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*Committee on Employment and Social Affairs*

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**2014/0091 (COD)**

23.6.2015

## **OPINION**

of the Committee on Employment and Social Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council  
on the activities and supervision on institutions for occupational retirement  
provision (recast)  
(COM(2014)0167 – C7-0112/2014 – 2014/0091 (COD))

Rapporteur: Jeroen Lenaers

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## SHORT JUSTIFICATION

The general objective of this directive is to facilitate the development of occupational retirement savings. The rapporteur strongly supports this objective. During the economic and financial crisis of the past years in particular first pillar pensions have come under severe pressure in many Member States. As a result, in various countries pension pay-outs had to be cut.

Moreover, the populations of all Member States are ageing. Life expectancy varies across Europe, but is rising everywhere. The number of pensioners who are living longer and still enjoying good health is rising. At the same time, the working population is shrinking, birth-rates are declining and young people are studying for longer and entering the labour market at a later age. In the EU, far too few people in the age bracket of 60 years and over are working. Solidarity between generations, which means that young employed people meet the cost of older people's pensions, cannot be taken to any greater lengths. Countries with pay-as-you-go systems, under which pensions are paid from the current budget, are, and will be particularly struggling to finance adequate pensions.

In light of this, more countries should consider setting up complementary second-pillar pension systems which should lead to more secure pension benefits. But given the experiences of the economic and financial crisis, good supervisory and governance rules are adamant to give people a high degree of confidence in their pension system and to motivate them to participate in such a system. Therefore, the recast of this directive - under the condition that it has the right focus and does not introduce unnecessary burdens - should be instrumental in encouraging Member States to develop occupational retirement pension systems in which people can have confidence.

Occupational retirement pensions should be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European social models.

In order to meet the general objective of this directive, the Commission has proposed four specific objectives: removing prudential barriers for cross-border IORPs, ensuring good governance and risk management, providing clear and relevant information to members and beneficiaries and ensuring that supervisors have the necessary tools to effectively supervise IORPs.

The rapporteur fully understands the need to ensure good governance, information to scheme members, transparency and safety of the occupational retirement provision. Institutions for occupational retirement provision are pension institutions that serve - first and foremost - a

social purpose and which bear a heavy responsibility for the provision of occupational retirement benefits.

However, pension systems vary widely across Europe and are closely connected to national traditions and national fiscal, social and labour law. Therefore, a Europe-wide one-size-fits-all approach will not lead to the desired outcomes and will not be efficient in helping to meet the objective set out in this directive.

That is exactly why the rapporteur feels that it is important to provide Member States with sufficient flexibility to implement and regulate the requirements set out in this directive in a way that reflects the wide variety of pension systems in Europe and that suits the specific way in which national systems are organised, all in the best interest of members and beneficiaries.

This is all the more important as, in accordance with the principle of subsidiarity, Member States should retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three "pillars" of the retirement system in individual Member States. In the context of the second pillar, they should also retain full responsibility for the role and functions of the various institutions providing occupational retirement benefits.

The rapporteur has tabled this opinion with the aim to strike the right balance between, on the one hand, the need to have high European standards with regard to governance, supervision, information and transparency, while on the other hand taking into full consideration the much needed flexibility for Member States to efficiently and successfully adapt these standards to suit their specific national situations.

## **AMENDMENTS**

The Committee on Employment and Social Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to take into account the following amendments:

### **Amendment 1**

#### **Proposal for a directive Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) Member States should ensure the social protection of workers with regard to***

*pensions by providing public pensions sufficient to maintain a decent standard of living and to protect from old-age poverty and by promoting supplementary pension schemes linked to employment contracts as additional coverage.*

## Amendment 2

### Proposal for a directive

#### Recital 2

*Text proposed by the Commission*

(2) *The* internal market should *allow institutions* to operate in other Member States *and ensure* a high level of protection for members and beneficiaries of occupational retirement schemes.

*Amendment*

(2) *In the* internal market *institutions* should *have the possibility* to operate in other Member States *on condition that that* a high level of protection for members and beneficiaries of occupational retirement schemes *is ensured*.

