



Background – Working party aim

- Commissioned by the Life Board in 2012
 - To understand landscape
 - Impact on actuaries' work
 - Potential gaps
- Published this autumn, and shared with the PRA, more widely in the IFoA and, of course, at this Convention.
- Context for the recommendations in the report.

The agenda - three issues to address

- Extensive areas of legislation being made at EU rather than UK level - PRA unable to embellish or interpret such legislation any further.
- The new (?) legal background of “purposive” interpretation of such legalisation; not the more literal interpretation of the UK courts.
- Possible fragmentation of standard setters, within the EU, the PRA/FCA, the FRC, the Group Consultatif, to name but a few.



Structure of regime and EIOPA powers

Maximum Harmonisation Directive

- Member state options clear, Directive brought into PRA handbook, rest of legislation direct from EU
 - Means PRA cannot expand or interpret
 - SOLPRU CP, PRA references EU regulations, does not expand
 - Interim Measures, PRA accepts or declines, but not expand

EIOPA powers and its workplan for 2014

- Goodbye level 2 and level 3, welcome to technical standards and guidance.



Recap this legislation from the EU level

- Not as Solvency I - a Directive that was taken into UK legislation but the Directive itself rarely looked at again.
- Instead 100 pages of Technical Standards that do not touch, nor is influenced by, the PRA handbook.
- Examples – matching adjustment, risk management systems, capital model standards, role of actuarial function.....



EIOPA powers

- Tension between EIOPA and European Commission, over time EIOPA's influence likely to increase.
- EIOPA's work plan in more detail
 - Issuing guidelines (=law) across very broad front.
 - Involved in Colleges.
 - Joint On-Site Examinations.
 - Centre of Expertise in Internal Models.
 - Enforcement of union law (including decisions on individual firms).
 - Financial stability, crisis prevention, consumer protection.....



Example on internal models

- Group level model approval.
- Step change in standards.
- Opportunity for disparate standards.
- Regulatory approval impacting Pillar 1 not just Pillar 2 conversation.
- Letting go.....



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How does one interpret such legislation

- Continental legal systems, and certainly the ECJ, interpret law as to its avowed purpose – the purposive method.
- In contrast UK courts have normally emphasised the literal meaning of the words, unless that lead to an absurd result.
- In theory PRA handbook already purposive under GENPRU 2.2.1. But when you look at PRA material.....
- So next time you have to understand a twist of the regulatory requirements, what materials should you consult.....



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Materials for interpretation of legislation

- The recitals at the beginning of the directive.
- The recitals to the implementing standards.
- The backing discussion and debate through which EIOPA or the Commission came to the end result?
- The judgements made by EIOPA through colleges, through model centre of excellence, through...
- What will be used by the ECJ to form their judgments?



Example on Actuarial Function

- New to countries/sectors (GI).
- Step change in standards.
- Step change in formalities/status?
- Legislation very focused on key tasks.
- Cross over to risk management and wider fields of expertise.



Standard setters

- EIOPA/Commission – legislation, college intervention, enforcement, setting discount rates.
- PRA - less legislation under its control; considerable approval powers (use of matching adjustment, volatility adjustment, transitional options).
- FCA – wide powers on with-profits (SOLPRU CP language), competition and customer dealings.
- FRC, reviewing the TASs, where next?
- IFoA, Groupe Consultatif, IAA, IASB?



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Working Party recommendations

- Purposive interpretation, materials to reference.
- Rationale for the “Solvency II Regulation” of SOLPRU?
- Ensure publication and transparency of EIOPA driven discount rates etc.
- Strengthen communications to members on changes.
- COBS v. EIOPA v. public appreciation of with-profits fund.
- Library of guidance; managing model standards from GC, IAA; etc.
- Standards decision tree for members.



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Questions

Comments

Expressions of individual views by members of the Institute and Faculty of Actuaries and its staff are encouraged.

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