BACKGROUND NOTE TO JOINT PRESS RELEASE

EMPLOYERS, WORKER AND INDUSTRY REPRESENTATIVES:
"COMMISSION SHOULD RECONSIDER PLANS ON OCCUPATIONAL PENSIONS"

EU pensions policy and the IORP review

On 1 March 2012, the European Commission will launch a process to review European pension fund regulation when Michel Barnier, European Commissioner for Internal Market and Services opens a Public Hearing on the review of the "IORP Directive". The Commission aims to make important elements of the Solvency II legislation for insurance companies applicable to pension funds across Europe. This objective is repeated in the Commission's White Paper on Pensions.

The Commission issued its Call for Advice on the review of the IORP Directive to the European Insurance and Occupational Pensions Authority (EIOPA) on 30 March 2011. The Commission indicated that it wishes to review the IORP Directive for three reasons: first, there are less than 80 IORPs operating cross-border in the single market for occupational retirement provision. Second, there is a need for risk-based supervision. Third, it wishes to modernise prudential regulation for IORPs that operate DC schemes. Based on the structure of the Solvency II framework for insurance companies, the Call for Advice covered 1) quantitative requirements for IORPs 2) qualitative requirements for IORPs 3) information and disclosure requirements for IORPs.

EIOPA responded to the Commission on 15 February 2012 after holding a stakeholder consultation to which approximately 170 stakeholders responded. In its technical Advice on the Review of the IORP Directive, EIOPA replied to the Commission's questions on 23 separate topics. EIOPA will hold a Quantitative Impact Study this spring, before the Commission publishes its proposal for a revised IORP Directive (expected at the end of this year).

The White Paper on Pensions, published by the European Commission on 16 February 2012, sets the European pension policy agenda for the coming years and contains 20 concrete proposals. Like the broad Green Paper consultation of 2010/2011, the White Paper is concerned with keeping pensions safe, sustainable and affordable by achieving fiscal sustainability and improved public finances. The proposals are centered around three themes: balancing time spent in work and retirement, developing complementary private retirement savings, and deploying EU instruments in the field of pensions. One of the 20 proposals is to review the IORP Directive "…to maintain a level playing field with Solvency II" (proposal 11).

We believe that it is dangerous to apply legislation made for insurance companies to pension funds. There are fundamental differences between them. Any effort to harmonise the regulatory regime is based on flawed logic and could have unintended consequences on pension plan members, IORPs and the economy as a whole by impeding growth and job creation.

Our call

We therefore call on politicians in Brussels and the European capitals to keep workplace pensions in Europe adequate and sustainable: this is crucial given the increasing role of occupational pensions in providing retirement benefits to European citizens now and in the future, as the population grows older and particularly as state budgets suffer from the impact of the crisis. As regards the safety of pension schemes, we strongly disagree with the Commission's implicit assumption that Solvency II capital rules are the best way of achieving this objective.

Fundamental differences

Pension schemes are fundamentally different from insurance products due to their long-term liabilities, the absence of competition between pension schemes, their generally not-for-profit nature, and because mechanisms exist to adjust contributions, indexation or benefits over time, if needed. Moreover, in contrast to insurance products, pension funds often have a collective character, e.g. they are supported by a collective agreement negotiated by employer and employee representatives or have the specific characteristic of an employer covenant. Often, they are even managed by the social partners themselves. Finally, pension funds tend to have a long-term investment horizon. The European Commission's "same risks, same rules" argument in order to create a "level playing field" between pension funds and insurance companies is therefore fundamentally flawed.

Impact on pension provision, growth and financial stability

Adopting the quantitative solvency II rules made for insurance companies to workplace pensions would produce three important adverse effects. First, the new risk-based capital requirements and new valuation methods would oblige pension funds to build up higher reserves, raising the cost to employers of providing occupational pensions. This would force employers to close their existing Defined Benefit schemes and divert money away from growth-enhancing investments. Second, pension funds are important institutional investors that have a positive role on financial markets through their long-term investments. Under the new rules pension funds would likely de-risk their asset allocation, making available less capital to companies to create growth and jobs. Businesses are already experiencing difficulties getting access to credit during this period of economic turmoil. Third, for the market it would be very negative when all investors with long liabilities have to invest under the same rules, even if their structure is very different. This would lead to a very similar behaviour of all market participants which would increase volatility and contribute to systemic risk.

Safety and diversity of pension systems

Given that occupational pensions are expected to cover more and more working people in the coming years, these efforts are aimed at strengthening pension fund governance and to improve the communication to pension scheme members and national supervisory authorities. The objective of these initiatives is to help strengthen trust in pension schemes, in particular where scheme members bear the risks. We need pension funds to be safe and to deliver, but this does not mean that new solvency rules are needed. Member States have different traditions and regulatory frameworks for pensions, with different safeguards and adjustment mechanisms. Furthermore, applying Solvency II general governance requirements would not

reflect the differences in business models and backgrounds among IORPs, between IORPs and insurance companies, and between Defined Contribution and Defined Benefit schemes, and create additional burdens and cost for many schemes.

Next steps

We urge Commissioner Barnier and the European Commission, supported in its work by the European Insurance and Occupational Pensions Authority (EIOPA) to recognise the important issues at stake before making a proposal for a revised IORP Directive, in particular the existence and adequacy of retirement provision to millions of workers, the importance of the long-term economic growth objective pursued by the EU2020 Strategy and the diversity of existing risk-mitigation security mechanisms authorized at national level and used by IORPs. We urge the European Commission to reconsider its plans and to create an environment that stimulates workplace pension provision. The impact of any new proposals must be measured through high-quality Quantitative Impact Studies, including an assessment of the social, financial and economic effects of any proposed rule changes and their macro-economic effects. A high-level political debate is also required with involvement from all the relevant stakeholders, most notably the European social partners.

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