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Press release

PensionsEurope: EIOPA's four opinions on the implementation of the IORP II Directive do not reflect the minimum-harmonization character of the Directive

Yesterday EIOPA published four Opinions to assist National Competent Authorities (NCAs) in the implementation of the Institutions for Occupational Retirement Provisions - the IORP II Directive.

IORP II sets several new minimum standards for IORPs, including new rules for the governance and risk assessment of IORPs. It allows national governments considerable latitude how to embed these into national legislation. Yesterday's Opinions do not reflect this minimum harmonisation character of the IORP II Directive, as they are too prescriptive and based on a harmonised framework for risk assessment that was rejected by the co-legislators: the Common Framework.

While we welcome the on-going dialogue with EIOPA on this matter, we note that the Opinions do not take on board our concerns, which we repeatedly raised. The IORP II does not include any delegated acts, as the EU co-legislators considered that the IORP II Directive does not need uniform conditions for its implementation. Even though the four opinions are not binding, EIOPA puts pressure on national supervisory authorities by providing detailed guidance, monitoring and following up on implementation. We fear that this will lead to supervisory authorities following the opinions, even when this would not be adequate for their national contexts. The result would be that prudential requirements, that were discarded as inappropriate during the discussions on IORP II, would be introduced through the back door.

We highlight that risk management is essential for IORPs and they should regularly carry out and document their own-risk assessment, in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities. Nevertheless, we are strongly against the implementation of EIOPA Common Framework for risk assessment and transparency of IORPs, as we see many shortcomings on its use[1] and no added value.

Janwillem Bouma, Chair of PensionsEurope, said:

"EIOPA should keep in mind that the IORP landscape is very diverse and national supervisors need latitude to implement the Directive in their domestic context. The IORP II Directive is clear in this regard: it is not appropriate to adopt a "one-size-fits-all" approach to IORPs. While appropriate supervision is key for secure occupational retirement provision, we believe that national supervisory authorities are best placed to decide on the appropriate risk-management framework. The Common Framework was rejected in the debate on IORP II and should not be introduced through the backdoor, leading to unnecessary cost at the expense of pension fund members. PensionsEurope does not see

[1] See e.g. PensionsEurope Position Paper on EIOPA's opinion for Risk Assessment and Transparency for IORPs (September 2016) and PensionsEurope Position Paper on appropriate IORP stress testing methodology (February 2018).

any benefit from EIOPA continuing to work on the Common Framework and is completely against its application in this or any other context."

Specific remarks on EIOPA opinion on ESG risks
PensionsEurope supports the EU's sustainable finance agenda and notes that an increasing number of IORPs have a responsible investment policy. Nevertheless, we take issue with the EIOPA opinion for a number of reasons:

- The Opinion misrepresents the legal framework set by IORP II by indicating that IORPs are required to take ESG factors into consideration as part of the investment policy.[2] However, Article 19 only requires that Member States do not ban the consideration of the impact of investment decisions on ESG factors. Moreover, the Directive explicitly mentions that IORPs can opt-out of incorporating ESG factors in investment decisions[3], which is not mentioned at all in the Opinion.
- The Opinion urges National Competent Authorities to push IORPs towards impact investing when it argues that "NCAs should encourage IORPs to take into account the potential impact of investment decisions on ESG factors in order to support society's sustainability goals"[4]. While there are IORPs that want to make a societal impact, the primary duty of an IORP remains to ensure good pension outcomes for their members. Any societal objectives can be adopted voluntarily, but should not be forced upon pension funds by supervisors.

Matti Leppälä, PensionsEurope CEO/Secretary General said:

"If you invest for the long run like a pension fund, ESG risks like climate change should receive attention as part of risk management. However, it remains up to the pension fund to decide whether the incorporation of ESG factors leads to better risk-adjust returns. We also believe supervisors should not push pension funds towards impact investing. The role of pension funds remains to achieve good pensions for their members and any consideration of societal sustainability objective should remain purely voluntary."

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[2] See point 2.1 of the Opinion of the management of environmental, social and governance risks faced by IORPs.

[3] Recital 58 of IORP II: "Environmental, social and governance factors, as referred to in the United Nations-supported Principles for Responsible Investment, are important for the investment policy and risk management systems of IORPs. Member States should require IORPs to explicitly disclose where such factors are considered in investment decisions and how they form part of their risk management system. The relevance and materiality of environmental, social and governance factors to a scheme's investments and how such factors are taken into account should be part of the information provided by an IORP under this Directive. **This does not preclude an IORP from satisfying the requirement by stating in such information that environmental, social and governance factors are not considered in its investment policy or that the costs of a system to monitor the relevance and materiality of such factors and how they are taken into account are disproportionate to the size, nature, scale and complexity of its activities"**

[4] Paragraph 3.18 of the Opinion of the management of environmental, social and governance risks faced by IORPs.

About PensionsEurope

PensionsEurope represents national associations of pension funds and similar institutions for workplace and other funded pensions. Some members operate purely individual pension schemes. PensionsEurope has **24 member associations** in 18 EU Member States and 3 other European countries[5].

PensionsEurope member organisations cover different types of workplace pensions for over **110 million people.** Through its Member Associations PensionsEurope represents more than **€ 4 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **29 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

What PensionsEurope stands for

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns.

Our members offer

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often “not-for-profit” and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

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[5] EU Member States: Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden, UK. Non-EU Member States: Iceland, Norway, Switzerland.