European Federation for Retirement Provision

Newsletter

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EFRP wishes all its members and supporters the very best Seasons Greetings and a Happy New Year

2011 Outlook

Pensions at the top of European agenda

2011 will be a very challenging year for all those involved with pensions at European level.

First of all, the Commission will deliver a **feedback statement** on its Green Paper on the future of pensions. More than 1600 responses were received to this Consultation. In addition the European Parliament is still working on its response to the Green Paper. So it will probably be mid-April before this feedback statement will be made public. Afterwards, and in line with the Working Programme of the Commission for 2011, a **White Paper on pensions** will follow in the autumn of 2011.

Secondly, the Working Programme of the Commission announces the review of the IORP Directive (2003/41/EC). At the European Pension Funds Congress—16 November 2010 in Frankfurt, Mr. Karel VAN HULLE, Head of Unit Insurance and Pensions, announced that his Unit would issue a **call for advice to EIOPA** beginning of 2011 in order to have a legislative proposal ready by the end of 2011. The Working Programme motivates the review to bring the solvency rules for IORPs in line with the solvency rules of insurers. It remains to be seen whether the Commission will be able to maintain this ambitious timeline as many stakeholders have already questioned the rational for this action. Moreover, the Green Paper on pensions raised several questions on the IORP Directive and its solvency rules. Thirdly, the occupational pension sector will witness the start of a new supervisory European Authority – **European Insurance and Occupational Pensions Authority** (EIOPA). The CEIOPS, the Level 3 body which will come to and end on 31 December 2010. However; CEIOPS has already kicked off the selection process for EIOPA's Occupational Pensions Stakeholder Group. This consultative body of 30 experts will deliver advices to the EIOPA Board on occupational pensions and IORPs. Finally, the Commission will continue its work **to rebuild trust in the financial sector**: legislative proposals such as on derivatives will require our utmost attention.

EC Green Paper on Pensions

EFRP calls for more workplace pension coverage

On 8 December 2010, Chris VERHAEGEN, Secretary General of the EFRP, delivered a speech at the EPP (European People's Party) Hearing on Pensions. The Hearing was organised by the German MEP Martin KASTLER and was also attended by Commissioner Laszlo ANDOR who is responsible for Employment, Social Affairs and Equal Opportunities. For EFRP it was an excellent occasion to present its views on pensions to the largest political group in the European Parliament. The EFRP speech is available at www.efrp.eu

It is expected that the Liberal group in the Parliament will setup a similar event in February 2011.

EC Green Paper on Pensions - Council

Social affairs ministers call to review pension classifications

The Employment, Social policy, Health and Consumer Affairs Council meeting of 6 December 2010 has called upon the Social Protection Committee to review the pension classifications in Europe. The Council believes that such work is needed *"to enhance the comparability of existing statistical concepts and indicators and to better define the boundaries between social security schemes and private schemes, occupational and individual schemes and voluntary and mandatory schemes"*.

The EFRP welcomes this decision. The development of a clear European definition of the three pillar pension system is a long-standing action point of the EFRP. EFRP is also pleased to see that the European insurers federation, CEA, is equally advocating in its response to the Commission's Green Paper on pensions to develop a common pension language across the EU. For EFRP the development of such a common language would be the first step to take as a follow-up to the Green Paper. Once the diversity of European pension systems is consistently mapped across Europe, there is firm ground available to start the review of the IORP Directive

PRIPS

Commission consults on scope

On 26 November 2010 the Commission launched a consultation on Packaged Retail Investment Products (PRIPs). The PRIPs initiative is about putting in place a horizontal approach as to product transparency and sales rules for all kind of retail investment products. This means that neither the legal form nor the distribution channel of the retail investment product will be relevant for setting disclosure and selling practices.

The Commission is seeking views as to whether pensions, annuities and variable annuities should be excluded from the scope of the PRIPs initiative. It is encouraging that the Commission seems to agree with EFRP that pensions and annuities deserve to be carved out of the PRIPs initiative. Yet, this Commission will most likely want to revisit the issue in the future as it states *"regulatory arbitrage and level playing field issues between investments and pensions will be one of the matters that will need to be addressed as the wider work on pensions matures'.*

The deadline for comments to this consultation is 31 January 2011. The consultation document is available at:

http://ec.europa.eu/internal_market/consultations/docs/2010/prips/consultation_paper_en.pdf

INSOLVENCY OF EMPLOYER

ESOFAC STUDY RECOMMENDS NATIONAL PENSION GUARANTEE FUNDS

On 25 November 2010, ESOFAC (Études Sociales Financières et Actuarielles) Belgium and EURACS (European Actuarial Consultancy Service) presented a study for the European Commission on "The protection of supplementary pensions in case of insolvency of the employer for defined benefit and book reserve schemes".

