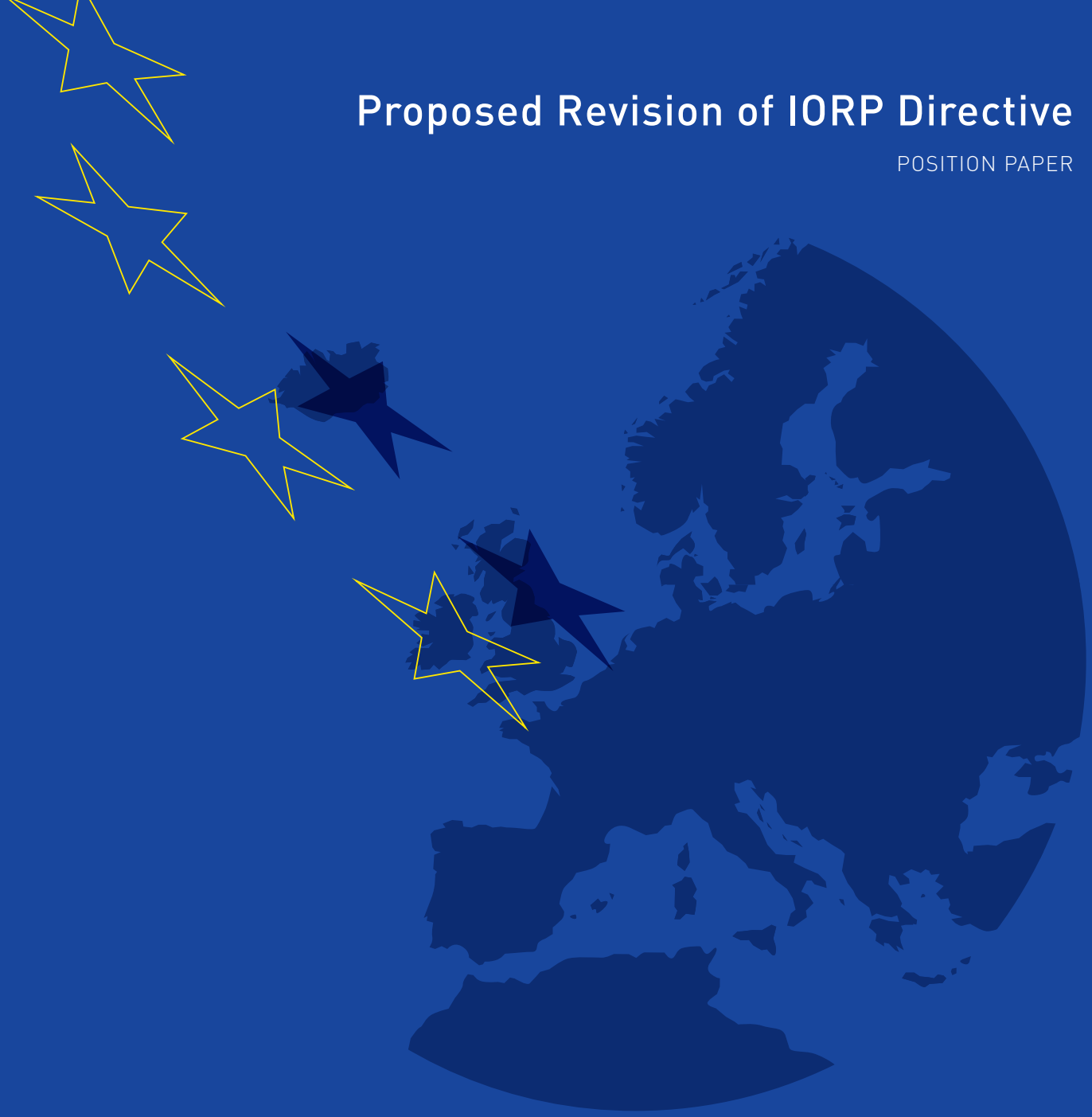
Proposed Revision of IORP Directive

POSITION PAPER



ACTUARIAL ASSOCIATION OF EUROPE

NOVEMBER 2015

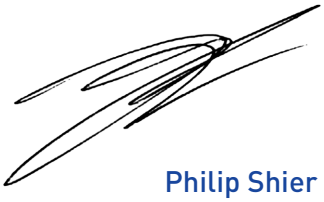
Foreword

It is well-known that the European Union faces a major challenge in ensuring adequate retirement income for its citizens. The Actuarial Association of Europe ("AAE") has a key role to play in informing policymakers and other stakeholders on this issue, in line with our vision "to be the leading quantitative professional business advisers in financial services, in risk management and in the financing of social protection, contributing to the well-being of society".

