

Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions

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The Commission presents its report on some key aspects concerning Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP Directive).

The IORP Directive had to be implemented by Member States by 23 September 2005.

As of 2007 all Member States had notified their implementation measures, although two infringement procedures for incorrect implementation are still open.

At the request of the Commission, the Occupational Pensions Committee (OPC) of CEIOPS engaged in an extensive fact-finding exercise concerning the actual implementation of the IORP Directive by Member States. CEIOPS submitted the OPC Report to the Commission on 2 April 2008.

With a view to fulfilling the Commission's reporting requirements set out in the IORP Directive, this report sets out the Commission's position on the following key aspects: technical provisions, investment rules, adaptation of national supervisory systems and custodianship. The report is limited to the fulfilment of the Commission's reporting requirement on the four aspects set out in the IORP Directive itself.

Technical provisions: the examination of the calculation of technical provisions underlines that IORPs in the different Member States use different methods and assumptions to determine their technical provisions. This results in significant variations in the size of technical provisions across countries for comparable defined benefit commitments. The Commission is considering whether or not to come forward with a proposal to further harmonise the rules for the calculation of technical provisions in the context of cross-border activities.

Investment rules: the examination identified a number of issues. These include a lack of common understanding of the scope of the single issuer rule, which aims at preventing excessive reliance on a particular asset, issuer or group; and a lack of common understanding of the term 'risk capital markets', which prohibits Member States from preventing IORPs located in their territory from investing in such markets. The findings of the OPC suggest that despite some differences in the application of investment rules, these do not seem to hinder the convergence process towards an internal market and cross-border activities of IORPs. The Commission supports this conclusion, and encourages CEIOPS to continue its analysis in relation to risk capital markets and the single issuer rule.

Adaptation of national supervisory systems: the Commission supports the ongoing work of supervisors not only under, but also on the Budapest Protocol, which is currently being reviewed by the OPC with a view to a public consultation by CEIOPS of a revised version in the first half of 2009.

Custodianship: the Commission encourages enhanced cooperation between IORP Supervisory Authorities and foreign custodian/depositary Supervisory Authorities and stands ready to put forward legislative proposals if needed.

Conclusion: as regards the 4 key aspects on which the IORP Directive requires the Commission to report, the Commission considers that there is no immediate need for legislative change. This report is, however,

limited to the fulfilment of the Commission's reporting requirements set out in the IORP Directive itself. The need for possible legislative changes arising from other issues affecting IORPs, in particular solvency rules is being examined by the Commission separately.

The Commission believes that the IORP Directive has already delivered first results in the establishment of an internal market for occupational retirement provision organised on a European scale. More time is needed for the full effects of the Directive to unfold. At the same time, the examination carried out by CEIOPS has indicated that there is a need to continue the monitoring of several aspects of the IORP Directive.