

Activities and supervision of institutions for occupational retirement provision (IORPs). Recast

2014/0091(COD) - 14/12/2016 - Final act

PURPOSE: to establish an EU legal framework for institutions for occupational retirement provision.

LEGISLATIVE ACT: Directive (EU) 2016/2341 of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (IORPs).

CONTENT: this Directive is a recast of Directive 2003/41/EC of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision. It lays down **rules for the taking-up and pursuit of activities carried out by institutions for occupational retirement provision (IORPs)**. They are a vital part of the Union economy, holding assets worth EUR 2.5 trillion on behalf of around 75 million members and beneficiaries.

This Directive is aimed at **minimum harmonisation** and therefore should not preclude Member States from maintaining or introducing further provisions in order to protect members and beneficiaries of occupational pension schemes.

Revising directive 2003/41/EC, the text has four specific objectives:

1. Clarifying procedures for cross-border activities: the Directive provides that Member States shall authorise IORPs registered or authorised in their territory:

- **to engage in cross-border activity.** An IORP intending to engage in cross-border activity should be subject to the **prior approval** of the relevant competent authority of its home Member State;
- **to transfer pension schemes** to other IORPs across borders within the Union in order to facilitate the organisation of occupational retirement provision on a Union scale. Transfers should be subject to **authorisation** by the competent authority in the home Member State of the receiving IORP after that competent authority has received the consent of the competent authority of the home Member State of the IORP transferring the pension scheme.

Every IORP shall have: (i) sufficient and appropriate assets at all times to cover the technical provisions in respect of the total range of pension schemes operated; (ii) an adequate **available solvency margin** in respect of its entire business at all times which is at least equal to the requirements in this Directive in order to ensure long-term sustainability of occupational retirement provision.

2. Ensuring good governance and risk management: the IORPs shall:

- put in place an effective system of governance which provides for **sound and prudent** management of their activities. The system of governance shall include consideration of environmental, social and governance factors related to investment assets in investment decisions;
- ensure that all persons who manage IORPs have the adequate **professional qualifications** and requirements for fit and proper management;

- establish and apply a **sound remuneration policy** in line with the long-term interests of members and beneficiaries of pension schemes operated by the IORP and shall include measures aimed at avoiding conflicts of interest and shall not encourage risk-taking which is inconsistent with the risk profiles and rules of the IORP;
- put in place a risk-management function, an **internal audit** function and, where applicable, an actuarial function;
- in the case of an occupational pension scheme where members and beneficiaries fully bear the investment risk, the home Member State may require the IORP to appoint one or more depositaries for the safe-keeping of assets and oversight duties.

3. Providing clear and relevant information to members and beneficiaries: the Directive places an obligation on IORPs to:

- **provide clear and adequate information to prospective members, members and beneficiaries** including: (i) accrued pension entitlements; (ii) information on the investment profile (iii) the nature of investment risks; (iv) the options available to members and beneficiaries in receiving their retirement benefits;
- **provide, every twelve months, a pension benefit statement (PBS)** for the individual in the clearest possible way, also as a basis to feed information into a potential pension tracking service. The Pension Benefit Statement should be clear and comprehensive and should contain relevant and appropriate information to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility. It should provide information on pension benefit projections based on the retirement age.

4. Ensuring that supervisors have the necessary tools to effectively supervise IORPs: the Directive lays down that the competent authorities of the home Member State shall be responsible for the prudential supervision of IORPs. Member States shall ensure that their competent authorities may impose **administrative sanctions** and other measures applicable to all infringements of the national provisions implementing this Directive. Supervision of IORPs shall be **prospective and risk-based**. It shall comprise an appropriate combination of off-site activities and on-site inspections.

ENTRY INTO FORCE: 12.1.2017.

TRANSPOSITION: 13.1.2019 at the latest.