*None of this work will reduce our focus on strengthening consumer protection and addressing the remaining risks in the financial system."*

Consumer and investor protection is also a **common statutory objective of the three ESAs**. They published regulatory requirements in fulfilment of their consumer protection mandates. These include: a) guidelines or technical advice on product oversight and governance (cfr supra) b) the technical standards for the Key Information Document (KID) under the PRIIPS Regulation, and c) the requirements related to sales incentives and the remuneration of sales staff.

Regulatory Technical Standards on Key Information Documents

The Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPs), applicable as of 31 December 2016, introduces a standardised, easy to understand "Key Information Document (KID)" for PRIIPs, which should facilitate comparison between different products. The Commission proposed a delegated regulation in June, setting the regulatory technical standards (RTS) on the presentation, content, review and revision of the KID, together with the conditions for fulfilling the requirement to provide such documents. That draft delegated regulation was based on joint advice from the ESAs, which was delivered in April 2016.

In a **unprecedented move of disapproval**, the European Parliament, first in **ECON** and then in **plenary**, **rejected by nearly unanimity this draft RTS** in September, and stated that the legislation was flawed and misleading and likely to cost money to investors. In addition, the EP echoed the industry position by calling on the Commission to consider postponing the application date of the Regulation for one year, until 1 January 2018. It stated that such a postponement would provide time to clarify open questions and still reach the goals of PRIIPs. The Parliament expressed concerns relating to, amongst other things, the proposed methodology for the calculation of future performance scenarios, a lack of clarity relating to the treatment of multi-option products and that a lack of detailed guidance on the comprehension alert may create a serious risk of inconsistent implementation across the single market. These items had already been **flagged** as contentious.

The Commission will now have to propose a new RTS for implementing the Regulation addressing the EP's concerns. There will be significant pressure to prepare and approve these new RTS in good time for entry into force together with the Regulation on 31 December 2016, particularly given that the possibility of implementing PRIIPs without finalised RTS was previously rejected by the Parliament's ECON Committee. The desired postponement in implementation of the PRIIPs Regulation now seems a very likely prospect. Such would have to be achieved via a very quick fix directive, which would change the implementation date of PRIIPs.

EBA's Guidelines on remuneration policies and practices

The European Banking Authority (EBA) published on 28 September its **final Guidelines** on remuneration policies and practices related to the provision and sale of retail banking products and services. EBA had previously identified poor remuneration policies and practices as a key driver of miss-selling of financial products and services. The Guidelines aim, therefore, to protect consumers from related risks and to reduce conduct costs for financial institutions. Competent authorities and financial institutions must make every effort to comply with the Guideline. They are intended to apply from 18 January 2018 to align the Guidelines with the revised application date of MiFID2

Automation in Financial Advice

The ESAs have noted the continued increase in the digitalisation of financial services across the banking, insurance and securities sectors. Of particular interest is the phenomenon of automation in financial advice 'Robo advice'. These are the various ways in which consumers can use automated tools (websites) to receive financial advice, almost without human intervention. In December 2015 the three ESA's issued a joint **Discussion paper** on automation in financial advice with a deadline for comments on 4

March. The results highlighted certain risks to the automation of financial advice compared to traditional 'human' professional advice: the risk that consumers could misunderstand advice provided to them without the benefit of a professional advisor to support them through the advice process; the potential for limitations or errors in automated tools; and risks associated with the widespread use of automated advice tools, for example the possibility of a "herding risk" if a significant volume of consumers end up transacting in the same way in relation to the same financial products and services. The three ESAs received more than 50 answers, such as from the AAE. Having analysed the responses received, they are in the process of deciding whether further cross-sectoral action is warranted or needed at this stage. The high number of responses shows that this is clearly a topic of interest to various stakeholders in the marketplace.

Joint consumer protection day

The Joint Committee of the ESAs organised its 4th **Consumer Protection Day** on 16 September 2016 in Paris and live streamed the event. A recording can be found **here**. Gabriel Bernadino, Chairman of EIOPA and the current Chairman of the Joint Committee, opened the day's events with a **welcome address** and Oliver Guersent, Director General for Financial Stability, Financial Services and Capital Markets Union at the European Commission, gave the **keynote speech**.

The remainder of the day was devoted to three panels of **distinguished guests** who discussed some of the key topics facing consumers and regulators today:

- whether the EU has a truly European market for retail financial services yet, looking in particular at the EU passporting regime for financial products and services;
- how Big Data is revolutionising the way products and services are marketed; and
- challenges for supervision, as new EU consumer protection requirements on information for retail consumers, sales incentives and the remuneration of sales staff, are about to enter into force.