This position paper sets out the AAE's key comments on the proposed revision of the IORP Directive[1]. The AAE supports the objectives of the proposed revisions to the Directive which are to:

- Protect pension scheme members and beneficiaries.
- Inform pension scheme members and beneficiaries.
- Remove obstacles for cross-border occupational pension funds.
- Allow long term investment in assets which are not traded on regulated markets.

The AAE will continue to work with the European Commission, the European Parliament, EIOPA and other stakeholders to assist in achieving the common goal of adequate, safe and sustainable pensions for all European citizens.



Philip Shier
Chairperson of the AAE

[1] Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the activities and supervision of institutions for occupational retirement provision (recast) /* COM/2014/0167 final - 2014/0091 (COD) */

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Executive Summary

Providing clarity to all stakeholders

The AAE supports the objectives of the proposed revisions to the Directive, which are to:

- Protect pension scheme members and beneficiaries.
- Inform pension scheme members and beneficiaries.
- Remove obstacles for cross-border occupational pension funds.
- Allow long term investment in assets which are not traded on regulated markets.

We recognise that the balance in the Directive between harmonisation at an EU level and Member State options within a high level principles-based framework is ultimately a political compromise.

The AAE agrees with the statement made in the ECON report that a one-size-fits-all approach to regulation of IORPs across the EU is not appropriate and that the Directive should take account of Member State traditions. However, we consider that it would be beneficial for consumers if the Directive set high level principles, where appropriate. For example, in relation to the proposed Pension Benefit Statement, we agree that the Directive should specify the minimum information which members and beneficiaries should receive, but that the detail of what is provided, and how it is provided, should be left to Member States, who are better placed to appreciate national specificities. We support a layered approach to information provision, and the ability to provide this electronically, but we do not think that this should be mandated at EU level. In time, best practice will emerge and can become a de-facto EU standard.

We welcome the proposed requirement for an IORP to have key functions, with the holders of those functions required to be fit and proper, and we emphasise the need for proportionality in relation to the requirements e.g. a single individual or unit may fulfil a number of functions, provide there are no conflicts of interests. In particular we welcome the introduction of an actuarial function for IORPs where members do not bear all of the risks. We are strongly of the view that the Directive should require that the actuarial function holder has the appropriate skills, experience and professional standards to discharge his/her responsibilities and we recommend that wording similar to that included in Solvency II be included in Article 28(2). We also welcome the introduction of a risk management function and the requirement for an IORP to prepare a regular risk evaluation or assessment. In our view, the detail of what is addressed in this assessment should be left to the IORP, subject to high level requirements set out in the Directive and developed by national competent authorities. We think that it is essential for the assessment to include a quantitative analysis of the risks being borne by the IORP and/or the members, although this should not drive capital requirements.

We note that the Directive reflects the decision taken by then Commissioner Barnier in 2013 not to propose harmonisation of quantitative requirements in this Directive, and we support this approach as we do not think that this can be done without changing the "pension deal" between employer and employee. We are aware that EIOPA is carrying out further analysis of the possibility of using a "holistic balance sheet" to establish capital requirements or as a risk management tool, and we believe that EIOPA should complete its work and report to the Commission when a more considered decision can be taken on this.

The AAE supports the prudent person principle approach to investment and would not be in favour of quantitative limits being imposed by the Directive or by Member States, but we recognise that in some countries this may be the practice and we do not consider it essential that this be prohibited. It follows that we are also supportive of the removal of any barriers to long term investment, although IORPs should still adopt a prudent person approach to such investments, having regard to the IORP's liabilities.

