

IORP 2

Proposed Amendments

Pensions Committee
London, 8 April 2016

Duty of care (art 3A (new), Parliament)

- In case of cross-border transfer EIOPA shall assess:
 - Systemic risk to the Union
 - Long-term interests of members and beneficiaries
 - This text pops up on various places throughout the Directive

Small pension institutions (art 5.1, Parliament)

- <100 members *or* < € 25 million technical provisions

Main administration in same Member State as its registered office (art 9.4 (new), Parliament)

- Only Cross-border IORPs in large (DB) Member States?

Cross-border transfers (art 13.1.b (new), Commission)

- Subject to approval by:
 - The members and beneficiaries
 - Or their representatives
 - The sponsoring undertaking

Technical provisions (art 14.4.da (new) Parliament)

- *“where the institution changes the method and basis of calculation of technical provisions, it shall provide a **full explanation of the impact of the changes** on technical provisions to members and beneficiaries.”*

Available solvency margin (art 17.1, Parliament)

- Parliament suggests to add “*In order to ensure **long-term sustainability** of occupational pension provision ...*”

Investment rules (art 20.1.aa (new), Parliament)

- “*the ‘prudent person’ rule shall not prevent institutions from taking into account the potential long-term impact of investment decisions on **environmental, social, governance or ethical** factors*”

Investment rules (art 20.1.b.2, Parliament)

- “*... taking into account the objective of ensuring the **intergenerational balance** of the pension scheme*”

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- “*... taking into account the objective of ensuring the **intergenerational balance** of the pension scheme*”

General governance requirements (art 22.1, Parliament)

- Parliament suggests to add *“The system of governance shall require **environmental**, **social** and **governance** factors related to investment assets to be considered in investment decisions, shall **involve relevant stakeholders** and shall be subject to regular internal review.”*

General governance requirements

(art 22.3, Council + Parliament)

- Both Council and Parliament add *“**actuarial activities**” to risk management and internal audit that need written policies*

General governance requirements (art 22.4-6, Council)

- Council suggests to **delete** the requirement to have an **internal control system**
- Council suggests to add **to allow that only one person runs the institution**
- Parliament agrees if **role of social partners** in the management is taken into account

Remuneration policy (art 24.1, Council + Parliament)

- Council and Parliament suggest to **extend this to the key functions and staff with a material impact on the risk profile** and not to limit it to those who run the institution

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Remuneration policy (art 24.1, Council + Parliament)

- Council and Parliament suggest to **extend this to the key functions and staff with a material impact on the risk profile** and not to limit it to those who run the institution
- Council further likes to add quite some detail on the remuneration policy

Key functions (art 25.1, Council)

- Council suggests to add an internal control function to the risk-management function, internal audit function and actuarial function

Whistle blowing (art 25.6, Council + Parliament)

- Council suggests to delete requirement to inform the competent authority
- Parliament suggests to inform *“of any finding that could have a significant impact on the interests of members and beneficiaries.”*

Risk management (art 26.1, Council+ Parliament)

- Both Council and Parliament suggest to include text on proportionality: “... *in a manner that is appropriate to their size and internal organisation, as well as the nature, scale and complexity of their activities, ...*”

Risk Management (art 26.2.fa, Parliament)

- Parliament adds to the coverage: “*social and environmental risks relating to the investment portfolio and the management thereof.*”

Internal Control (art 27, Council + Parliament)

- Proportionality
- Independency

Actuarial Function (art 28, Council + Parliament)

- *“Where the institution itself provides cover against biometric risks or guarantees either an investment performance or a given level of benefits”* replacing “where members and beneficiaries do not bear all the risks”

Risk Evaluation / Own Risk Assessment (art 28)

- Both Council and Parliament talk about “**own risk assessment**”. Parliament suggest to change the title accordingly
- Both stress proportionality
- Council proposes a quite detailed list on the scope and removes the delegated act article (art. 29)
- Parliament keeps it more high level and adds **intergenerational balance** again (also removes art. 29)

Appointment of a depository (art 35)

- Both Council and Parliament soften the requirement to appoint a depository
 - Council: *“Member States may decide not to apply”*
 - Parliament: *“Member States may require”*

Information - Principles (art 38)

- Council: taking into account *“... the administrative burden involved”*

Information – Conditions of the pension scheme (art 39)

- Council adds a detailed list of what information should be included

Information – Pension Benefit Statement (art 40.a (new))

- Parliament summarises requirements in one article:
 - Accurate and updated, free of charge (40.a.2)
 - Material change compared to previous year (40.a.3)
 - Full or partial guarantees (40.a.5.1c)
 - Pension projections (40.a.5.1d)
 - Investment profile (40.a.5.1e)
 - Accumulated entitlements, contributions, breakdown of costs (40.a.5.1f)
 - Past performance (40.a.5.1g)
 - *“Member States shall exchange best practices”* (40.a.6)

This would replace many articles that were proposed by the Commission. The delegated act article (art. 54) is removed.

Council’s proposal similar but shaped differently.

Prudential Supervision (art 59)

- Council: *“to pursue the protection of the rights of members”*
- Parliament: *“... and the stability and soundness of the institutions.”*

Evaluation and review (art 75)

- Parliament suggests to consider in particular:
 - the adequacy of this Directive from a prudential and governance point of view (art 75.2.a)
 - cross-border activity (art 75.2.b)
 - impact on the stability of the institutions (art 75.2.c)
 - quantitative requirements applicable to institutions (art 75.2.d)
 - pension benefit statement (art 75.2.e)