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Host Member State law applicable to Guest IORPs

Survey of specified topics covered by host Member State law with which Guest IORPs operating in the host Member State must comply.

Under Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, (the IORP Directive), cross-border occupational pensions institutions operating in a host Member State (Guest IORPs) must comply with the requirements of social and labour law relevant to occupational pensions of the host Member State, and must also comply with any host Member State legislation drawn up under Articles 18(7) and 20(7) of the Directive.

Social and Labour Law

The Directive does not specify what comprises relevant social and labour law, although it does give some examples. Consequently, there are differences among Member States in what comprises its relevant social and labour law.

Article 18(7)

Under Article 18(7) of the Directive, the competent authorities of each Member State may require certain rules regarding investment be applied to an institution in the host Member State. These rules shall only apply to those assets of the institution corresponding to activities undertaken in the host Member State and they can only apply if the same or stricter rules also apply to institutions located in the host Member State.

Article 20(7)

Under Article 20(7) of the Directive, IORPs shall also be subject to any information requirements imposed by the competent authorities of the host Member State on institutions located within that Member State, in respect of the corresponding members.

CEIOPS Survey

As part of CEIOPS' initial review of key aspects of the implementation of the Directive, published in April 2008¹, a survey of specified topics covered by social and labour law was conducted. The survey was subsequently extended to include topics relating to Articles 18(7) and 20(7) of the Directive.

How to use the survey findings

The table attached as an **appendix** to this note provides an overview of legal requirements with which a guest IORP operating a pension scheme in a host Member State must comply. It is based on a selection of topics that fall under three headings:

- the requirements of national social and labour law relevant to occupational pensions;
- investment restrictions that may be imposed by a host Member State under Article 18(7), and
- information requirements that may be imposed by a host Member State under Article 20(7).

This information, now made publicly available on CEIOPS website, is expected to be of interest or use to:

- Member States – to understand how home country supervision of cross-border IORPs will interact with host country legal requirements, and
- Those considering the establishment of cross-border IORPs – to get an overview of their obligations in the jurisdiction in which they intend to operate.

Please note that this information is a snapshot of the situation as at the last quarter 2009 and only covers the topics selected for the questionnaire. Additionally, further topics not covered by the questionnaire could be part of a host Member States' social and labour law relevant to occupational pensions under which a pension scheme sponsored by an undertaking in the host Member State must be operated.

Further Information:

CEIOPS has a dedicated area on its website which provides a direct link to individual Member States' social and labour law applicable to occupational pension schemes <http://www.ceiops.eu/content/view/438/201/>. This provides broader and more detailed information for each Member State than the survey table.

¹ Report "Initial review of key aspects of the implementation of the IORP directive"
http://www.ceiops.eu/media/docman/public_files/publications/submissionstotheec/ReportIORPdirective.pdf