The AAE notes that the original IORP Directive was intended to facilitate the establishment of cross border or Pan European IORPs and has not achieved this objective to date, although a few major multinational employers have established plans which cover a small number of countries. The driver for the establishment of cross border plans has generally been to improve governance and control, allied to some efficiencies of scale, rather than cost cutting by employers. We believe that the proposals in IORP II are unlikely to lead to a significant increase in the number of cross border plans because:

1. The "full funding at all times" requirement has not been removed (although the proposal in the draft ECON report that this should only be a requirement at the establishment of the IORP would give some flexibility to employers looking to fund benefits using a cross border IORP). In our view, cross-border IORPs in a home Member State should be subject to the same rules as the "domestic" IORPs in the same Member State.

   We think that the concerns of the Commission and others who fear regulatory arbitrage in this area are overstated because the security for the scheme is ultimately a function of the support and security of the sponsor, and where the sponsor is not changed, any changes to the level of funding and the pace of recovery plans on cross border transfer do not impact on the security of members' promised benefits.

2. The introduction of an explicit requirement for members' (or their representatives') approval of the cross border transfer of an IORP, or part of an IORP introduces additional practical difficulties. It will be impossible to get approval of the transfer from all members, particularly where those affected include former employees who have left the company or have retired on pension. The ECON report proposes that a majority of members (or their representatives) would have to approve a proposal, but this could, for example, lead to the interests of a certain category of members being overridden by a majority of members with different interests. This could particularly be the case if the term "representatives" is intended to mean "trade union" or a similar body, as former or retired employees may not have "representatives" to approve on their behalf.

In our view, a better approach would be to require the consent of those charged with fiduciary responsibility for members and beneficiaries of the transferring scheme. They are required to consider the best interests of all of the beneficiaries and hence can safeguard members of smaller categories whose might be disadvantaged by a majority vote of members. In addition, they can (and should) take advice (legal, actuarial) and engage on a detailed level with the sponsor, to enable them to evaluate the proposal and if appropriate seek some amendments.

It may be that the term "representatives" is intended to mean trustees or others who have a fiduciary responsibility in relation to the members of the transferring scheme: if so, the term used should be amended to make this clear.

Introduction

IORP I

The current IORP Directive passed in 2003 as a first step towards creating an internal market for occupational retirement provision. It includes requirements:

- To register and to be run by "persons of good repute".
- To prepare annual accounts and reports.
- To provide information to members.
- To have statement of investment policy principles.
- To establish for DB plans technical provisions determined by "actuary or other specialist" according to national legislation using -
  - "Sufficiently prudent actuarial valuation".
  - Discount rate based on (a) expected return on assets or (b) high quality bonds.
- For funding of technical provisions – allow recovery plan for "limited period".
- For investment rules – primarily prudent person.
- Introduced a supervisory framework for cross border plans.
  - Fully funded at all times (recovery plan not permitted).

The Directive was transposed into the national legislation of the Member States in 2005/2006.

Review of IORP I

The review process of the IORP I Directive commenced in 2008. The European Commission was keen to "copy and paste" Solvency II for insurance. The European Insurance and Occupational Pensions Authority (EIOPA) was consulted for advice as to whether Solvency II could be applied to IORPs. EIOPA worked on their advice and conducted for this a public consultation. Two highlights from their advice are:

- Solvency II requirements could be applied, but only after an "amendment for specificities of IORPs".
- Suggestion to develop a Holistic Balance Sheet (HBS).

In 2013 the Commission undertook a Quantitative Impact Study (QIS) in 8 countries. Important conclusions from the QIS were:

- Significant capital required if Solvency II approach adopted.
- Many technical issues raised.

The findings led to strong political opposition, especially from the big DB pension countries: UK, Germany, The Netherlands. The opposition was joined by employer organisations, unions and the IORP industry. Commissioner Barnier responded to all the criticism in 2013 to bring forward a proposal which would not include quantitative measures.

