PensionsEurope Newsletter 2024/02

1. Framework for financial data access (FIDA)

A. Council

The last meeting on FIDA took place on 10 April 2024 to discuss a German Non-paper referring to the gradual applicability of FIDA by data categories. Member States broadly supported the legislator-led approach on data gradual applicability. Compared to the EP ECON position, there was no consensus among MS on preventing gatekeepers from being eligible as FISPs. After that meeting, MS circulated written comments to the Belgian presidency.

PensionsEurope finalised on 12 April 2024, a statement to react to the European Parliament's amendments to FIDA EC's proposal. We advocate excluding IORPs and pension schemes that are not accessible to all interested consumers. This document has been shared with the Belgian presidency and Luc Rochtus, the ECR policy advisor.

The next Council meeting will take place on 16 May 2024 to discuss; 1) a French non-paper on "How to tackle the risk of demutualisation", 2) the gradual applicability of data, 3) gatekeepers and safeguards, 4) the exclusion of third-country FISPs and 5) drafting suggestions.

In their consolidated drafting proposals paper, the Belgian presidency introduced an amendment to restrict the scope of FIDA as regards pension rights in occupational pension schemes, which aligns with the changes made by the EP ECON committee in its report, by excluding pension schemes that are not accessible to all interested consumers.

B. European Parliament

The EP ECON committee voted on 18 April by 43 votes in favor, 1 against, and 0 abstentions on its report. The EP report includes Article 2(1), point c, and Article 2(2), point k, provisions to exclude IORPs and pension schemes that are not accessible to all interested consumers.

Next steps

The next EP in a plenary session will need to endorse the ECON report to have the EP position. This is likely to take place in September or October 2024.

The Belgian presidency will have mid-June 2024 a last meeting on FIDA, before delivering a progress report.

2. Digital Operational Resilience Act (DORA) level 2 & 3 measures

Second batch policy products

PensionsEurope met EIOPA with members on 24 April 2024 to discuss our concerns as explained in our answers to the consultation of the ESAs on the second batch of DORA policy products (4 RTS, 1 ITS & 2 Guidelines). PensionsEurope's answers highlight the lack of proportionality of draft level 2 and 3 measures which would put excessive burdens on IORPs, especially given the short timeframe left before the application of DORA, planned on 17 January 2025.

First batch policy products

The following texts were adopted by the EC on 13 March 2024; 1) RTS on the classification of ICT-related incidents, 2) RTS on ICT risk management framework, and 3) RTS to specify the policy on ICT services. Those adopted texts are on substance not that different from the final reports from the ESAs.

ESAs voluntary "dry run" exercise

ESAs organised on 30 April 2024, a public event regarding the launch of a voluntary exercise that aims to help financial entities prepare for establishing their register of information. ESAs prepared some technical tools such as an Excel-based template to facilitate the exercise.

Next steps

ESAs will submit their final reports on the second batch of policy products to the EC by 17 July 2024.

Furthermore, once the scrutiny is over and if the texts adopted by the EC are not objected to, the texts will be published at the OJEU, likely in the third quarter of 2024. Regarding the ITS on the register of information, the Commission is expected to adopt it as soon as possible, to ensure a smooth implementation of the DORA framework.
Regarding the "dry run" exercise, ESAs indicated that financial entities willing to join the dry run exercise should reach their competent authorities by 31 May 2024.

3. Withholding taxes (FASTER)

Council

The Belgian presidency made FASTER a priority which translated into extensive work, leading them to circulate 6 compromise texts that followed the first 4 that had been circulated by the Spanish presidency. PensionsEurope met the presidency on 25 March 2024, together with other industry representatives to raise our views, according to our latest document on FASTER which was published on 12 February 2024.

The 10th compromise text published on 8 May 2024; 1) kept the widening the definition of CIU to non-EU regulated funds as compared to the EC proposal and 2) also introduced exemptions for IORPs and UCITSs regarding a safeguard clause that excludes investors from fast-track procedures based on the amount of dividend payment, with a 100,000-euros threshold.

During the COREPER meeting that took place on 8 May 2024, Poland, Italy, and the Czech Republic opposed the text. This text was discussed during an ECOFIN council meeting that took place on 14 May 2024. At the time of writing, the outcome was not known.

4. FSB's consultation report on liquidity preparedness for margin and collateral calls

In April 2024, the Financial Stability Board (FSB) published a consultation report on liquidity preparedness for margin and collateral calls. This consultation report sets out proposed policy recommendations to enhance the liquidity preparedness of non-bank market participants for margin and collateral calls in centrally and non-centrally cleared derivatives and securities markets (including securities financing such as repo).

The FSB's eight policy recommendations in this consultation report cover liquidity risk management and governance, stress testing and scenario design, and collateral management practices of non-bank market participants, focussing on liquidity risks arising from spikes in margin and collateral calls, including under extreme but plausible stressed conditions.

