



**2014/0091(COD)**

28.7.2015

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on the activities and supervision of institutions for occupational retirement  
provision (recast)  
(COM(2014)0167 – C7-0112/2014 – 2014/0091(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Brian Hayes

(Recast – Rule 104 of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	131
ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS .....	134
ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION .....	136



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast) (COM(2014)0167 – C7-0112/2014 – 2014/0091(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2014)0167),
  - having regard to Article 294(2) and Articles 53 and 62 and Article 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0112/2014),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>1</sup>,
  - having regard to the letter of 15 July 2014 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 104(3) of its Rules of Procedure,
  - having regard to Rules 104 and 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A8-0000/2015),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

---

<sup>1</sup> OJ C 77, 28.3.2002, p. 1.

## Amendment 1

### Proposal for a directive

#### Recital 2

*Text proposed by the Commission*

The internal market should **allow institutions** to operate in other Member States **and ensure** a high level of protection for members and beneficiaries of occupational **retirement** schemes .

*Amendment*

**(2) In** the internal market **institutions** should **have the possibility** to operate in other Member States **on condition that** a high level of protection for members and beneficiaries of occupational **pension** schemes **is ensured**.

Or. en

*Justification*

*Aligned with Amendment 2 of EMPL Committee Opinion.*

## Amendment 2

### Proposal for a directive

#### Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) This Directive aims to provide for minimum harmonisation and should not preclude Member States from maintaining or introducing further provisions in order to protect members and beneficiaries, provided that such provisions are consistent with Member States' obligations under Union law. This Directive does not concern issues of national social, labour and tax law, and contract legislation nor the adequacy of pension provisions in Member States.**

Or. en

*Justification*

*Aligned with Amendment 5 of EMPL Committee Opinion.*

### Amendment 3

#### Proposal for a directive

#### Recital 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(2b) In order to further facilitate the mobility of workers between Member States, this Directive aims to ensure good governance, information to scheme members, transparency and safety of occupational retirement provision.***

Or. en

*Justification*

*Aligns with amendment 3 of EMPL Committee Opinion.*

### Amendment 4

#### Proposal for a directive

#### Recital 2 c (new)

*Text proposed by the Commission*

*Amendment*

***(2c) The way in which institutions for occupational retirement provision are organised and regulated varies significantly between Member States. It is not appropriate, therefore, to adopt a 'one size-fits-all' approach to institutions for occupational retirement provision. The Commission and the European Supervisory Authority (European Insurance and Occupational Pensions Authority) ('EIOPA'), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>1a</sup> should take account of the various traditions of the Member States in their activities and without prejudice to national social and labour law in determining the organisation of institutions for occupational retirement provision.***

---

***1<sup>a</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).***

Or. en

*Justification*

*Aligns with amendment 4 of EMPL Committee Opinion.*

**Amendment 5**

**Proposal for a directive**

**Recital 4**

*Text proposed by the Commission*

(4) Action is needed to further develop complementary private retirement savings such as occupational pensions. This is important since social-security systems are coming under increasing pressure, which means that citizens will increasingly rely on occupational retirement pensions *as a complement* in the *future*. Occupational retirement pensions should be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European social model.

*Amendment*

(4) Action is needed to further develop complementary private retirement savings such as occupational pensions. This is important since social-security systems are coming under increasing pressure, which means that citizens will increasingly rely on occupational retirement pensions *to complement future retirement savings. Institutions for occupational retirement provision play an important role in the long-term financing of the Union's economy and in providing secure retirement benefits for citizens of the Union.* Occupational retirement pensions should be developed, without, however, calling into question the importance of social-security pension systems in terms of secure, durable and effective social protection, which should guarantee a decent standard of living in old age and should therefore be at the centre of the objective of strengthening the European



social model.