## Amendment 3

### Proposal for a directive

#### Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) In order to further facilitate the mobility of workers between Member States, this Directive aims to ensure good governance, information to scheme members, transparency and safety of the occupational retirement provision.*

## Amendment 4

### Proposal for a directive

#### Recital 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(2b) The way the institutions for occupational retirement provision ("IORPs") are organised and regulated varies significantly among Member States. Therefore it is not appropriate to adopt a 'one size fits all' approach to institutions for occupational retirement provision. The Commission and EIOPA take account of the various traditions of the Member States in their activities and assign priority to national labour and social legislation in determining the organisation of institutions for occupational retirement provision.***

## **Amendment 5**

### **Proposal for a directive**

#### **Recital 2 c (new)**

*Text proposed by the Commission*

*Amendment*

***(2c) This Directive is aimed at minimum harmonisation and should therefore not preclude Member States from maintaining or introducing more stringent provisions in order to protect members and beneficiaries of occupational retirement schemes. This Directive does not concern issues of national social and labour law, fiscal and contract legislation nor the adequacy of pension provisions in Member States.***

## **Amendment 6**

### **Proposal for a directive**

#### **Recital 3**

*Text proposed by the Commission*

*Amendment*

(3) Directive 2003/41/EC ***represented a***

(3) Directive 2003/41/EC ***introduced***

*first legislative step on the way to an internal market for occupational retirement provision organised on a European scale. A genuine internal market for occupational retirement provision remains crucial for economic growth and job creation in the European Union and for tackling the challenge of an ageing European society. The Directive, dating from 2003, has not been substantially amended to introduce a modern risk-based governance system also for institutions for occupational retirement provision.*

*minimum standards for occupational retirement provision organised in the Union. The introduction and further development of occupational retirement schemes in more Member States remain crucial for tackling the challenge of an ageing European society. Therefore, intensified social dialogue at EU and national level is important.*

## Amendment 7

### Proposal for a directive Recital 4

#### *Text proposed by the Commission*

(4) Action is needed to further *develop complementary private retirement savings such as occupational pensions*. This is important since *social-security systems are coming under increasing pressure, which means that citizens will increasingly rely on occupational retirement pensions as a complement in the future*. Occupational retirement pensions should be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European social *model*.

#### *Amendment*

(4) Action is needed to further *ensure that statutory social security schemes protect from old age poverty while occupational pension schemes can provide for a valuable addition*. This is important since *employees can improve their future financial situation through occupational retirement pensions. Therefore, it is a key objective of this Directive to promote occupational pension schemes, to reinforce successful models of institutions for occupational retirement provision and to protect their continued existence*. Occupational retirement pensions should be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European social *models*.

## Amendment 8

### Proposal for a directive

#### Recital 5

*Text proposed by the Commission*

(5) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably, the right to protection of personal data, the right to conduct a business and the right to a high level of consumer protection, in particular by ensuring a higher level of transparency of retirement provisioning, informed personal financial and retirement planning as well as facilitating cross-border business of institutions for occupational retirement provision and businesses. This Directive must be implemented in accordance with these rights and principles.

*Amendment*

(5) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably, the right to protection of personal data, the right to conduct a business, ***the right to property, the right of collective bargaining and action*** and the right to a high level of consumer protection, in particular by ensuring a higher level of transparency of retirement provisioning, informed personal financial and retirement planning as well as facilitating cross-border business of institutions for occupational retirement provision and businesses. This Directive must be implemented in accordance with these rights and principles.

## Amendment 9

### Proposal for a directive

#### Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) Member States should take into account the need to enhance the protection of pension rights of workers temporarily sent to work in another Member State.***

## Amendment 10

### Proposal for a directive

#### Recital 9



*Text proposed by the Commission*

(9) In accordance with the principle of subsidiarity, Member States **should** retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three ‘pillars’ of the retirement system in individual Member States. In the context of the second pillar, they **should** also retain full responsibility for the role and functions of the various institutions providing occupational retirement benefits, such as industry-wide pension funds, company pension funds and life-assurance companies. This Directive is not intended to call this prerogative into question.

