

## **European Commission proposal for a Directive on Institutions for Occupational Retirement Provision**

### **EFRP applauds BOLKESTEIN initiative**

In his first reaction, the EFRP Chairman Kees van REES indicated that his federation warmly welcomes the Commission Proposal for a "Directive on the co-ordination of laws, regulations and administrative provisions relating institutions for occupational retirement provision" (*adopted 11 October 2000*). "It is an important step on the way towards creating full cross-border activity for pension funds", he said.

Van Rees said : "This long awaited proposal is most welcome and an impressive step forward by Commissioner BOLKESTEIN". The EFRP fully supports the Commission's objectives and principles as set out in its "Explanatory Memorandum" published together with the Proposal. EFRP is aware that the present proposal is perhaps the most effective and feasible measure possible under present political circumstances.

EFRP recognises the Commission's task has been difficult. It has had to deal with, on the one hand, the wide diversity in basic pension provision (so called "First Pillar Pensions"), and, on the other, an equally rich diversity of institutions used for occupational pensions (so called "Second Pillar Pensions") : the pension funds of the Anglo-Saxon type, industry-wide pension funds, multi-employers pension funds, the German and Austrian Pensionskasse type and not to forget the new breed of Spanish and Italian pension funds.

EFRP is happy to welcome the "European passport" as the key component of the proposed Directive. In future, this passport can be obtained subject to an authorisation procedure prior to any cross border provision of services. The EFRP strongly supports this objective of a "European Passport" which, is based on the idea that a pension fund will be subject to supervision by its home country supervisory authority no matter where it operates in the EU. This is consistent with Community legislation for other financial services industries. However, EFRP feels the authorisation procedure could perhaps be improved.

In addition to the core objective of a "European passport", the EFRP has recognised the following very positive aspects for the further development of pension funds in the EU area :

- *asset allocation regulation will be relaxed in quite a few Member States (e.g. Germany and Austria)*

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- *those Member States with "prudent person rule" will be able to continue using this practice in the same manner as before which is most satisfactory to EFRP. Sooner or later this will put an end to the quantitative supervisory standard that is still in place in several other Member States.*
  - *cross border appointment of asset managers and custodians will become possible*  
This is crucial to build further the single market of financial services. Member States will not be able to prevent asset managers or custodians from other Member States from providing cross-border services.
  - *there is now a proposal that appears to have been tested as to its political feasibility.*

EFRP feels some aspects of the draft directive should be discussed and possibly be reconsidered :

- EFRP has noted with regret that the *solvency margin provision* is identical to that for life insurance. This ignores some basic and objective differences between pension funds and life insurance
- Member States would be able to allow *life-insurance subsidiaries* supplying occupational pension provision to benefit from the investment rules applicable to IORPs yet not be subject to the specific procedure for cross border provision of services by relying on their parent company's "insurance passport". EFRP doubts the practicality of this approach.
- Extending the application of the Directive to cover contracts for cross-border provision of pension scheme services between IORPs (= institutions) and *individuals* as well as between institutions and businesses brings in a retail element. Mixing wholesale with retail makes the regulation more complex and each of them requires a very different approach. In the view of EFRP occupational pension provision should be looked at as wholesale or, in other words, as business-to-business. At the same time, it is obvious though that the provision of occupational pension schemes to self-employed should somehow be covered by the Directive.

The single market for occupational pension provision is a key objective in realising full capital and labour mobility within the EU as underlined in the Lisbon Council conclusions. In the view of EFRP, the Directive, if properly implemented by the Member States, will improve and extend investment options for many pension funds throughout Europe. As pension funds form an under-utilized capital reserve, this proposal once implemented, should provide a boost to European economy.

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The proposed Directive has yet to be approved by both the European Parliament and the Council. This process might take up to two years. After that, Member States are required to ensure their legislation on occupational pension provision is in line with the Directive.

Even if the proposed Directive is fully implemented, the problem of taxation remains the final piece needed to complete the pan-European supplementary pension puzzle. Given the extent of Member State sensitivity on this matter, progress here will not be easy. Yet, the EFRP Chairman van REES noted with pleasure that Commissioner BOLKESTEIN at his press conference showed full awareness of this aspect and promised an initiative towards the end of 2000. This would not only include pension funds – or, institutions for occupational retirement, as the proposal for a Directive terms them – but to EFRP's satisfaction, all providers of supplementary pension schemes (e.g. insurance industry and collective investment funds).

**NOTE :**

This proposal for a directive puts in place one of the last pieces in the patchwork of Community laws on supplementary - note, *not* occupational - pension provision. In fact, in contrast to pension funds, both life-insurance based pension provision and UCITS have already been issued with their own "European passport".

**ATTACHED :**

Information sheet on EFRP

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## **EFRP INFO SHEET**

The European Federation for Retirement provision – EFRP - has developed from national associations who in turn represent company sponsored and industry-wide supplementary pension plans. EFRP represents pension funds that are responsible for **2nd pillar or occupational pension provision**, that is to say those supplementary pension arrangements linked to paid occupational activity, including both employed and self employed categories.

EFRP members are spread over **13 EU-Member States** and 3 EEA countries (Switzerland, Iceland and Norway)

EFRP members provide for the financing of the private occupational pension of **83 million EU citizens**. In some EU Member States, the EFRP members cover 80 % of the membership of occupational schemes in that country (D, E, F, IRL, NL, UK). In Sweden even 90-95 % of the work force is covered by occupational schemes managed by EFRP members.

The EFRP represents pension funds that have **responsibility over the investment** of approximately Euro **2.100 bn.** for future retirement income (1998 figure).

Generally speaking, EFRP members are non profit institutions. EFRP members support the idea of beneficiary involvement in the pension fund governance. In some member states pension funds are governed on a paritarian basis (50 % labour unions or other type of employee representation and 50 % employers representatives).

EFRP advocates :

- that the diversity of financial vehicles to fund occupational pension schemes be acknowledged
- that both 1st pillar and 2nd pillar pension provision can be harmoniously combined to form one single retirement income
- that a proper balance be struck between the protection of pension fund beneficiaries and the efficiency of financing the liabilities
- that pension funds being wholesale consumers have freedom
  - to allocate their assets
  - to appoint their custodians
  - to appoint their asset managersthroughout the EU.

The EFRP promotes best practice in investment strategies and qualitative prudential supervision based on the prudent person rule.

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For a long time EFRP has advocated greater mobility in respect of occupational schemes stressing that taxation provisions constitute one of the major obstacles to the achievement of the single market of labour, including the single market of occupational pensions.