Commission Proposal: IORP II

The European Commission published their proposal for the revision of the IORP Directive on 27 March 2014. Four key objectives are stated in the proposal:

- Protect pension scheme members and beneficiaries:
  - New governance requirements on risk management, internal audit and, where relevant, actuarial function.
  - New provisions on remuneration policy.
  - Self-assessment of risk-management system (Risk Evaluation for Pensions).
  - Requirement to use a depositary (DC plans).
  - Enhanced powers for supervisors.
- Inform pension scheme members and beneficiaries:
  - EU standardised Pension Benefit Statement.
- Remove obstacles for cross-border occupational pension funds:
  - But the "fully funded at all times" requirement remains unchanged.
- Allow occupational pension funds to invest in assets "with a long term economic profile" which are not traded.
- The proposal further recognises the need for "proportionality".

Council position

The Council agreed their negotiating mandate under the Italian Presidency in November 2014 making significant amendments e.g.

- "Social purpose" not just financial institutions.
- Fit and proper requirement for those managing an IORP: collective requirement to be fit (and removal of the word "professional" before qualifications).
- Removes power for Commission to make Delegated Acts.
- Risk evaluation for pensions – power to national supervisors to lay down what must be included e.g. now includes "an assessment of the overall solvency needs in accordance with national law" rather than detail around technical provisions, sponsor support etc.
- Pension Benefit Statement; remove 2 page limit, should be "written in a concise way" and "easy to read" and requires additional information e.g. 5 year history of returns for DC, structure of costs where borne by members, details of guarantees and protections for DB schemes.

Parliament

The European Parliament began their consideration of the Commission proposal at the start of 2015, appointing rapporteurs and shadows – the Economic and Monetary Affairs (ECON) Committee takes the lead and their rapporteur is Brian Hayes (Ireland). The rapporteur published his initial report in July and it contains the following recommendations and suggestions:

- Not "one size fits all" – should take account of Member State traditions.
- Recommends that work on the HBS is stopped (but this is not in Directive in any event).
- Extends proposed cross border transfer consent requirements to all bulk transfers including those between IORPs in a single Member State (i.e. domestic transfers).
- Suggests changes to the process for approval of bulk transfers.
- "Risk assessment" rather than "risk evaluation".
- Simplification of Pension Benefit Statement.
- Stronger powers of intervention/disclosure for supervisors.

Generally the rapporteur's thinking is well aligned with the Council position in many areas.

Further steps

The timetable of the European Parliament is understood to be:

- 1 December – vote in EP ECON committee
- 19 January 2016 – vote in EP plenary
- Trilogue in first half of 2016 under Dutch Presidency
- Passed in mid-2016, to be implemented in national legislation in 2018 (Council proposes 24 months from Directive coming into force, ECON proposes 18 months).

Position Paper

The members of the Pensions Committee of the Actuarial Association of Europe have monitored these developments closely. They were discussed in detail in the bi-annual meetings. In our last meeting in September in Bucharest it was decided to draft this position paper as there are many actuarial and related topics in the proposal. Apart from that we value consumer protection and we think we can add value to the discussion in this area. Last but not least the proposal includes also an "Actuarial Function" as well as a "Risk Management Function" which relates directly to our field of expertise and experience.

In this position paper we have chosen to comment especially on the Recitals of the proposal for revision as the Recitals contain the reasoning and provide the background to the proposed text of the formal Articles of the revised Directive.

We have looked to all three documents: 1) the proposal from the European Commission, 2) the Council compromise and 3) the report of Mr Hayes as ECON rapporteur of the European Parliament. If a new Recital is suggested in addition to the proposal of the Commission we will refer to that Recital as "Suggested Recital" to the other Recitals we will just refer as "Recital". We have further added our summary of the topic of the recital. This is pure to get an idea of what the topic of discussion is and not trying to be precise or complete. We refer to the formal documents for any precise wording.

Comments and suggestions to selected Recitals of the proposals

Suggested Recital 2c – Occupational retirement provision

We would support Mr Hayes that the European Commission and EIOPA... should *"Take account of the various traditions of the Member States in their activities and without prejudice to national social and labour law in determining the organisation of institutions for occupational retirement provision"*.