The study was requested by the European Commission, DG Employment, Social Affairs and Equal Opportunities. This work is to be seen as a follow up of the Robins case (C-278/05); this judgment had found that the UK Pension Insolvency Payment Scheme failed to provide the appropriate protection, as required under Directive 2002/74/EC

Further to this decision, the Commission had issued a working document highlighting the following aspects for further investigation:

- Protection of employees and pensioners against the risk of underfunding of pension schemes;
- Guarantee of unpaid contributions to pension schemes;
- Dealing with supplementary pension schemes managed by employers.

Those issues have been addressed by the ESOFAC/ EURACS study, but its scope is limited to DB and Book Reserve Schemes. Yet, the study provides an overview of legal provisions for the protection of the employee in case of insolvency of the employer in EU and EEA/EFTA Countries (20 Countries overall), where DB or Book Reserve schemes exist. The study acknowledges the **existence of high protection** in Countries with DB schemes**.** Mechanisms used are:

- separation of assets;
- unlikely return of assets to the sponsoring employers;
- high to full funding requirements.

However, the study recommends as "best practice" a **pension guarantee fund**, as an additional security mechanism for IORPs not under ART.17 IORP Dir. (p.51 of the Report). **Risk-based premium** and **balance between funding requirements and guarantee fund** are identified as solutions to contain costs.

An EC official stated that **the Commission is assessing the need for national Pension Guarantee Schemes** amongst the options to enhance security for IORPs, in the framework of the forthcoming review of IORP Directive. Another option is the **modification of technical provisions** to strengthen employees' protection, particularly through the harmonisation of provisions on recovery plans in case of underfunding.

The full text of the study is available at : http://ec.europa.eu/social/main.jsp?catId=706&langId=en&intPageId=198

MIFID REVIEW

COMMISSION OPENS CONSULTATION

On 8 December 2010, the European Commission opened a public consultation on revision of Market in Financial Instruments Directive (2004/39/EC). The consultation will be open until **2 February 2011.** Relevant documents are available at: http://ec.europa.eu/internal_market/consultations/2010/mifid_en.htm. Responses can be sent to the following address: markt-consultations-mifid@ec.europa.eu

Pension Reform Accounting in the SGP

Search for agreement in view of the European Council

The Ministers of Economy and Finance, who met in Brussels on 7 December 2010, were not able to achieve an agreement on the Report on the impact of pension reforms on the implementation of the Stability and Growth Pact. The Report was requested by the Heads of State and Government last October. The issue will be submitted now as a Presidency Report to the European Council, gathering Heads of State and Government, on 16-17 December.

At the EU summit in October, a group of nine EU member states demanded that the cost of structural reform of their pension system be taken into account while calculating their public debt and deficit. The call was supported by Poland, Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania, Romania and Slovakia as well as Sweden. However, they failed to secure a majority to support their proposal.

The European Commission is proposing a compromise formula based on temporary leniency for deficit taking into account the long term debt.

The key elements of the proposal are:

- Budget deficit must be justified by systemic pension reform.
- The costs of pension reform will have to be documented clearly but in any case they will not be taken into account to a 100%.
- There will be no cap nor figure for deficit margin above 3%
- The assessment would be carried out on a case-by-case basis.

If approved, the agreement will be included in the code of conduct for the implementation of the stability and Growth Pact.

Back to PAYG System

Hungary dismantles second pillar

On 13 December 2010, Hungarian Parliament voted a reform of pension system, allowing the government to seize up to 10 billion euros in private pension assets to cut the budget deficit while avoiding austerity measures. Assets will be transferred to State budget by default on 31 January 2011. However, members can choose to keep their assets in the current mandatory pension system. But this is penalised. To opt out, members have to present themselves at the local offices of the state pension authorities and make a written opt-out declaration. Doing so, they will lose their entitlement to a State pension in the future, despite the payment of the full pension contribution into State system. The government will use the incoming assets to cut debt, plug holes in the state pension fund and create room for tax cuts for households and small companies.

The strategy - which also includes ending a 20 billion euro safety net deal with the European Union and the International Monetary Fund - has worried investors, caused losses in Hungarian assets, and prompted a downgrade by Moody's to Baa3. According to estimates, by raiding private funds, Hungarian President Orban will cut the deficit to below 3% of gross domestic product next year. But he will also delay reforms which are vital to tackle a debt equivalent to 80% of GDP, just above the EU average but higher than any other country in Central and Eastern Europe.