*Amendment*

(9) In accordance with the principle of subsidiarity, Member States **are to** retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three ‘pillars’ of the retirement system in individual Member States. In the context of the second pillar, they also **are required to** retain full responsibility for the role and functions of the various institutions providing occupational retirement benefits, such as industry-wide pension funds, company pension funds and life-assurance companies. This Directive is not intended to call this prerogative into question.

**Amendment 11**

**Proposal for a directive  
Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) Taking into account the need to further develop occupational pension schemes, the Commission should provide significant added value at Union level by undertaking further steps in supporting Member States' cooperation with social partners in the development of more second pillar pension schemes and by establishing a High Level Group of experts to explore ways to increase second pillar retirement savings in the Member States, including the promotion of the exchange of best practices between the Member States.***

**Amendment 12**

**Proposal for a directive  
Recital 18**

*Text proposed by the Commission*

(18) In the event of the bankruptcy of a sponsoring undertaking, a member faces the risk of losing both his/her job and his/her acquired pension rights. This makes it necessary to ensure that there is a clear separation between that undertaking and the institution and that minimum prudential standards are laid down to protect members.

*Amendment*

(18) In the event of the bankruptcy of a sponsoring undertaking, a member faces the risk of losing both his/her job and his/her acquired pension rights. This makes it necessary to ensure that there is a clear separation between that undertaking and the institution and that minimum prudential standards ***through assurances*** are laid down to protect members.

### **Amendment 13**

#### **Proposal for a directive Recital 20**

*Text proposed by the Commission*

(20) Institutions for occupational retirement provision are financial service providers ***which*** bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation.

*Amendment*

(20) IORPs are ***not*** financial service providers ***but pension institutions that serve - first and foremost - a social purpose, provide a collective social benefit and*** bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation. ***Their social function and the triangular relationship between the employee, the employer and IORPs should be adequately acknowledged and supported as a guiding principle of this Directive.***

### **Amendment 14**

#### **Proposal for a directive Recital 28**

*Text proposed by the Commission*

(28) ***If the institution does not work on a cross-border basis***, Member States should be able to permit underfunding provided that a proper plan is established to restore

*Amendment*

(28) Member States should be able to permit underfunding provided that a proper plan is established to restore full funding, ***protection of the employees*** and without

full funding and without prejudice to the requirements of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.<sup>28</sup>

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<sup>28</sup> OJ L 283, 28.10.1980, p. 23.

prejudice to the requirements of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.<sup>28</sup>

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<sup>28</sup> OJ L 283, 28.10.1980, p. 23.

## Amendment 15

### Proposal for a directive Recital 33

#### *Text proposed by the Commission*

(33) As very long-term investors with low liquidity risks, institutions for occupational retirement provision are in a position to invest in non-liquid assets such as shares as well as in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities should therefore not be restricted except on prudential grounds.

## Amendment 16

### Proposal for a directive

#### *Amendment*

(33) As very long-term investors with low liquidity risks, institutions for occupational retirement provision are in a position to invest in non-liquid assets such as shares as well as in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities should therefore not be restricted except on prudential grounds, *in line with the 'prudent person' rule so as to protect the interest of members.*

## Recital 35

*Text proposed by the Commission*

(35) Institutions should be allowed to invest in other Member States in accordance with the rules of their home Member States ***in order to reduce the cost of cross-border activity. Therefore the host Member States should not be allowed to impose additional investment requirements on institutions located in other Member States.***

*Amendment*

(35) Institutions should be allowed to invest in other Member States in accordance with the rules of their home Member States. ***However, if the institution works on a cross-border basis it may be asked by the competent authority of the host Member State to apply limits for investment, provided that such rules also apply to institutions located in the host Member State, and to the extent that these limits are more strict than those applied in the home Member State.***

## Amendment 17

### Proposal for a directive

#### Recital 37

*Text proposed by the Commission*

(37) Remuneration policies which encourage excessive risk-taking behaviour can undermine sound and effective risk management of institutions. Principles and disclosure requirements for remuneration policies applicable to other types of financial institutions in the Union should be made applicable also to institutions, bearing in mind, however, the particular governance structure of institutions in comparison to other types of financial institutions and the need to take account of the size, nature, scope and complexity of the activities of institutions.

