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PensionsEurope Newsletter 2023/03

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1. Consultation on the IORP II review

The European Insurance and Occupational Pensions Authority (EIOPA) launched a 12-week public consultation to review the IORP II Directive in early March 2023, ending 25 May. Feedbacks received by EIOPA will feed its technical advice on the IORP review which will be delivered to the European Commission by 1 of October 2023. PensionsEurope is currently finalizing its answer to that consultation paper, highlighting the need to preserve a minimum harmonization framework and to consider national specificities. Below are some reflections of our possible position.

First, EIOPA is willing to improve the proportionality principle in the IORP II directive by increasing the threshold for exemption Using the Solvency II framework as a benchmark, EIOPA considers the 100 members' threshold to be low and would like to increase it to 1000. This would leave a sizeable part of IORPs outside the scope of the Directive and undermine the legitimacy of the framework, but it could be helpful for small IORPs. EIOPA other idea is to create a low-risk profile class to benefit from certain proportionality measures, but we are not in favor of going in this direction considering the diversity of the IOPRs. Third idea in changing the proportionality is to remove as criteria the size and internal organization criteria. Proportionality is a key issue for us, and we believe that these criteria should be kept in addition to the nature, scale, and complexity of the IORP.

Acknowledging the lack of cross-border IORPs and a fragmented single market, EIOPA proposes a set of new ideas to deepen the single market for IORPs including a new licensing and registration system.

EIOPA is also referring to possibilities outside the scope of the IORP II directive to develop a single market for pensions. While we agree that supervisory cooperation should be enhanced, we consider that any efforts to promote cross-border activities should not affect negatively cross-border IORPs.

EIOPA's draft opinion also relates to the communication towards members and beneficiaries with the aim to reflect trends since the application of the IORP II directive including digitalisation aspects. EIOPA is considering enhancing the functioning of the Pension Benefit Statement (PBS) by adding new information. We emphasise the cost impact of these requirements and the importance of pension tracking services that are increasingly available as an alternative for PBS.

EIOPA also proposes options on the requirement for DC IORPs to enact long-term risk assessment from the perspective of members and beneficiaries to foster their protection. We believe that while the suggested options for long-risk assessment might address theoretical risks, they might not necessarily address the unique characteristics of various national schemes.

Furthermore, EIOPA is also focusing on adding new sustainability requirements in the IORP directive by following recent developments in the Solvency II framework. EIOPA is willing to integrate the double materiality principle and reflect the stewardship principle within the IORP directive. We are broadly supportive of the envisaged changes, but it is important that any new sustainability requirement are not too burdensome and tailored to the specificities of IORPs.

Finally, EIOPA proposes a policy for IORPs to promote diversity and inclusion by introducing a target for the representation of the underrepresented gender in the management body. We would like to point out that efforts to achieve such goals are already being made at the national level and that any initiative to implement such objectives should take into account the principle of subsidiarity.

2. CSDDD

On April 24, the European Parliament's JURI Committee voted its report on the Corporate Sustainability Due Diligence Directive by 19 votes in favor, 3 against, and 3 abstentions. IORPs of more than 250 employees and 40 million euros turnover in the last financial year are in the scope of the EP report. For the value chain for the financial undertaking, MEPs have chosen to include activities of the clients directly receiving the financial services under a contract.

MEPs also added a provision for institutional investors and asset managers to request them to induce their investee companies to bring actual adverse impacts caused by them to an end. The European Parliament's position will be voted on June 1 in a plenary session. As the Council of the EU already established its general approach in December 2022, trilogues are likely to start in early July under the Spanish presidency.

3. EMIR

In December 2022, the EC published the proposal on the EMIR amendments. The main points of the proposal that we identified are the following:

- Article 4 introduces an exemption from the clearing obligation where an EU financial counterparty or a non-financial counterparty, subject to the clearing obligation under EMIR, enters a transaction with a pension scheme arrangement established in a third country which is exempted from the clearing obligation under its national law.

- Market participants, which are subject to the clearing obligation, need to have an active account at a European Clearing House.
- The responses from the consultation of the European Commission highlighted that potential actions from the ECB and national central banks are necessary to secure financial stability.
- Costs need to be at a minimum for end users/customers of European Clearing Houses.
- The products offered and clearing models used need to be expanded by European Clearing Houses.
- 5 years after entry into force of the EMIR review a thorough evaluation needs to take place with a focus on the attractiveness of European Clearing Houses.
- The clearing exemption seems to stay effective for transactions with pension funds which are exempt in their jurisdiction.
- Derivatives which will be in scope in the future shall be subject to the active account requirement at European Clearing Houses.
- Customers/end users need to be informed they can clear at European Clearing Houses.
- It will be easier for European Clearing Houses to extend their product offering and clearing models.
- ESMA will get more power to deal with crisis situations. Central banks can now attend crisis meetings.
- Transparency from clearing members towards their clients regarding (possible) margin calls needs to increase.
- Collateral requirements regarding bank and public guarantees have been relaxed.
- The report required by 2 January 2023 is removed.

