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**PRESS STATEMENT**

EP KARAS-REPORT ON PENSION FUNDS

**EFRP WELCOMES REINFORCEMENT OF PRUDENT PERSON RULE**

1. Reacting to the EP Report on the pension fund directive, EFRP Chairman Kees van REES, warmly welcomes the explicit reference to "**prudent person rule**" as the basic principle in pension fund management, especially in relation to its investments. He also welcomes the EP amendment to **phase out quantitative restrictions** on investments over a five year period. These two EP amendments to the Commission proposal mark a clear commitment of Parliament to the necessary liberalisation of investment practice of pension funds in those Member States where it is not yet the case.

Van REES wants to highlight this important signal from the EP as the report received substantial support. The EU Council (ECOFIN) should agree this basic principle in pension fund management and supervision. Only under these conditions will pension funds be in a position to deliver the optimal performance they can obtain in financial markets and consequently be a secure provider of pension benefits in the long term.

2. **EFRP also congratulates Mr. KARAS for the swift and relatively short period** in which he has succeeded in securing a large majority for his proposals. They are though a compromise between the major parliamentary groups. The **compromise has come at a high cost** : that of deviating from the financial services logic underpinning the Commission proposal (see below). The EFRP Chairman Kees van REES regrets this development.

3. EFRP is delighted that the Karas-report **anchors the principle of "home state"** supervision into the text. This has been a long-standing principle of EU financial services directives and it should be applied to pension funds involved in cross border activities. Therefore it is surprising that - in line with the EU Commission proposal - the EP continues to make an exception for social and labour law supervision. In this respect, the "host state" competent authority would have supervisory powers, albeit limited, leaving the sanction powers with the "home state" supervisor. This will lead to more red tape, compliance burdens and multiple supervision which in their nature are time consuming and which this directive is designed to eradicate.

It certainly is not the intention of EFRP to propose escape routes from compliance with Member State social and labour law. Neither should it be the purpose of prudential regulation to extend its regulatory provisions into the labour and social law field. But, it should be considered that pension funds simply execute pension schemes designed by social partners or employers, the latter being the subjects of the social and labour law.

4. In the opinion of the EFRP it is certainly an improvement that the **self-employed** have been included in those undertakings that can take out occupational pension schemes.

5. Also welcome is the EP proposal to grant a certain degree of **flexibility** to Member States in defining the **funding requirements and calculation of the solvency margin**. This is particularly relevant in the context of the on going debate, for example in the UK following the Myners review. Potentially the outcome of this debate has far reaching cost consequences for pension funds.

6. Regrettably, the EP has turned its Report into an initiative for a **social policy reform directive** trying to oust the Commission proposal for a financial services directive. **EFRP disagrees with this approach** since it focuses on matters, which are either the responsibility of Member States or of social partners.

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**The EP has erred** by proposing legislation for second pillar pension provision rather than addressing the needs of pension funds as financial institutions. This explains why such proposals occur as:

- compulsory biometric risk option
- compulsory option for guaranteed redemption of contributions
- governance requirements

**EFRP supports the EU Commission** in saying that the directive should not regulate the products offered by pension funds. Nor should it define the precise arrangements for the payment of benefits. In reference to the cover of biometric risks, the directive should not stipulate how and to what extent benefits should be paid out or which biometric risks need to be covered by the IORP. Moreover, the proposals relating to **biometric risk cover and the guarantee on redemption of contributions paid**, are **unworkable**. They will hinder the development of pension funds instead of promoting them. It also demonstrates the EP has not fully grasped the fundamental difference between a DC plan and a DB plan. If an employer does not want to fund or offer a DB plan, then the 'Karas solution' will not turn the DC plan into a DB plan by asking the price for a biometric risk cover or for a guarantee of 'money back'.

7. In view of the EU Treaty bases selected and in the EFRP's view, this directive should be limited to those financial institutions used for the funding of supplementary - including, occupational - pension schemes **that do not yet have an EU level legislative framework for prudential supervision** without interfering with Member State social protection systems or attempting to establish competition standards in occupational pension provision. The **level playing field approach** is a matter to be sorted out at Member State level under the **subsidiarity principle**. This seems logical considering the large variety in structures of social protection and of pension systems in particular.

After having had EU legislation for banking, life insurance and UCITS, a specific legislative framework for pension funds at EU level was overdue. The Commission has supported this view for a long time but modified its position to include also life-insurers in this directive.

The Karas-report not only takes the Commission proposal in a new policy direction but is also designed to give life insurers special advantages when operating in the occupational pensions' market. The EP is inclined to grant life-insurers themselves

the option to decide whether to operate for their pension business according to the life insurance directive or the IORP directive. The life-insurers would be able to decide whether they want to operate such business in a separate legal entity - with full compliance under the IORP directive - or, alternatively to ring fence the "pension business assets" and have a selective set of rules from the IORP directive applied to those ring fenced assets.

On the basis of the EP report in first reading, the EFRP Chairman van REES sees the need for substantial changes. These should involve the re-scaling of the scope of the Directive in line with the Commission proposal and should include the elimination of all benefit related requirements. This is needed if the Directive is to become an effective tool in developing pension funds in the EU and, more in general, to promote occupational pension provision in a cost effective way.

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