This statement ties in with the starting comments in our Discussion Paper "Clarity before Solvency" (http://actuary.eu/documents/AAE-Clarity-before-Solvency-19-05-2015-FINAL.pdf) that we issued in May this year.

Second pillar pensions originate from the labour relationship between employee and employee and are governed by national social and labour law.

Knowing and respecting the characteristics of the pension deal, it is possible, albeit difficult, to quantify objectively all the building blocks of the pension deal and how it is financed. We would suggest to refer to this quantification as "holistic framework" or perhaps "integral framework".

Holistic as it takes all elements of the nationally determined pension deal into account. Framework as it is meant to be an objective information tool for all stakeholders (in any case we would suggest not to use the term Holistic Balance Sheet as it creates a lot of misunderstanding). Depending on what risks are taken by the IORP, if any, a selection of appropriate elements of this framework could form the balance sheet of the IORP.

Suggested Recital 5b – Removing obstacles for cross border activity

We would support Mr Hayes' suggestion *"...that unnecessary obstacles, which hamper such cross border activity, be removed"*.

One of these obstacles, already in the current Directive, is the fully funded requirement at inception. We are very supportive of the aim to be fully funded at all times. It is very likely though that this cannot be achieved at all times. For such situations it is foreseen that pension institutions work according to a recovery plan that fulfills any requirement from national social and labor law and is accepted by the National Competent Authority. Whilst we would find it perfectly acceptable if there is a situation of underfunding at the start of a new cross border activity that this would require a recovery plan, (and thus we would remove the requirement to be fully funded), we recognize that since cross-border plans are a relatively new institution in practice and present considerable practical difficulties for the relevant regulators and that stakeholders may wanted added reassurance as to the security of their entitlements it may be appropriate in practice to include such a provision. The Commission now even proposes to have the requirement to be fully funded at all times. We would note that the requirement to be fully funded has caused closure of the many existing cross border arrangements when the Directive came into effect, e.g. the cross border plans between Ireland and the UK and has been a considerable barrier to the establishment of new such arrangements.

Mr Hayes suggests to extend this to all institutions that start operating a new or additional scheme. Again we are supportive of being fully funded at all times as an ambition. We need to be realistic and understand that there will be situations where there is an underfunding. In such situations we would suggest to assess whether the cause of the underfunding is due to management decisions or due to external (economic, demographic) developments that could reasonably not be foreseen. In both cases we would suggest to agree a realistic recovery plan that is accompanied with

open and understandable information to the members and beneficiaries. We think that the requirements for the recovery plan in case it is the result of management mistakes could be more stringent and could also lead to further measures aimed at getting better management in place.

Recital 13 – Payment methods

We agree that no preference at EU level should be made to payment methods. This, in our view, follows directly from taking national social and labour law as starting point.

For further material on payments methods in the decumulation phase we refer to our report "Survey of decumulation regimes" (http://actuary.eu/documents/AAE_Decumulation_Report_Feb2015.pdf) that we published in February this year.

Recital 17 – Member's protection

Protection of members and beneficiaries is an important goal of the Directive. We fully agree and support that. Protecting members and beneficiaries is not the same though as providing guarantees or increasing capital requirements. The pension deal is governed by national social and labour law and can be such that members and beneficiaries bear some or even all risks (e.g. in certain DC and CDC schemes). Protection is achieved by providing them correct and complete and understandable information as well as with defining and requiring appropriate governance.

It is here that we see great added value of having a good Pension Tracking Services. Factual information about all pensions (at least first and second pillar) is the start of good understanding and contributes significantly to member's protection.

Another important way to protect participants is the balance between prudent person principle and duty of care. Whereas prudent person principle protects the participant where the risks are shared between employer and employees, duty of care comes into place when the risks are mostly borne by the employee/participant.