The proposed policy recommendations cover both centrally and non-centrally cleared derivatives and securities markets and apply to a broad range of non-bank market participants that may face margin and collateral calls, including insurance companies, pension funds, hedge funds, other investment funds and family offices, and non-financial entities, such as commodities traders.

The recommendations are intended to build on and complement rules and regulations for liquidity risk management and governance that already exist in many sectors and jurisdictions. See below for more details:

- Recommendations 1 to 3: liquidity risk management practices and governance

  - Recommendation 1 sets out the need to include liquidity risk arising from exposures to spikes in margin and collateral calls in liquidity risk management and governance frameworks.

- Recommendation 2 sets out the need for establishing liquidity risk appetites for margin and collateral calls as well as contingency funding plans to ensure liquidity needs can be met.
- Recommendation 3 sets out the need for regular reviews of liquidity risk frameworks to ensure ongoing effectiveness in mitigating liquidity risk exposures to spikes in margin and collateral calls, including during times of stress.

- Recommendations 4 and 5: liquidity stress testing and scenario design

  - Recommendation 4 sets out the need for conducting liquidity stress tests with respect to margin and collateral calls to identify the sources of liquidity strains and ensure the calibration of adequate, diverse and reliable sources of liquidity and collateral, consistent with the market participants' risk appetite.

  - Recommendation 5 calls for liquidity stress tests to cover a range of extreme but plausible scenarios, including both backward-looking and hypothetical.

- Recommendations 6 to 8: collateral management practices

  - Recommendation 6 sets out the need for resilient and effective operational processes and collateral management practices.

  - Recommendation 7 sets out the need for sufficient levels of cash and readily available and diverse liquid assets and collateral arrangements to meet margin and collateral calls.

  - Recommendation 8 sets out the need for active, transparent, and regular interactions with counterparties and third-party service providers in collateralised transactions

Next steps

The deadline for the consultation is 18 June 2024. No feedback from members received so far. The second reminder will be sent in due time.

5. Credit Ratings Agencies Regulation

On 2 April 2024, **ESMA published** **a consultation paper on the proposed revisions to the Commission Delegated Regulation No 447/2012 and to Annex I of the Credit Rating Agencies Regulation (CRAR).**

The goal of the amendments is to improve the integration of ESG factors in the credit rating methodologies and disclosures to the public, as well as the transparency and credibility in the credit rating process.

ESMA proposes changes to (i) ensure that ESG factors within credit methodologies are subject to systematic documentation, (ii) enhance disclosures on the relevance of ESG factors in credit ratings and outlooks, (iii) deliver a more robust credit rating process through the consistent use of credit rating methodologies.

We asked the WG FMR and LTSI for preliminary comment and will reply to his consultation. The deadline is 21 June 2024. ESMA will submit its Technical Advice to the European Commission in December 2024.

6. Standing Committee Future of Pensions Report– ''Road to DC: understanding the shift''

On 25 April 2024, we published the paper, "Road to DC: Understanding the Shift'' prepared by the Standing Committee Future of Pensions. This report analyses the transition from DB to DC schemes across Europe and offers practical solutions for providing adequate retirement provisions in an increasingly DC-centric landscape.

DB and DC schemes vary significantly among Member States, with no one-size-fits-all approach. To streamline discussions, the paper uses the OECD's DB and DC scheme taxonomy.

While some nations have long embraced DC schemes, others are just beginning to transition. General factors such as demographic changes and accounting standards, along with country-specific reforms, contribute to this move toward DC. Despite this shift, DB schemes still remain prevalent in Europe.

The shift to DC schemes increases risk for employees, potentially impacting pension adequacy. Factors like low contributions or poor decision-making worsen these risks. However, risk exposure varies by scheme type. Collective Defined Contribution (CDC) and hybrid models offer better risk-sharing. The advantages of DC schemes should also not be overlooked, especially for employers seeking cost predictability.
Despite differences in DC frameworks among member states, common themes emerge. The paper advocates for key principles, spanning from robust scheme design to comprehensive decumulation options, and tailored legislation to national contexts. Striking a balance between regulation and efficiency is crucial to safeguard members' interests and streamline administrative processes.

Ultimately, the focus remains on ensuring secure retirement outcomes, offering support throughout the pension journey, and optimising costs for participants.

7. World Pension Alliance Annual Conference 2024 – 18 June 2024

The World Pension Alliance Annual Conference will take place on 18 June 2024 online.

This year's theme is "Transition in the World of Pensions". With half of the world's population heading to the polls, we will explore how these shifts are likely to impact pension funds and retirement benefits worldwide.

Additionally, the conference will focus on sustainable finance, which has surged to the forefront of agendas across the globe. Despite its prominence, concerns regarding ESG-pushback and regulatory fatigue are increasing. We will examine current trends and identify future trajectories.

This FREE event is open to everyone and offers a good opportunity to stay informed about the landscape of funded pensions worldwide. Registration is available here.