

Consultation on revised texts of the Budapest Protocol

CEIOPS presents revised texts of the Budapest Protocol and appendices for a two month public consultation until 15 June 2009.

Background

The Protocol, which provides a framework for cooperation between Member States' Competent Authorities in respect of cross-border pension activity, was first adopted in 2006. It builds upon the framework originally set out in the IORP directive¹ which represents a first step on the way to a pan European internal market for occupational retirement provision.

In order for Member States' pension supervisors to work together in an effective and co-operative manner, the Budapest Protocol was issued in February 2006 to provide guidance on how supervisors exchange information in both the notification process of cross-border schemes, and in the supervision of them.

It was agreed that the Protocol would be reviewed after two years to reflect the notification and supervisory experience gained from the application of the Protocol to practical and real life cross-border cases.

Review

To fulfil this commitment, CEIOPS commenced its review work in 2008. The environment in which the review has been carried out has been one where the general level of cross-border activity across all Member States is low in comparison to the number of domestic IORPs. However, there has been sufficient activity to highlight some genuine challenges with which supervisors have had to contend.

Recommended changes

The most notable changes are as follows:

- Those made in recognition of the fact that intended cross-border activity sometimes encounters genuine difficulties, e.g. incompatibility in legal frameworks, or where there is disagreement or doubt as to whether cross-border activity actually exists. The Protocol now provides specific assistance to supervisors on how they are to cooperate in these cases (paras. 2.5. – 2.13).
- A new section 'Complaints from members and beneficiaries' (section 4.1 onwards) is included to provide a practical basis for supervisors to cooperate in dealing effectively with complaints arising in the course of cross-border pensions activity. The revised Protocol envisages that Member States will be committed to making information available to the public with regard to their national complaints handling systems. The inclusion of this area represents an

¹ Directive 2003/42/EC of the European Parliament and of the Council of 3 June 2003 on the Activities and Supervision of institutions for Occupational Retirement Provision

important step towards convergence as it integrates the complaints mechanism of the General Protocol².

- A new paragraph has been added to the Protocol concerning co-operation in cases where there has been outsourcing of functions (para.1.4.3.).
- The information that must be provided to the host supervisor regarding each IORP/pension scheme intending to operate cross-border has been clarified (Appendix 2).
- Additions have been made clarifying the communication expected between supervisors regarding requests around ring-fencing.
- The opportunity has been taken to make a significant number of minor amendments throughout the Protocol and Appendices, which is based upon the experience of supervisors operating the Protocol to date, and which seeks to promote better understanding of what supervisors should do. This includes changes to improve the logical flow of the text, particularly in relation to the supervision requirements. Also, some amendments have been made to align the Budapest Protocol with other CEIOPS Protocols, particularly the General protocol.

Consultation responses

Please submit your comments as indicated in the consultation document by 15 June 2009.

² General Protocol relating to the collaboration of the insurance supervisory authorities of the Member States of the European Union