Recital 20 – Financial or Social

Generally speaking second pillar pensions are part of an employment contract. This makes second pillar pensions indeed start as social. Although we recognise that the pension arrangement sometimes becomes (close to) financial, generally speaking IORPs should indeed not be seen as pure financial institutions, but rather social institutions. This does require clarity about the pension deal. We urge social partners to be clearer about the pension deal as we have encountered many situations where it was not clear who should take which part of the risk. We would refer to this as making the pension deals 'complete'. For us actuaries, this is also a prerequisite in order to be able to fill in the holistic framework and put a value on all the building blocks of a pension arrangement, especially the building blocks that are linked to certain conditions. If those conditions are not clear (e.g. who takes which part of a deficit under adverse economic or demographic circumstances) it is not possible to put a value to some of the building blocks. It is our impression that situations where the conditions are not (fully) clear do exist and even quite regularly. Not only it is in practice impossible to construct a holistic framework in full, is it also impossible for stakeholders to fully understand which risks and to which extent they are bearing. Such a situation is undesirable as it is impossible to communicate in an accurate and complete way about the specificities of the pension deal and what the deal means for each and every stakeholder. Thus expectations cannot be managed and it is very likely that one would assume that you are safe yourself and that "the other stakeholder" will bear the risks. This could sooner or later result in a big disappointment.

Suggested Recital 20A – Triangular relationship

We strongly support the suggestion of Mr Hayes to include reference to "the triangular relationship between the employee, the employer and the institution for occupational retirement provision (IORP)" as this is the basis for a good understanding of many pension deals. We have referred to this foundation for many European pension arrangements in our Discussion paper "Clarity before Solvency" (http://actuary.eu/documents/AAE-Clarity-before-Solvency-19-05-2015-FINAL.pdf).

Recital 25 – Qualified person/Actuary

We support the explicit reference Mr Hayes is making to "actuaries" rather than leaving it to "qualified persons", and the corresponding proposed amendment in Article 14.

The AAE believes that qualified actuaries are best placed to calculate and certify technical provisions as required under Article 14 and to fill the actuarial function proposed in Article 28. Full members of AAE Members Associations are subject to:

- Completion of Core Syllabus
- Continuing Professional Development
- Code of Conduct
- European Standards of Actuarial Practice
- Disciplinary Proceeding if they do not follow the Code of Conduct or relevant standards

In any case we would encourage the definition of the competencies of such persons either in the directive or in other regulations.

In this specific situation, the AAE suggests copying and pasting text that is already in the Solvency II Directive and add this text to Recital 25 and Article 28, amended as shown:

*"The actuarial function shall be carried out by persons who have knowledge of actuarial and financial mathematics, commensurate with the nature, scale and complexity of the risks inherent in the [business] [**activities**] of the [insurance or reinsurance undertaking] [**Institution for Occupational Retirement Provision**], and who are able to demonstrate their relevant experience with applicable professional and other standards."*

Recital 27 – Fully funded requirement

We see no reason for cross border plans to be treated differently to domestic plans in relation to establishment of recovery plans and the current requirement is the key reason in our view as to why cross-border plans have not been implemented in many cases since 2003. Neither do we see any theoretical need for a fully funded requirement at inception though we recognise the need to reassure regulators and other stakeholders. If not fully funded then start with a recovery plan, similar to what domestically would be the case. We do agree that the aim should be to be fully funded. A recovery plan should make clear how and when this aim will be reached.

Recital 28 – Permitting underfunding

We would agree that underfunding is likely to happen from time to time. It is therefore only reasonable to "permit" underfunding. We like the proposed text of Mr Hayes *"to allow institutions to be underfunded for a limited period of time"*.

Recital 33 – Long-term investors/diversification

We would support the explicit reference Mr Hayes is proposing to the prudent person rule. We already expressed our view when the current IORP Directive was in the making that no investment restrictions should be applied to IORPs other than informed by the prudent person principles. We would point at the good practices around the prudent person rule that exist in some Members States and would encourage an exchange of experiences with

these good practices across all Member States. We would be happy to play a role identifying such good practices.

Recital 35a – Pension tracking services

We support the call for a pension tracking service for union citizens working in another Member State. We would go even further and encourage the development of pension tracking services in all Member States. As we have expressed before we see that good information is the very fundament of consumer protection. We refer to two papers of the Actuarial Association of Europe on this topic for further background and discussion:

1. Report on existing pension tracking services in Denmark, Finland, Sweden and the Netherlands (http://actuary.eu/documents/2013/12/Report-national-Tracking-Services-Sw-Fi-DK-NL-Final.pdf).