Or. en

## Amendment 6

### Proposal for a directive Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) , In view of demographic developments in the Union and the situation regarding national budgets, occupational retirement provision is an almost indispensable element of adequate, safe and sustainable retirement provision.***

Or. en

*Justification*

*Aligns with Amendment 2 of FEMM Committee Opinion.*

## Amendment 7

### Proposal for a directive Recital 5

*Text proposed by the Commission*

*Amendment*

(5) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably, the right to protection of personal data, the ***right*** to conduct a business and the right to a high level of consumer protection, in particular by ensuring a higher level of transparency of retirement provisioning, informed personal financial and retirement planning as well as facilitating cross-border ***business of insitutions*** for occupational retirement provision and ***businesses***. This Directive must be implemented in accordance with these rights and

(5) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably, the right to protection of personal data, the ***freedom*** to conduct a business, ***the right to property, the right of collective bargaining and action*** and the right to a high level of consumer protection, in particular by ensuring a higher level of transparency of retirement provisioning, informed personal financial and retirement planning as well as facilitating cross-border ***activities of institutions*** for occupational retirement provision and ***the transfer of pension***

principles.

*schemes*. This Directive must be implemented in accordance with these rights and principles.

Or. en

*Justification*

*Aligns with Amendment 8 of EMPL Committee Opinion*

**Amendment 8**

**Proposal for a directive  
Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) One of the objectives of Directive 2003/41/EC was to facilitate cross-border activity of institutions for occupational retirement provision, but it should be recognised that such an activity has been limited because of the restrictions laid down in national social and labour law and other barriers to the proper functioning of the internal market.***

Or. en

*Justification*

*It should be noted in the recast Directive that there has been limited cross-border activity of IORPs since the original Directive was implemented due to limitations in national and social labour law.*

**Amendment 9**

**Proposal for a directive  
Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) In order to improve the functioning of the internal market in the field of occupational retirement provision, it is important that the procedures enabling***

*institutions to carry out cross-border activity be clarified and that unnecessary obstacles, which hamper such cross-border activity, be removed. Facilitating cross-border activity could have a positive impact on affiliated undertakings and their employees, in whichever Member State they work, through the centralisation of the management of the occupational retirement provision business.*

Or. en

### *Justification*

*It is important to demonstrate the positive impact that cross-border activity could have for the European economy and one of the goals of this Directive should be to remove unnecessary obstacles and clarify cross-border procedures.*

## **Amendment 10**

### **Proposal for a directive**

#### **Recital 6**

#### *Text proposed by the Commission*

(6) Despite the entry into force of Directive 2003/41/EC important prudential barriers remain which make it more expensive for institutions to operate pension schemes across borders. Moreover, the current minimum level of protection for members and beneficiaries needs to be increased. This is all the more important as the number of Europeans relying on schemes that shift longevity and market risks from the institution or the undertaking offering the occupational scheme ('sponsoring undertaking') to the individual has increased significantly. In addition, the current minimum level of information provision to members and beneficiaries needs to be increased. ***Those developments warrant an amendment of the Directive.***

#### *Amendment*

(6) Despite the entry into force of Directive 2003/41/EC important prudential barriers remain which make it more expensive for institutions to operate pension schemes across borders. Moreover, the current minimum level of protection for members and beneficiaries needs to be increased. This is all the more important as the number of Europeans relying on schemes that shift longevity and market risks from the institution or the undertaking offering the occupational scheme ('sponsoring undertaking') to the individual has increased significantly. In addition, the current minimum level of information provision to members and beneficiaries needs to be increased.

Or. en

## **Amendment 11**

### **Proposal for a directive Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) Taking into account the need to develop occupational retirement provision further, the Commission should provide significant added value at Union level by undertaking further steps in supporting Member States' cooperation with social partners in the development of more second pillar pension schemes and by establishing a High Level Group of experts to explore ways to increase second pillar retirement savings in the Member States, including the promotion of the exchange of best practices between the Member States, in particular with regard to cross-border activity.***