*Amendment*

(37) Remuneration policies which encourage excessive risk-taking behaviour can undermine sound and effective risk management of institutions. Principles and disclosure requirements for remuneration policies applicable to other types of financial institutions in the Union should be made ***fully*** applicable also to institutions, bearing in mind, however, ***a balance between the need for transparency and*** the particular governance structure of institutions in comparison to other types of financial institutions and the need to take account of the size, nature, scope and complexity of the activities of institutions.

## Amendment 18

### Proposal for a directive

## Recital 46

*Text proposed by the Commission*

(46) Institutions should provide clear and adequate information to prospective members, members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees, and costs should be given. Where members bear an investment risk, additional information on the investment profile, any available options and past performance are also crucial.

*Amendment*

(46) Institutions should provide clear and adequate information to prospective members, members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees, and costs should be given. Where members bear an investment risk, additional information on the investment profile, any available options and past performance are also crucial. ***All information should be adequate to the needs of the user and in compliance with the UN Convention on the Rights of Persons with Disabilities, in particular as regards accessibility and access to information, as provided for in Articles 3 and 21 thereof respectively.***

## Amendment 19

**Proposal for a directive**

**Recital 51**

*Text proposed by the Commission*

(51) The competent authority should exercise its powers having as its prime objective the protection of members and beneficiaries.

*Amendment*

(51) The competent authority should exercise its powers having as its prime objective the protection of ***the rights of*** members and beneficiaries ***and the stability and soundness of the institutions.***

## Amendment 20

**Proposal for a directive**

**Recital 57**

*Text proposed by the Commission*

*Amendment*

(57) In order to ensure the smooth functioning of the internal market for occupational retirement provision organised on a European scale, the Commission should, after consulting EIOPA, review and report on the application of this Directive and should submit that report to the European Parliament and to the Council **four** years after the entry into force of this Directive. ***That review should assess in particular the application of the rules regarding the calculation of the technical provisions, the funding of technical provisions, regulatory own funds, solvency margins, investment rules and any other aspect relating to the financial solvency situation of the institution.***

(57) In order to ensure the smooth functioning of the internal market for occupational retirement provision organised on a European scale, the Commission should, after consulting EIOPA, review and report on the application of this Directive and should submit that report to the European Parliament and to the Council **six** years after the entry into force of this Directive.

**Amendment 21**

**Proposal for a directive**

**Recital 59**

*Text proposed by the Commission*

*Amendment*

***(59) In order to specify the requirements set out in this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of clarifying the remuneration policy, the risk evaluation for pensions and the pension benefit statement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.***

***deleted***

## **Amendment 22**

### **Proposal for a directive Recital 60 a (new)**

*Text proposed by the Commission*

*Amendment*

***(60a) The further development at the Union level of solvency models, such as the Holistic Balance Sheet (HBS), is not realistic in practical terms and not effective in terms of costs and benefits, particularly given the diversity of IORPs within and across Member States. No quantitative capital requirements - such as Solvency II or holistic balance sheet models derived therefrom - should therefore be developed at the European level with regard to institutions for occupational retirement provision, as they could potentially be harmful to the interests of both employees and employers, and could decrease the willingness of employers to provide occupational pensions.***

## **Amendment 23**

### **Proposal for a directive Article 6 – point a – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***The institution's social function and the triangular relationship between the employee, the employer and the IORP shall be adequately acknowledged and supported as a guiding principle of the Directive;***

## **Amendment 24**

### **Proposal for a directive**

## Article 6 – point d

*Text proposed by the Commission*

(d) ‘retirement benefits’ means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death. In order to facilitate financial security in retirement, these benefits usually take the form of payments for life. They may, however, also be payments made for a temporary period or as a lump sum.

*Amendment*

(d) ‘retirement benefits’ means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death, ***or survivor’s benefits where they are attached to supplementary pension schemes.*** In order to facilitate financial security in retirement, these benefits usually take the form of payments for life. They may, however, also be payments made for a temporary period or as a lump sum.

