



EUROPEAN COMMISSION

Brussels, 17.9.2014
C(2014) 6491 final

Dear Chairman,

The Commission would like to thank the House of Lords for its Opinion concerning the proposal for a Directive on the activities and supervision of institutions for occupational retirement provision (recast) {COM (2014) 167 final}.

The Commission notes that the House of Lords recognises the challenges of demographic change, slow economic growth, budget deficits, financial instability and low employment - the reasons that make it imperative for the EU to take action.

The Commission shares the opinion of the House of Lords that Member States should retain full responsibility for the organisation of their pension systems. This has already been recognised in Recital 9 of Directive 2003/41/EC (the 'IORP Directive') and has been maintained in the proposal.

Within the framework of these choices by Member States, the purpose of the existing IORP Directive was to unlock efficiency gains from the Single Market in the provision of occupational pensions within the framework of national social and labour law, by establishing a minimum set of common prudential rules for the provision of occupational pensions to guarantee a high degree of security for future pensioners. The proposal aims to adapt and improve key provisions of the IORP Directive, notably those relating to cross-border activity and transfers, governance of institutions, information transparency and prudential supervision.

The Commission is fully aware of the specific nature and the importance of occupational retirement provision in the pension system in the United Kingdom and in other EU Member States. Therefore the proposal focuses on those areas of the institutions for occupational

*Lord BOSWELL
Chairman of the European Union Select Committee
House of Lords
Palace of Westminster
UK – LONDON SW1A 0PW*

retirement provision (IORPs) market where the EU could add the most value and reinforce the policy actions by individual Member States. The proposal does not aim to fully harmonise the regulation of IORPs, but sets out common EU requirements in a way that respects the specificities of national systems. The proposed provisions on the remuneration policy and on the appointment of a depository for example take into account that the management structure of IORPs differs considerably across Member States.

The Commission is of the opinion that EU level action on IORPs would add value because action by Member States alone would not remove obstacles to cross-border activities of IORPs. Cross-border IORPs activities may lead to efficiency gains and may thereby contribute to the further development of occupational pensions within the EU. Such efficiency gains could for example arise where companies active in several Member States set up a single occupational pension scheme for their employees in several Member States, or where experienced IORPs providers from Member States with highly developed occupational pensions systems offer to set up occupational pension schemes for companies in other Member States.

The proposal will also ensure a level-playing field between IORPs providers from different Member States and will therefore avoid that IORPs engage in regulatory arbitrage and dislocate to Member States which have not introduced high standards.

Furthermore, EU action would ensure a higher EU-wide minimum level of consumer protection; it would lead to scale economies, risk diversification and innovation inherent to cross-border activity and would help to minimise regulatory arbitrage between financial services sectors. Finally, the proposal would take into account the interests of cross-border workers.

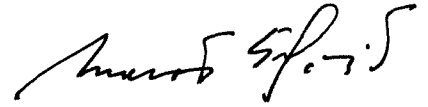
As regards the House of Lords' concerns over the Impact Assessment, the Commission would like to reassure the House of Lords that the impact assessment process within the European Commission is always an essential element in the decision making process. It stays, however, preparatory to the political decisions ultimately taken by the Commission's decision making organ, the College of Commissioners.

On the subject of subsidiarity specifically, the Commission would observe that limited cross-border activity is not in itself a conclusive argument against EU-level action. It would also like to recall that the existing 2003 IORP1 Directive, was never contested by any Member State on subsidiarity grounds. Furthermore, as pointed out in the Impact Assessment, IORPs exist in the great majority of Member States, not only in four of them, and it is anticipated that they will become significant in more Member States in future, a process which can be encouraged and supported by the establishment of an EU framework based on best practice (including UK best practice).

The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the concerns raised by the House of Lords and looks forward to continuing our political dialogue.

Yours faithfully,



*Maroš Šefčovič
Vice-President*