2. Report on key issues for setting up national pension tracking services in six EU-countries (http://actuary.eu/documents/AAE_Tracking_Services_Feb2015.pdf).

Recital 36 – Adequate risk management

We fully support the call for adequate risk management. Given the long-term nature of the liabilities it will generally be impossible to fully match these liabilities on the asset side. There are further good reasons to consciously deviate from a matched position in order to aim for a higher investment return. Both situations result in risks that need to be adequately managed. We would support the introduction of a proportionate Risk Evaluation for Pensions dealing with those risks facing the IORP which are not capable of direct inclusion within the Holistic Framework (e.g. operational, fraud, legislative risks). In some cases such a Risk Evaluation on Pensions may require stochastic or other modelling of specific events and thus we would suggest that only appropriately qualified individuals with the necessary statistical skills undertake such tasks.

Recital 38 – Key functions

We agree that it should be possible to outsource key functions. The board of the IORP should, however, always stay "in control" as they remain always responsible.

Recital 40 – Risk evaluation for pensions

As the pension deal is all about how risks are divided between sponsor, beneficiary and IORP we support the requirement of a Risk Evaluation. We don't see a clear difference between an "evaluation" (Commission's proposal) or an "assessment" (Hayes' proposal). We don't think it adds value to refer in the directive to specific "new" risks as the Commission is proposing. In our view, the detail of what is addressed in this assessment should be left to the IORP, subject to high level requirements set out in the Directive and developed by national competent authorities. We think that it is essential for the assessment to include a quantitative analysis of the risks being borne by the IORP and/or the members, although this should not drive quantitative requirements. A risk evaluation should cover all relevant risks for the IORP and the assessment should always try to include new risks that have been identified and leave out those risks that are no longer relevant.

We would see a Risk Evaluation for Pensions contain certain key elements and considerations, including:

1. Comprehensive Identification and Assessment of Risks
2. Relating Risk to Pension Result and Generational Effects
3. Board Oversight and Senior Management Responsibility
4. Monitoring and Reporting
5. Internal Controls and Objective Review

We would recommend that a defined benefit IORP should undertake a quantitative assessment of at least the following risks:

- Interest rate Risk
- Inflation Risk
- Market Risk for equity investments
- Credit Risk
- Mortality Risk (both short-term mortality and longevity)
- Liquidity Risk

Supplemented by a qualitative assessment of other items, such as:

- Operational Risk
- Sponsor Risk
- Political/Regulatory Risk
- Conflicts of Interests Risk

Recital 46 – Information

We agree that an IORP should provide all relevant information to its stakeholders. Defining what is relevant is partly done by the stakeholders themselves. Presenting the information in a "layered" way should therefore be considered:

- If all information is given firstly in a summarised way. It is then up to the stakeholder to go a level deeper to get a more detailed understanding. So in our view all information should always be available and accessible, but it should always be presented in small comprehensible portions.
- Presenting the information electronically might be best suited for this purpose, although we recognise that there should always be a possibility to receive the information in other ways.
- Apart from some partly prescribed documents that have to be provided to the employee/ participant, the IORP should be able to communicate to their participants in a way that fits their population most.

We realise that information requirements could be subject to limitations due to proportionality.

Proposed Recital 60a – Holistic Balance Sheet

We agree with Mr Hayes that no quantitative capital requirements need to be developed at Union level.

The reason that there is no need in our view for quantitative capital requirements at Union level is that the pension promise is part of the labour arrangements between employers and employees. Such a labour arrangement is governed by the social and labour law of the Member State. Depending on the promise and how it is financed capital requirements might apply, but these are in our view always the result of the agreement between employers and employees together with national social and labour law.

We do believe that it is possible to quantify all the building blocks of any pension arrangement including how it is financed in an objective quantitative way. We would be happy to assist further work on such an approach which we would like to refer to as the "holistic framework" (as it is not a "balance sheet") or perhaps "integral framework".