## Amendment 25

**Proposal for a directive**

**Article 11 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Members States may make the conditions of operation of institutions located in their territory subject to other requirements, without discrimination and with a view to ensuring that the interest of members and beneficiaries are adequately protected.***

## Amendment 26

**Proposal for a directive**

**Article 12 – paragraph 10**

*Text proposed by the Commission*

*Amendment*



**10. Member States shall ensure that an institution carrying out cross-border activity shall not be subject to any requirements concerning information to members and beneficiaries imposed by the competent authorities of the host Member State in respect of the members which that cross-border activity concerns.**

*deleted*

#### **Amendment 27**

##### **Proposal for a directive Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Member States **shall** allow institutions authorised or registered in their territories to transfer **all or a part of their pension schemes** to receiving institutions authorised or registered in other Member States.

*Amendment*

1. Member States **may** allow institutions authorised or registered in their territories to transfer, **fully or partly, a pension scheme's liabilities or technical provisions, as well as other obligations and rights and corresponding assets, or cash equivalent thereof**, to receiving institutions authorised or registered in other Member States, **provided that, in the case of a transfer of part of the pension scheme, the viability of both the transferred and the remaining part of the pension scheme is ensured and the rights of members are adequately protected after the transfer. The receiving institution shall operate the pension scheme in accordance with the social and labour law of the host Member State, thereby not changing the level of protection of the members and beneficiaries concerned by the transfer.**

#### **Amendment 28**

##### **Proposal for a directive Article 13 – paragraph 3**

*Text proposed by the Commission*

3. Unless national social and labour law on

*Amendment*

3. Unless national social and labour law on

the organisation of pension systems provides otherwise, the transfer and its conditions shall be made subject to prior approval by the members and beneficiaries concerned or, where applicable, their representatives. In any event, information on the conditions of the transfer shall be made available to the members and beneficiaries concerned or, where applicable, their representatives at least four months before the application referred to in paragraph 2 is submitted.

the organisation of pension systems provides otherwise, the transfer and its conditions shall be made subject to prior approval by the members and beneficiaries concerned or, where applicable, their representatives ***or by the sponsoring undertaking in case it is partly or fully liable to ensure the pension benefits***. In any event, information on the conditions of the transfer shall be made available to the members and beneficiaries concerned or, where applicable, their representatives at least four months before the application referred to in paragraph 2 is submitted.

## **Amendment 29**

### **Proposal for a directive**

#### **Article 14 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. The Commission shall propose any necessary measures to prevent possible distortions caused by different levels of interest rates and to protect the interest of beneficiaries and members of any scheme.***

*Justification*

*Reinstallation of original wording of the Directive, as this is a provision intended to protect beneficiaries and members of the schemes*

## **Amendment 30**

### **Proposal for a directive**

#### **Article 15 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. In the event of cross-border activity as referred to in Article 12, the technical provisions shall at all times be fully***

***3. The conditions laid down in paragraphs 1 and 2 shall also apply in the event of cross-border activity as referred to in***

*funded in respect of the total range of pension schemes operated. If these conditions are not met, the competent authorities of the home Member State shall intervene in accordance with Article 62. To comply with this requirement the home Member State may require ring-fencing of the assets and liabilities.*

*article 12, provided that the interests of employees, members and beneficiaries are adequately protected.*

### **Amendment 31**

#### **Proposal for a directive**

#### **Article 20 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*Member States may decide to permit criteria for investment which could go for lower returns but greater social benefit, if the stakeholders agree.*

### **Amendment 32**

#### **Proposal for a directive**

#### **Article 23 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) their *professional* qualifications, knowledge and experience are adequate to enable them to ensure a sound and prudent management of the institution and to properly carry out their key functions (requirement to be fit); and

(a) their qualifications, knowledge and experience are *collectively* adequate to enable them to ensure a sound and prudent management of the institution and to properly carry out their key functions (requirement to be fit); and

### **Amendment 33**

#### **Proposal for a directive**

#### **Article 24 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Directive 2010/76/EU of the European Parliament and of the Council<sup>1a</sup> shall also apply to those persons who effectively run IORPs so as to ensure a sound remuneration policy.***

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***<sup>1a</sup> Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (OJ L 329, 14.12.2010, p. 3).***

#### **Amendment 34**

##### **Proposal for a directive Article 24 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*[...]*

***deleted***

#### **Amendment 35**

##### **Proposal for a directive Article 29 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The risk evaluation for pensions shall be ***an integral part*** of the ***operational strategy*** and shall be ***taken into account in the strategic decisions*** of the ***institution***.