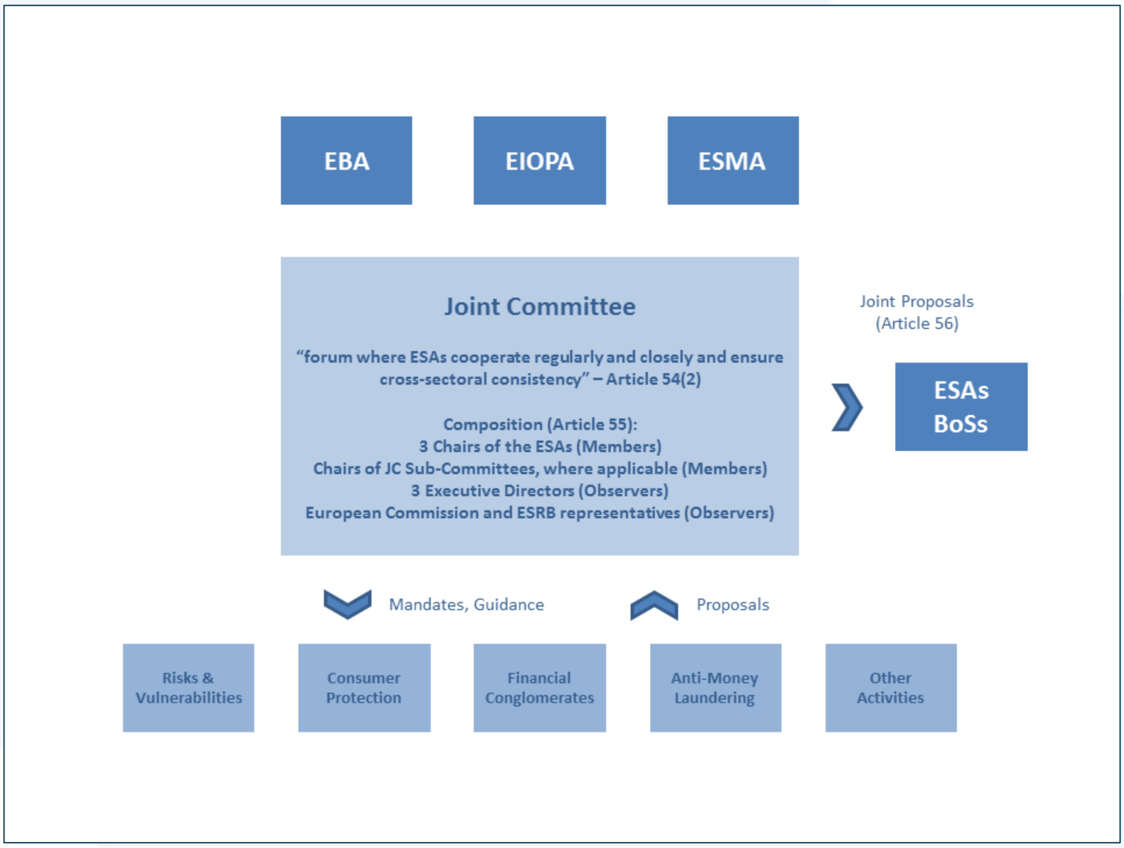
Insurtech

Starting next year, EIOPA will organize a **series of roundtables** dedicated to "Insurtech". EIOPA's objective is to learn from different stakeholders about the evolutions in this area, the benefits and risks for consumers and the potential obstacles to good innovation practices. Ultimately this will contribute to the development of a regulatory framework that promotes the highest standards of consumer protection while not hindering innovation. It should be noted that MEP Cora Van Nieuwenhuizen (ALDE, NL) is preparing an **own initiative report on Fintech**, expected April 2017.

NEWS FROM THE JOINT COMMITTEE

The Joint Committee, now chaired by EIOPA, published its 2017 work programme. Part of their workstream will be to monitor financial stability, Fintech developments but also to cooperate on financial reporting.

The ESA's Joint Committee organisational structure, 2016



Source: ***organisational structure composition tasks***

The Joint Committee published its **2017 working programme** end September**.** Through the Joint Committee, the three ESAs regularly coordinate their supervisory activities in the scope of their respective responsibilities and ensure consistency in their practices.

In 2017 the ESAs want to increasingly take a forward-looking perspective. They particularly aim at assessing more closely cross-sectoral opportunities as well as threats induced by the increasing digitalisation of finance and financial technology, commonly known as Fintech. All work strands of the Joint Committee will be subsequently followed by **a Joint Committee Dashboard**. Furthermore, the ESAs will continue to **cooperate on financial reporting issues** relevant to the banking, insurance and securities sectors.