Or. en

*Justification*

*Aligns with Amendment 11 of EMPL Committee Opinion.*

## **Amendment 12**

### **Proposal for a directive Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) Financial institutions which already benefit from a Union legislative framework should in general be excluded from the scope of this Directive. However, as these institutions may also in some cases offer occupational pension services, it is important to ensure that this Directive does not lead to distortions of competition. Such distortions may be avoided by applying the prudential requirements of this Directive to

(12) Financial institutions which already benefit from a Union legislative framework should in general be excluded from the scope of this Directive. However, as these institutions may also in some cases offer occupational pension services, it is important to ensure that this Directive does not lead to distortions of competition. Such distortions may be avoided by applying the prudential requirements of this Directive to

the occupational pension business of life-  
assurance **companies**. The Commission  
should also carefully monitor the situation  
in the occupational pensions market and  
assess the possibility of extending the  
optional application of this Directive to  
other regulated financial institutions.

the occupational pension business of life-  
assurance **undertakings as referred to in  
Article 2(3)(b)(iii) and (iv) of Directive  
2009/138/EC of the European Parliament  
and of the Council<sup>1a</sup>**. The Commission  
should also carefully monitor the situation  
in the occupational pensions market and  
assess the possibility of extending the  
optional application of this Directive to  
other regulated financial institutions.

---

<sup>1a</sup> **Directive 2009/138/EC of the European  
Parliament and of the Council of 25  
November 2009 on the taking-up and  
pursuit of the business of Insurance and  
Reinsurance (Solvency II) (OJ L 335,  
17.12.2009, p. 1).**

Or. en

#### *Justification*

*Aligns with Article 4 of this Directive as amended.*

### **Amendment 13**

#### **Proposal for a directive Recital 13**

##### *Text proposed by the Commission*

(13) **When aiming at ensuring** financial  
security in retirement, the benefits paid by  
institutions for occupational retirement  
provision should **generally** provide for the  
payment of a lifelong pension. Payments  
for a temporary period **or** a lump sum  
**should also be possible**.

##### *Amendment*

(13) **Since institutions for occupational  
pensions aim to ensure** financial security  
in retirement, the **retirement** benefits paid  
by institutions for occupational retirement  
provision should provide for the payment  
of a lifelong pension, payments for a  
temporary period, **payment of** a lump sum,  
**or any combination thereof**.

Or. en

#### *Justification*

*There should be no priority given to payment methods. The payment methods described above  
should be afforded equal importance in this Directive.*

## Amendment 14

### Proposal for a directive

#### Recital 15

*Text proposed by the Commission*

(15) Giving Member States the possibility to exclude from the scope of national implementing legislation institutions managing schemes which together have less than 100 members in total can facilitate supervision in some Member States, without undermining the proper functioning of the internal market in this field. However, this should not undermine the right of such institutions to appoint for the management of their investment portfolio **and** the custody of their assets **investment managers and custodians** established in another Member State and duly authorised.

*Amendment*

(15) Giving Member States the possibility to exclude from the scope of national implementing legislation institutions managing schemes which together have less than 100 members in total can facilitate supervision in some Member States, without undermining the proper functioning of the internal market in this field. However, this should not undermine the right of such institutions to appoint for the management of their investment portfolio **investment managers established and duly authorised in another Member State, and custodians or depositaries for** the custody of their assets established in another Member State and duly authorised.

Or. en

## Amendment 15

### Proposal for a directive

#### Recital 17

*Text proposed by the Commission*

(17) In order to protect members and beneficiaries, institutions for occupational retirement provision should limit their activities **to the activities**, and those arising therefrom, referred to in this Directive.

*Amendment*

(17) In order to protect members and beneficiaries, institutions for occupational retirement provision should limit their activities, and those arising therefrom, **to those** referred to in this Directive **and provide clear and relevant information to members and beneficiaries for the purpose of ensuring good governance and risk management.**

Or. en

*Justification*

*Aligns with Amendment 11 of FEMM Committee Opinion.*

**Amendment 16**

**Proposal for a directive**

**Recital 20**

*Text proposed by the Commission*

(20) Institutions for occupational retirement provision are financial service providers which bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation.