4. The risk evaluation for pensions shall be ***performed regularly and without delay following any significant change in the risk profile of the institution or of the pension scheme***. It shall be ***made available to the Members*** of the ***scheme and be published***.

#### **Amendment 36**

**Proposal for a directive**  
**Article 30**

*Text proposed by the Commission*

**Article 30**

*Delegated act for the risk evaluation for pensions*

*The Commission shall be empowered to adopt a delegated act in accordance with Article 77 specifying:*

*(a) the elements to be covered by paragraph 2 of Article 29;*

*(b) the methods referred to in paragraph (3) of Article 29 taking into account the identification and the evaluation of the risks they are or could be exposed to in the short and in the long term; and*

*(c) the frequency of the risk evaluation for pensions taking into account the requirements in paragraph 1 of Article 29.*

*The delegated act shall not impose additional funding requirements beyond those foreseen in this Directive.*

**Amendment 37**

**Proposal for a directive**  
**Article 38 - paragraph 1**

*Text proposed by the Commission*

1. Depending on the nature of the pension scheme established, Member *States* shall ensure that every institution located in their territories provides prospective members, members and beneficiaries *at least the information set out in Articles 39 to 53 and Articles 55 to 58.*

*Amendment*

*deleted*

*Amendment*

1. Depending on the nature of the pension scheme established, *each* Member *State* shall ensure that every institution located in their territories provides prospective members, members and beneficiaries *with the relevant information, taking into consideration the different information needs of prospective members, member and beneficiaries, as set out in this Chapter.*

*The information referred to in the first subparagraph shall be adequate to the needs of the user, written in a clear and user-friendly manner and shall be regularly updated and be in compliance with the UN Convention on the Rights of Persons with Disabilities, in particular as regards accessibility and access to information, as provided for in Articles 3 and 21 thereof respectively;*

## **Amendment 38**

### **Proposal for a directive Article 38 - paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. The information shall fulfil all the following requirements:**

*deleted*

*(a) it shall be regularly updated*

*(b) it shall be written in a clear manner, using clear, succinct and comprehensible language, avoiding the use of jargon and avoiding technical terms where everyday words can be used instead;*

*(c) it shall not be misleading and consistency shall be ensured in the vocabulary and content;*

*(d) it shall be presented in a way that is easy to read, using characters of readable size.*

*Colours shall not be used where they may diminish the comprehensibility of the information if the pension benefit statement is printed or photocopied in black and white.*

## **Amendment 39**

### **Proposal for a directive**

## Article 39 – paragraph 1

*Text proposed by the Commission*

1. Member States shall, in respect of every institution located in their territories, ensure that members are sufficiently informed of the conditions of the pension scheme, in particular concerning:

- (a) the rights and obligations of the parties involved in the pension scheme;
- (b) the financial, *technical and other* risks associated with the pension scheme;

*(c) the nature and distribution of those risks.*

## Amendment 40

### Proposal for a directive Article 39 – paragraph 2

*Text proposed by the Commission*

2. For schemes in which members bear an investment risk and which provide for more than one option with different investment profiles, the members shall be informed of the conditions regarding the range of investment options available, the default investment option and, where applicable, the pension scheme's rule to allocate a particular member to an investment option, *in addition to the information listed in points (a), (b) and (c) of the first paragraph.*

## Amendment 41

### Proposal for a directive

*Amendment*

1. *Depending on the nature of the pension scheme established* Member States shall, in respect of every institution located in their territories, ensure that members are sufficiently informed of the conditions of the pension scheme, in particular concerning:

- (a) the rights and obligations of the parties involved in the pension scheme;
- (b) the financial risks associated with the pension scheme *to the extent that they are relevant to the members and beneficiaries.*

*Amendment*

2. For schemes in which members bear an investment risk and which provide for more than one option with different investment profiles, the members shall be informed of the conditions regarding the range of investment options available, the default investment option and, where applicable, the pension scheme's rule to allocate a particular member to an investment option.