In light of the cooperation agreement between the European Commission and EEA-EFTA countries, the ESAs will jointly and pro-actively work together to ensure the implementation of the ESAs Regulation as well as financial sectoral legislation.

Furthermore, in view of a European Commission White Paper addressing future funding and governance issues of the ESAs, the Joint Committee stands ready to provide further input and guidance.

More in detail, the Joint Committee will work in 4 areas:

- **Consumer Protection** (such as L3 PRIIPs work in the form of Q&A, continued monitoring of the issue of automation in financial advice, the mapping of rules applicable in banking, insurance, securities sectors relative to cross-border supervision,…)
- **Risk Assessment** (with focus on the Joint Report on Risks and Vulnerabilities to the Council's Economic and Financial Committee's Financial Stability Table for the spring and autumn meeting and ad-hoc teleconferences on evaluating immediate implications of financial market events- and developments of mutual concern, including sharing of relevant information).
- **Anti-Money Laundering** (in this area, the ESAs expect to deliver e.g. the RTS on mitigating risk of third countries' prohibiting the application of equivalent AML/CFT standards; they will organise workshops and training for competent authorities to further embed the risk-based approach to AML/CFT. The ESAs will also continue to take action to respond to AML/CFT issues as they arise, specifically in response to emerging findings from the 'Panama Papers' scandal and the forthcoming revision of the AMLD).
- **Financial Conglomerates** (assist the Commission once the outcome of the latest public consultation is clear, and continue to publish the list of identified financial conglomerates).

BREXIT

The EU institutions have named their key officials in the Brexit dossier. All eyes are now on the UK for its next steps.

The European Commission has set up a **Task Force for the Preparation and Conduct of the Negotiations with the U.K.**. President Juncker appointed Michel Barnier as the chief negotiator in charge of the Task Force and of the negotiations (starting 1 October). Belgian diplomat Didier Seeuws was appointed as the leader of the Brexit Task Force of the European Council. Chairman of ALDE Guy Verhofstadt was appointed as the representative of the European Parliament during the Brexit negotiations. The technical part of the negotiations will probably be handled by the European Commission, while the European Council will handle the political aspects of the talks.

- **Seeuws** is the former chief of staff of European Council President Herman van Rompuy. The Belgian ambassador is known for his ability to delve deep into technical issues, while being able to understand political dynamics. He is said to manage the more delicate side of the talks.

- **Barnier** did not make himself popular in London during his stint as European Commissioner because he tightened regulations for the financial world (especially the bank bonus cap issue). It is expected he will be tough in the negotiations and fight for the benefit of the European Union. But at the same time, he understands financial regulation, including insurance, and the UK's sensitivities in that area.

- **Verhofstadt** has to update the parties in the EP of the developments during the negotiations and consult EP's president Martin Schulz or his successor and the leaders of the parties in the European Parliament.

The EU has maintained that the UK must accept free movement of people, as well as goods, capital and services, if it wants to remain a member of the single market.

British conservative **David Davis** has been appointed as the British Secretary of State for Exiting the European Union. He will lead the Brexit negotiations on behalf of the UK. Davis considers himself eurosceptic and he campaigned for the UK to leave the EU. His staff will consist of people who were a part of the UK Referendum Task Force.

In a statement given on 2 October 2016, British Prime Minister Theresa May said she wants to **trigger Article 50 of the EU Treaty, the only legal route to exit, before the end of March 2017**. Article 50 sets a two-year deadline for a Member State's departure that can only be extended by unanimous agreement of all EU members. Furthermore, May has come up with a proposition for the "Great Repeal Bill", to implement current EU legislation into British law and then repeal the 1972 European Communities Act. If they do this, British parliament would be able to revoke European laws they do not wish to follow any longer. British newspaper The Times warned her that she should not make promises about the UK being able to keep the EU benefits while leaving the Union, believing she is just " throwing the Brexiteers a bone" with these strong statements.

At the 20-21 October 2016 **EU summit** Brexit was not on the agenda. Theresa May did however give a **short Brexit briefing** in which she said that the UK expects to keep a full role at the EU until it leaves the Union. Several MEPs criticized her for this, saying that "*a member who wants to leave the EU should not decide its future*". May also stated that she seeks a mature co-operative relationship with the EU for after the exit. She aims to cement Britain as a close partner of the EU once they have left, with the country able to control its immigration but still trade freely with the EU. This does not rhyme with statements given by Donald Tusk a week earlier where he said that the only alternative to a "hard Brexit" is "no Brexit".