An integral framework provides an objective way to quantify all the elements of a pension promise and how it is financed. An important requirement to be able to do this is that the pension deal should be clear, the contract should be "complete". If it is not clear who bears the risk for example, particularly

in an economically adverse situation, it will be difficult if not impossible to put a value to all building blocks, simply because the details of the agreement are not known. From the perspective of clarity to all stakeholders and also the importance of consumer protection, we would encourage the stakeholders to sit down and make the contract complete if there are any open endings.

The characteristics of any pension deal is thus defined by employers and employees and national social and labour law. Any overarching Union capital requirement would potentially impact the deal between employers and employees. It could improve the deal or worsen the deal. We don't think that his should be aimed for by politicians nor supervisors as this Directive is all about second pillar pensions.

The aim we see for ourselves as actuaries as well as for politicians and supervisors is to present objective information to the stakeholders with regard to the pension deal, thus enabling all stakeholders to understand the deal and to monitor the developments through time. This is extremely important as it concerns very long-term contracts and the long time horizon could be an excuse not to address any issue with regard to living up to the promise. Such issues could easily lead to intergenerational transfers of money and risks. Such transfers should be signalled in an early stage. Employers and employees could then discuss together how they would want to deal with any such issues.

In conclusion we believe that given the fundament of pensions in national Social and Labour Law there is no possibility for one standard set of European-wide solvency requirements as this would change the pension deal (positively or negatively) which is not within the power of neither the Commission nor the Supervisors as this is first of all an agreement between employers and employees as part of a labour relationship.

For further discussion we refer to our Discussion Paper "Clarity before Solvency" (http://actuary.eu/documents/AAE-Clarity-before-Solvency-19-05-2015-FINAL.pdf).

IORPs and social purpose

We very much agree that generally IORPs have a social purpose:

- The pension deal is part of the labour relationship between and employer and an employee
- In the many cases where the pension deal is not guaranteeing a pension, but is a set of rules where sponsor and employees have agreed to, there is no or little risk taken on by the IORP. The IORP in such cases is more an administrative body that executes the pension deal as agreed by employer and employees. In those cases pension is not similar to insurance. If there is no risk for an IORP then there is no need for a solvency requirement.
- A quantitative assessment of the pension deal and how it is financed is still very useful and will inform the stakeholders before and during their pension deal discussions and negotiations.
- If the pension deal is a promise of a fully guaranteed pension then it is very similar to an insured arrangement. In those cases the IORP acts as like an insurer and the same solvency requirements should apply.
- The Holistic Balance Sheet is not fit for purpose for setting capital requirements for an IORP. We do see value of developing an holistic framework as a tool which would give a quantitative picture of the pension deal including how it is financed, and which could be used for risk assessment. Since this would not be a proper balance sheet as such, we would suggest calling it a "holistic framework" or perhaps an "integral framework".
- The holistic framework could be decomposed by how the risks are divided amongst the stakeholders. For each of the stakeholders the appropriate parts of the holistic framework would result in a sub balance sheet for each of the stakeholders, being the sponsor, the IORP and the beneficiary.

The Actuarial Association of Europe

The Actuarial Association of Europe (AAE), founded in 1978 under the name of Groupe Consultatif Actuariel Européen, is the Brussels-based umbrella organisation, which brings together the 37 professional associations of actuaries in 35 countries of the EU, together with the countries of the European Economic Area and Switzerland and some EU candidate countries.

The AAE has established and keeps up-to-date a core syllabus of education requirements, a code of conduct and discipline scheme requirements, for all its full member associations. It is also developing model actuarial standards of practice for its members to use and it oversees a mutual recognition agreement, which facilitates actuaries being able to exercise their profession in any of the countries concerned.

The AAE also serves the public interest by providing advice and opinions, independent of industry interests, to the various institutions of the European Union - the Commission, The Council of Ministers, the European Parliament, ECB, EIOPA and their various committees - on actuarial issues in European legislation and regulation.

The AAE is registered in the EU Transparency Register under number 55085591144-54

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