Based on members' comments, we prepared and circulated the third draft of PensionsEurope's position paper on EMIR amendments to establish our positions on the upcoming discussion in the European Parliament and the Council.

Our position paper is focusing on the following issues:

- Liquidity challenges
- The Active EU account.
- Fixed proportions
- Reporting to the Authorities
- Changes to Investment Company Directive

4. The ESA's Joint Consultation Paper - Review of the SFDR Delegated Regulation regarding PAI and financial product disclosures.

The European Commission has mandated the three European Supervisory Authorities (EBA, EIOPA and ESMA - ESAs) to review and revise the Regulatory Technical Standards (RTS) in the SFDR Delegated Regulation with the aim of broadening the disclosure framework and addressing the technical issues that have emerged since the SFDR was originally agreed.

On 12 April 2023, the ESAs published the consultation paper on ***the Review of SFDR Delegated Regulation regarding PAI and financial product disclosures*** and invited for comments.

In this consultation, the ESAs are proposing the following changes to meet the EC's request:

- Defining new social indicators on how to improve and extending the list of social indicators for principal adverse impacts.
- Refining the content of other indicators for adverse impacts, their definitions, methodologies, metric, and presentations.
- Amending the decarbonisation targets as the current definition of sustainable investment in article 2(17) of the SFDR leaves significant discretion on how investment qualify as sustainable and how to disclose them.

In addition to the EC's request, the ESAs went beyond their initial proposal and made further suggestions:

- Considering more specific disclosures requirements regarding "do not significantly harm" the environment and society under PAIs for sustainable investments.
- Simplifying financial product templates.
- Making other technical adjustments, e.g., general principles on how to present the information, guidelines to deliver pre-contractual and periodic disclosure electronically.

The deadline for answering is 4 July 2023.

We postponed our internal deadline for comments to June 2023. Depending on the members' feedbacks, we will or not answer the relevant questions for our members of the consultation.

5. 14th Annual World Pension Annual & Transatlantic Conference

The 14th Annual World Pension Alliance & Transatlantic Conference will take place on **14 – 16 June 2023** in Boston, Massachusetts, United States. This is a physical event, which is organised by the National Coordinating Committee for Multiemployer Plans, one of the members of the World Pension Alliance (WPA). PensionsEurope is a member of the WPA and a participating association in the organisation of this event. WPA is a collective organisation comprised of the main associations representing pension plans and providers throughout the World.

The World Pension Alliance and Transatlantic Conference brings together thought leaders and policy makers from around the globe to discuss the trends and best practices in retirement and healthcare benefits, as well as the state of labour/management relations and bargaining throughout the world.

The WPA conference will take place on the first day of the conference (14 June 2023) and focus on topics in pension. The second and third day of this event (15 – 16 June 2023) will be dedicated to health care issues and collective bargaining. More on the programme is available here.

This event is a great opportunity to meet and exchange best practices with prominent stakeholders in pensions in the world. We encourage members to join us in Boston for this event. Registration is available here.

6. CEEC Forum 2023

The CEEC Forum 2023 *''Outlook and opportunities for CEEC Pension Markets''* will take place on **10 October 2023** in Sofia, Bulgaria. The conference is hosted by our Bulgarian member, the Bulgarian

Association of Supplementary Pension Security Companies (BASPSC) and organised in partnership with IPE.

This will be a high-level event with a full day programme. We will especially focus on the recent developments in funded pensions in the CEE region, best practices in the region with the introduction of the euro and the pay-out phase solutions, auto-enrolment as a solution to increase coverage, and the development and compliance of pension funds to ESG requirements in CEE countries. We will send a first save-the-date at the end of May.

7. Corporate and Supporter Members Seminar 2023

The Corporate and Supporter Members Seminar 2023 ‘’*Lessons and priorities in EU financial services – What's important for pensions?*’’ will take place on 15 November 2023 between 14: 00 and 17: 00 in Brussels. This will be a physical event, which will be followed by a reception and a dinner for members.

The C&S seminar is organised annually for our Corporate and Supporter Members. The first part of this event will discuss and take stock of the current mandate of the von der Leyen Commission in financial services. The second part will focus on the consultation of the IORP II review and what can we expect to follow.

We aim to invite speakers from the European Commission and EIOPA that will be able to exchange with our members on these issues. We will send a first save- the – date at the end of May.