## **Article 40 a (new)**

*Text proposed by the Commission*

*[Replaces articles 40-54 of the Commission proposal]*

*Amendment*

### **Article 40 a**

#### ***Pension benefit statement***

***1. When laying down rules for the pension benefit statement, the competent authority of the Member State shall require:***

***(a) the pension benefit statement to contain the key relevant information for members, taking into consideration the specific nature of national systems and of national social, labour and tax law;***

***(b) the information in the pension benefit statement to be written in a clear manner and presented in a concise way that is easy to read;***

***(c) institutions to be allowed to provide the pension benefit statement in a durable medium or by means of a website. A paper copy shall be delivered to the members and beneficiaries on request and free of charge, in addition to any electronic means.***

***2. Within the framework of this Directive, key relevant information for members shall mean:***

***(a) personal details of the member, including a clear indication of the retirement age or the date when receiving retirement benefits;***

***(b) identification of the institution and identification of the pension scheme of the member;***

***(c) the exact date to which the information in the pension benefit statement refers;***

***(d) where applicable, any information on full or partial guarantees under the pension scheme. Where a guarantee is provided, the pension benefit statement shall briefly explain the nature of the***



*guarantee and provide information on the current level of financing of the member's accrued individual entitlements;*

*(e) Information on pension projections, taking into consideration the specific nature and organisation of the pension scheme.*

*3. Member States shall ensure that all supplementary relevant information shall be easily available and accessible in a user-friendly manner, upon request of the member. It can be provided in the pension benefit statement or made available by different means and may include the following:*

*(a) information on the balance, contributions and costs of the pension scheme, taking into consideration the specific nature and organisation of the pension scheme;*

*(b) where relevant, taking into consideration the specific nature and organisation of the pension scheme, information on the investment profile;*

*(c) where relevant, taking into consideration the specific nature and organisation of the pension scheme, information on past performance;*

*4. Member States shall exchange best practices with regard to the format and the content of the pension benefit statement.*

**Amendment 42**

**Proposal for a directive  
Article 55 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 55a*

*Other information and documents to be provided*

*[Replaces Articles 55-58 of the Commission proposal]*

*1. The institution shall ensure that prospective members are informed about all the features of the scheme and any investment options including information on if and how environmental, climate, social and corporate governance issues are considered in the investment approach. Where prospective members do not have a choice and are automatically enrolled in a pension scheme, they shall receive the key relevant information on their membership directly after enrolment.*

*2. In addition to the pension benefit statement, institutions shall provide each member, at least two years before the retirement age provided for in the scheme, or at the request of the member, with the following information:*

*(a) balanced information about the options available to members in taking their retirement income;*

*(b) where the pension scheme is not paid out as a lifetime annuity, balanced information about the benefit payment products available.*

*Institutions shall provide beneficiaries with information about the benefits due and the corresponding payment options. When a significant level of investment risk is borne by beneficiaries in the payout phase, Member States shall ensure that beneficiaries receive appropriate information.*

*3. On request of a member, a beneficiary or their representatives, the institution shall provide the following additional information:*

*(a) the annual accounts and the annual reports referred to in Article 31, or where an institution is responsible for more than one scheme, those accounts and reports relating to their particular pension scheme;*

*(b) the statement of investment policy*

*principles, referred to in Article 32*

*(c) information about the assumptions used to generate the projections referred to Article 50;*

*(d) information about the assumed annuity rate, the type of provider and the duration of the annuity referred to in Article 53 (c).*

*On request from a member the institution shall also provide:*

*(a) the target level of the retirement benefits, if applicable;*

*(b) the level of benefits in case of cessation of employment.*

#### **Amendment 43**

##### **Proposal for a directive Article 59 – paragraph 1**

*Text proposed by the Commission*

1. The main objective of prudential supervision is the protection of members and beneficiaries.

*Amendment*

1. The main objective of prudential supervision is the protection of ***the rights of*** members and beneficiaries ***and the stability and soundness of the institutions.***