*Amendment*

(20) Institutions for occupational retirement provision are financial service providers which bear a heavy responsibility for the provision of occupational retirement benefits and therefore should meet certain minimum prudential standards with respect to their activities and conditions of operation. ***However, such institutions should not be treated as purely financial service providers as they serve an important social function due to the central role played by social partners in the running of the institution.***

Or. en

*Justification*

*Since an IORP is an institution which is based on a social agreement between the employer and employee, it should be recognised that IORPs are not purely financial services providers*

**Amendment 17**

**Proposal for a directive**

**Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) The institution's social function and the triangular relationship between the employee, the employer and the institution for occupational retirement provision (IORP) should be adequately acknowledged and supported as a guiding principle of this Directive.***

*Justification**Aligns with Amendment 23 of EMPL Committee Opinion.***Amendment 18****Proposal for a directive****Recital 23***Text proposed by the Commission*

(23) The exercise of the right of an institution in one Member State to manage an occupational pension scheme contracted in another Member State should fully respect the provisions of the social and labour law in force in the host Member State insofar as it is relevant to occupational *pensions*, for example the definition and payment of retirement benefits and the conditions for transferability of pension rights. The scope of prudential rules should be clarified in order to ensure legal certainty for the cross-border activities of the insitutions.

*Amendment*

(23) The exercise of the right of an institution in one Member State to manage an occupational pension scheme contracted in another Member State should fully respect the provisions of the social and labour law in force in the host Member State insofar as it is relevant to occupational *pension schemes*, for example the definition and payment of retirement benefits and the conditions for transferability of pension rights. The scope of prudential rules should be clarified in order to ensure legal certainty for the cross-border activities of the insitutions.

Or. en

**Amendment 19****Proposal for a directive****Recital 24***Text proposed by the Commission*

(24) Institutions should be able to transfer pension schemes to other institutions across borders within the Union in order to facilitate the organisation of occupational retirement provision on a Union scale, subject only to authorisation from the competent authority in the home Member State of the institution receiving the pension scheme (the 'receiving insitution').

*Amendment*

(24) Institutions should be able to transfer pension schemes to other institutions across borders within the Union in order to facilitate the organisation of occupational retirement provision on a Union scale, subject only to authorisation from the competent authority in the home Member State of the institution receiving the pension scheme (the 'receiving insitution').



***Unless national social and labour law on pension systems provides otherwise,*** the transfer and its conditions should be subject to prior approval by members and beneficiaries concerned or, where applicable, their representatives.

The transfer and its conditions should be subject to prior approval by members and beneficiaries concerned or, where applicable, their representatives.

Or. en

## **Amendment 20**

### **Proposal for a directive Recital 25**

#### *Text proposed by the Commission*

(25) A prudent calculation of technical provisions is an essential condition to ensure that obligations to pay retirement benefits can be met. Technical provisions should be calculated on the basis of recognised actuarial methods and certified by ***qualified persons***. The maximum interest rates should be chosen prudently according to any relevant national rules. The minimum amount of technical provisions should both be sufficient for benefits already in payment to beneficiaries to continue to be paid and reflect the commitments that arise out of members' accrued pension rights.

#### *Amendment*

(25) A prudent calculation of technical provisions is an essential condition to ensure that obligations to pay retirement benefits can be met. Technical provisions should be calculated on the basis of recognised actuarial methods and certified by ***an actuary or by another specialist in that field***. The maximum interest rates should be chosen prudently according to any relevant national rules. The minimum amount of technical provisions should both be sufficient for benefits already in payment to beneficiaries to continue to be paid and reflect the commitments that arise out of members' accrued pension rights.