Solvency II

The **UK Parliament launched an inquiry** to the insurance industry and interested parties into SII to prepare the ground for post-Brexit regulatory reforms. The Treasury Select Committee said it wanted to examine the SII regime, which came into force at the beginning of this year, to see whether the Brexit vote meant that there were options for UK insurers. Andrew Tyrie, the conservative chairman of the Committee, said that Brexit provides an opportunity for the UK to assume greater control of insurance regulation. The Treasury Committee will take a look at the Brexit inheritance on insurance to see what improvements can be made in the interests of the consumer. SII will have a lasting impact on British insurance companies, even if the UK will have a looser relationship with the EU. The Committee stated **the UK has several options for its future relationship with the EU**.

ABI

The Association of British Insurers (ABI) set out **five priorities** to make the best of Brexit. These are:

- "Securing a regulatory environment that is appropriate for the UK market.
- Retaining the ability to passport out of and into the UK.
- Closely mirroring the EU data protection regime to avoid a complex mess around how personal and non-personal data is protected.
- An improved future migration policy that enables the employment of high-skilled professionals from both within and outside the EU.
- A strong focus on regulatory dialogue and international agreements in overseas financial service markets."

Director General of the ABI Huw Evans stated that there are many challenges ahead, but if handled right the future for the UK insurance and long term savings industry remains bright.

According to the **British Institute and Faculty of Actuaries, "**For the next five years, and probably longer, the UK public- and private sectors will be in the unprecedented situation of high economic and political volatility. For the UK a time of uncertainty will be maintained. As of the current situation, four policy processes will occur in the next ten years. First, as mentioned before, negotiations will commence between the EU and the UK to cede the UK from the European Union. After the finalization of that process, the UK parliament will need to untangle EU legislation which the UK has incorporated for over forty years. Also will the UK need to arrange new trade deals with both the EU and other nations across the world. The last process for the UK and the EU will be about how the public and private sectors of both will keep on engaging and influencing each other." see also: **IFoA Brexit blog.**

EUROPEAN AGENDA

October 2016	Final update on T4U (SII)	EIOPA
31/10/2016	Deadline consultation 'Action on a Potential EU Personal Pension Framework'	European Commission
07/11/2016	Public hearing on EU Macro-Prudential Framework	European Commission
21/11/2016	Plenary vote on IORP II	European Parliament
December 2016	ECON Committee vote on Securitisation (CR)	European Parliament
13/12/2016	Plenary vote on Securitisation (STS)	European Parliament
End 2016	Proposals regarding the review of banking capital	European Commission
31/12/2016	Application of PRIIPS Regulation	Member States
01/01/2017	Start presidency Malta	Council
First quarter 2017	Action plan on Retail and Financial Services expected	European Commission
17/01/2017	Plenary vote on Securitisation (CR)	European Parliament
February 2017	Deadline submitting technical advice to Commission on IDD	EIOPA
23/02/2017	Deadline submitting IPID proposals to Commission	EIOPA
March 2017	Proposal on amendment delegated act SII re infrastructure corporates	European Commission
22/03/2017	ECON Committee vote on amendment Venture Capital Funds Regulation	European Parliament
April 2017	Proposal for Own Initiative Report Fintech	European Parliament
First half 2017	Report on the quality of transposition SII	European Commission
Mid-term 2017	Mid-term Review Capital Markets Union	European Commission
01/07/2017	Start presidency Estonia	Council
23/08/2017	Deadline publication guidelines IBIP	EIOPA
31/10/2017	Deadline for EIOPA to provide technical advice on SII	EIOPA
2017	Potential decision on review of UFR methodology	EIOPA
2017	Adoption of EU Framework for Personal Pensions	European Commission
2018	Review of SCR (SII)	European Commission
01/01/2018	Start presidency Bulgaria	Council
18/01/2018	Application Guidelines on Remuneration Policies and Practices (banking) on comply or explain basis	EU Banking supervisors
23/02/2018	Deadline Transposition IDD	Member States
01/07/2018	Start presidency Austria	Council
End 2018	Expected transposition and application IORP II Directive	Member States
01/01/2019	Start presidency Romania	Council
01/07/2019	Start presidency Finland	Council
2020	Review of Solvency II Directive with focus on long-term guarantee measures	Commission
01/01/2020	Start presidency Croatia	Council
01/07/2020	Start presidency Germany	Council