#### **Amendment 44**

##### **Proposal for a directive Article 59 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to the main objective of prudential supervision as set out in paragraph 1, ***Member States shall ensure that, in the exercise of their general duties, the competent authorities shall duly consider the potential impact of their decisions on the stability of the financial systems concerned in the Union, in particular in emergency situations, taking into account the information available at***

*Amendment*

2. Without prejudice to the main objective of prudential supervision as set out in paragraph 1, ***this Directive supports the establishment and operation of IORPs, encourages their efficient management and administration, and enhances their attractiveness for employees and employers.***

*the relevant time.*

#### **Amendment 45**

##### **Proposal for a directive Article 60 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that institutions for occupational retirement provision are subject to prudential supervision including the supervision of the following:

*Amendment*

***Without prejudice to national social and labour law***, Member States shall ensure that institutions for occupational retirement provision are subject to prudential supervision including the supervision of the following:

#### **Amendment 46**

##### **Proposal for a directive Article 73 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Given the need to take action at Union level to further develop occupational pensions systems in the Member States, the Commission shall:***

***(a) undertake further steps to support Member States' cooperation with social partners in the development of more second pillar pensions;***

***(b) establish a High Level Group of experts to explore ways to increase second pillar retirement savings in the Member States, including the promotion of the exchange of best practices between the Member States.***

#### **Amendment 47**

##### **Proposal for a directive Article 75**

*Text proposed by the Commission*

*Amendment*

**Four** years after the entry into force of this Directive, the Commission shall review this Directive and report on its implementation and effectiveness to the European Parliament and the Council.

**Six** years after the entry into force of this Directive, the Commission shall review this Directive and report on its implementation and effectiveness to the European Parliament and the Council.

## **Amendment 48**

### **Proposal for a directive**

#### **Article 77**

*Text proposed by the Commission*

*Amendment*

#### **Article 77**

**deleted**

#### ***Exercise of the delegation***

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The delegation of powers referred to in Article 24(3), Article 30 and Article 54 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 4. A delegated act adopted pursuant to Article 24(3), Article 30 and Article 54 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European***

*Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.*

## PROCEDURE

<b>Title</b>	Activities and supervision of institutions for occupational retirement provision (recast)
<b>References</b>	COM(2014)0167 – C7-0112/2014 – 2014/0091(COD)
<b>Committee responsible</b> Date announced in plenary	ECON 14.4.2014
<b>Opinion by</b> Date announced in plenary	EMPL 14.4.2014
<b>Rapporteur</b> Date appointed	Jeroen Lenaers 1.10.2014
<b>Discussed in committee</b>	5.3.2015                      16.4.2015
<b>Date adopted</b>	28.5.2015
<b>Result of final vote</b>	+:                      38 -:                      10 0:                      2
<b>Members present for the final vote</b>	Laura Agea, Guillaume Balas, Tiziana Beghin, Brando Benifei, Enrique Calvet Chambon, David Casa, Ole Christensen, Lampros Fountoulis, Arne Gericke, Agnes Jongerius, Jan Keller, Ādm Ksa, Agnieszka Kozłowska-Rajewicz, Zdzisław Krasnodębski, Jean Lambert, Jrme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Vernica Lope Fontagn, Javi Lpez, Thomas Mann, Dominique Martin, Anthea McIntyre, Jolle Mlin, Elisabeth Morin-Chartier, Emilian Pavel, Georgi Pirinski, Terry Reintke, Claude Rolin, Anne Sander, Sven Schulze, Sin Simon, Jutta Steinruck, Yana Toom, Ulrike Trebesius, Ulla Trns, Marita Ulvskog, Renate Weber, Tatjana Źdanoka, Jana Źitansk, Ins Cristina Zuber
<b>Substitutes present for the final vote</b>	Heinz K. Becker, Lynn Boylan, Mercedes Bresso, Eva Kaili, Eduard Kukan, Antnio Marinho e Pinto, Csaba Sgor, Gabriele Zimmer
<b>Substitutes under Rule 200(2) present for the final vote</b>	Michaela Źojdrov