Or. en

## **Amendment 21**

### **Proposal for a directive Recital 27**

#### *Text proposed by the Commission*

(27) Sufficient and appropriate assets to cover the technical provisions protect the interests of members and beneficiaries of the pension scheme if the sponsoring

#### *Amendment*

(27) Sufficient and appropriate assets to cover the technical provisions protect the interests of members and beneficiaries of the pension scheme if the sponsoring

undertaking becomes insolvent. ***In particular in cases of cross-border activity, the mutual recognition of supervisory principles applied in Member States requires that the technical provisions be fully funded at all times.***

undertaking becomes insolvent. ***An institution's technical provisions should be fully funded in respect of the total range of pension schemes operated from the moment when the institution starts operating a new or additional scheme.***

Or. en

### *Justification*

*Aligns with Article 15(3) as amended.*

## **Amendment 22**

### **Proposal for a directive Recital 28**

#### *Text proposed by the Commission*

(28) ***If the institution does not work on a cross-border basis***, Member States should be able to ***permit underfunding*** provided that a proper plan is established to restore full funding and without prejudice to the requirements of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.<sup>28</sup>

---

<sup>28</sup> OJ L 283, 28.10.1980, p. 23.

#### *Amendment*

(28) Member States should be able to ***allow institutions to be underfunded for a limited period of time***, provided that a proper plan is established to restore full funding and without prejudice to the requirements of Council Directive 80/987/EEC<sup>28</sup>.

---

<sup>28</sup> ***Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer*** (OJ L 283, 28.10.1980, p. 23).

Or. en

## **Amendment 23**

### **Proposal for a directive Recital 33**

PE565.015v02-00

18/138

PR\1070147EN.doc

*Text proposed by the Commission*

(33) As very long-term investors with low liquidity risks, institutions for occupational retirement provision are in a position to invest in non-liquid assets such as shares as well as in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities or organised trading facilities should therefore not be restricted except on prudential grounds.

*Amendment*

(33) ***This Directive should ensure that there is an appropriate level of investment freedom for institutions.*** As very long-term investors with low liquidity risks, institutions for occupational retirement provision are in a position to invest in non-liquid assets such as shares as well as in instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities (***MTF***) or organised trading facilities (***OTF***) within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in instruments that have a long-term economic profile and are not traded on regulated markets, ***MTF*** or ***OTF*** should therefore not be restricted, ***in line with the 'prudent person' rule so as to protect the interest of members and beneficiaries,*** except on prudential grounds.

Or. en

**Amendment 24**

**Proposal for a directive  
Recital 35 a (new)**

*Text proposed by the Commission*

*Amendment*

***(35a) Union citizens working in another Member State need to have a clear overview of their accrued pension rights stemming from statutory and occupational pension schemes. This could be achieved through the establishment of pension tracking services across the Union, similar to those that have already been set up in some Member States following the Commission's White Paper of 16 December 2012 entitled 'An Agenda***

*for Adequate, Safe and Sustainable Pensions'. which promoted the development of such services.*

Or. en

*Justification*

*A pension tracking service would be a useful addition to the functioning of the internal market and could potentially provide relevant information such as pension benefits and entitlements to Union citizens who have worked in another Member State*

**Amendment 25**

**Proposal for a directive  
Recital 36**

*Text proposed by the Commission*

(36) Some risks cannot be reduced through quantitative requirements reflected in the technical provisions and funding requirements but can only be properly addressed through governance requirements. Ensuring an effective system of governance is therefore essential for the adequate management of risk. Those systems should be proportionate to the nature, scale and complexity of the activities.

*Amendment*

(36) Some risks cannot be reduced through quantitative requirements reflected in the technical provisions and funding requirements but can only be properly addressed through governance requirements. Ensuring an effective system of governance is therefore essential for the adequate management of risk. Those systems should be proportionate to the nature, scale and complexity of the activities *of the institution*.

