



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title

DG MARKT - Impact Assessment on the revision of the Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP II)

(draft version of 19 July 2013)*

(A) Context

Institutions for Occupational Retirement Provision (IORPs) are important for the financing of Europe's economy and in promoting social cohesion in several Member States. Covering over 20% of the EU's labour force, and managing assets worth over €2.7 trillion, they play a role in meeting the challenges in attaining adequate, safe and sustainable pensions across the EU. Adopted in 2003, the IORP Directive introduced minimum harmonisation of prudential standards and mutual recognition of supervision. A debate on the possible changes to the directive started in 2008. In its resolution of 21 May 2013, the European Parliament considers that the IORP II proposal should strengthen prudential standards for governance and risk management and transparent information disclosures.

(B) Overall opinion: NEGATIVE

The report needs to be significantly improved in a number of respects. First, the problem definition should better identify what the exact single market problems are that the planned initiative aims to address and provide an indication of their relative importance and size, substantiated with evidence and differentiated by affected Member States. Moreover, considering the low proportion of cross-border IORPs, the report should better justify the need for action at EU level. The analysis of the options should be developed in order to provide greater detail on the impacts on Member States, employees, administrative burden and SMEs. The report should also better demonstrate the effectiveness of the planned measures in developing the IORP market, and critically assess the proportionality of the retained measures (e.g. options to harmonise supervisory powers or to introduce a pan-EU standard Pension Benefit Statement), given that currently 99.9% of IORPs are domestic. Finally, the views of Member States and different stakeholder categories should be presented in greater detail, including how their concerns have been taken into account.

Given the nature of these concerns, the IAB requests DG MARKT to submit a revised version of the IA report on which it will issue a new opinion.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

(C) Main recommendations for improvements

(1) Better assess the problems. The report should identify more clearly what the real problems are, and substantiate them with sound evidence and relevant examples. Thus, regulatory barriers for the development of cross-border IORPs should be described in greater detail and their consequences (e.g. increased costs) quantified, where possible. Evidence regarding the 'suboptimal member protection' problem should also be considerably strengthened. The report should furthermore critically assess the size of the problem by, for example, more clearly indicating the Member States actually or potentially concerned, and by providing evidence for the existence of problems in those Member States where IORPs are more important (in terms of number or assets held). Likewise, the evidence or examples provided should be objectively put in relation with the overall size of the IORP market so as to give the order of magnitude of each of the identified problems. In addition, the baseline scenario should be developed in order to provide a more dynamic description of the market and a more detailed (and substantiated) analysis of the interest in cross-border IORPs. It should moreover describe Member States' on-going or planned measures aiming to address any of the identified problems.

(2) Substantiate the need for EU action. Given the small number of cross-border IORPs, the report should better explain why action at national level would not be effective in addressing the identified problems, in particular those related to supervisory powers. Likewise, considering the concentration of the IORP market in just a few Member States, the report should explain the implicit assumption that Member States are not in a position to take appropriate actions and critically assess the appropriateness of acting at EU level. It should furthermore better explain what the value-added of EU action would be and clarify why action cannot wait until the re-examination of the solvency related issues announced in the report introduction.

(3) Better assess the impacts. The analysis should be completed by describing in greater detail, and quantifying where possible, a number of important impacts. Thus, the report should develop the analysis of the costs for Member States linked to the planned supervisory changes, as well as, of the impacts on employees, including with regard to additional costs that risk to be passed on to them. Furthermore, in view of the large number of new information-related obligations, the report should provide a more in-depth assessment of the impact on administrative burden of the retained options. It should also develop the analysis of the impacts on SMEs, by clarifying how many small IORPs would be concerned by the envisaged measures and explaining whether they can bear the resulting costs. With regards to those impacts that have been quantified, the report should better explain the calculations and assumptions made and clarify whether they have been checked with the affected stakeholders.

(4) Better demonstrate the effectiveness and proportionality of the retained measures. The report should better assess the effectiveness of the proposed package of measures in achieving the objectives set, in particular that of facilitating the development of occupational retirement savings. It should, for example, critically assess the impact of the anticipated short-term additional costs for employers on the uptake of IORPs. Furthermore, in view of the fact that currently 99.9% of IORPs are domestic, the report should better explain how options to harmonise supervisory powers, or to introduce a pan-EU standard Pension Benefit Statement respect the principle of proportionality.

(5) Better present stakeholders views. The report should describe in greater detail the views of different stakeholder categories (i.e. employees, employers, IORPs...) instead of

focussing on the majority views. In particular, the views of the different Member States need to be clearly explained. In addition, stakeholders' concerns should be more openly discussed by clarifying how they have been addressed or, alternatively, why they have been disregarded. Moreover, the report should better describe the consultation process and clarify which of the issues covered by the report stakeholders were consulted upon, and clarify whether the minimum consultation standards have been respected.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

The drafting should be revised with a view to render it more accessible for the non-expert reader. In addition, coherence should be improved, acronyms explained a first occurrence and the web links to the mentioned reports, where possible, provided.

(E) IAB scrutiny process

Reference number	2011/MARKT/002
External expertise used	No
Date of IAB meeting	4 September 2013