Or. en

**Amendment 26**

**Proposal for a directive  
Recital 37**

*Text proposed by the Commission*

(37) Remuneration policies which encourage excessive risk-taking behaviour can undermine sound and effective risk management of institutions. Principles and disclosure requirements for remuneration policies applicable to other types of

*Amendment*

(37) Remuneration policies which encourage excessive risk-taking behaviour can undermine sound and effective risk management of institutions. Principles and disclosure requirements for remuneration policies applicable to other types of

financial institutions in the Union should be made applicable also to institutions, bearing in mind, however, the particular governance structure of institutions in comparison to other *types of* financial institutions and the need to take account of the *size*, nature, *scope* and complexity of the activities of institutions.

financial institutions in the Union should be made applicable also to institutions, bearing in mind, however, the particular governance structure of institutions in comparison to other financial institutions and the need to take account of the nature, *scale* and complexity of the activities of institutions.

Or. en

## Amendment 27

### Proposal for a directive Recital 38

#### *Text proposed by the Commission*

(38) A key function is *an internal* capacity to undertake particular governance tasks. Institutions should have sufficient capacity to have a risk-management function, an internal audit function and, where applicable, an actuarial function. The identification of a particular key function does not prevent the institution from freely deciding how to organise that key function in practice save where otherwise specified in this Directive. This should not lead to unduly burdensome requirements because account should be taken of the nature, scale and complexity of the activities of the institution.

#### *Amendment*

(38) A key function is *a* capacity to undertake particular governance tasks. Institutions should have sufficient capacity to have a risk-management function, an internal audit function and, where applicable, an actuarial function. The identification of a particular key function does not prevent the institution from freely deciding how to organise that key function in practice save where otherwise specified in this Directive. This should not lead to unduly burdensome requirements because account should be taken of the nature, scale and complexity of the activities of the institution.

Or. en

#### *Justification*

*A key function is not purely an internal capacity to undertake particular governance tasks, key functions can also be outsourced.*

## Amendment 28

### Proposal for a directive Recital 39

*Text proposed by the Commission*

(39) **All persons that** perform key functions should be fit and proper. However, only the key function holders should be subject to notification requirements to the competent authority.

*Amendment*

(39) **Persons who effectively run the institution or who** perform key functions should be fit and proper. However, only the key function holders should be subject to notification requirements to the competent authority.

Or. en

**Amendment 29**

**Proposal for a directive  
Recital 40**

*Text proposed by the Commission*

(40) Furthermore, with the exception of the internal audit function, ***in smaller and less complex institutions*** it should be possible for a single person or organisational unit to carry out more than one key function. However, the person or unit performing a key function should be different from the one performing a similar key function in the sponsoring undertaking; ***although the competent authority should be authorised to grant an exemption taking into account the size, nature, scope and complexity of the activities of institutions.***

*Amendment*

(40) Furthermore, with the exception of the internal audit function, it should be possible for a single person or organisational unit to carry out more than one key function. However, the person or ***organisational*** unit performing a key function should be different from the one performing a similar key function in the sponsoring undertaking. ***Member States should be able to authorise the institution to conduct key functions through the same person or through an organisational unit provided that there is no conflict of interests.***

Or. en

*Justification*

*Aligns with Article 25(3) as amended.*

**Amendment 30**

**Proposal for a directive  
Recital 41**

*Text proposed by the Commission*

(41) It is essential that institutions improve their risk management so that potential vulnerabilities in relation to the sustainability of the pension scheme can be properly understood and discussed with the competent authorities. Institutions should, as part of their risk management system, produce a risk **evaluation** for their activities relating to pensions. That risk **evaluation** should also be made available to the competent authorities. ***In that evaluation institutions should provide among others a qualitative description of key elements determining their funding position in accordance with national law, the effectiveness of their risk-management system and the ability to comply with the requirements regarding technical provisions. This risk evaluation should include new or emerging risks, such as risks related to climate change, resource use or the environment.***

*Amendment*

(41) It is essential that institutions improve their risk management so that potential vulnerabilities in relation to the sustainability of the pension scheme can be properly understood and discussed with the competent authorities. Institutions should, as part of their risk management system, produce a risk **assessment** for their activities relating to pensions. That risk **assessment** should also be made available to the competent authorities.

Or. en

### Amendment 31

#### Proposal for a directive Recital 44

*Text proposed by the Commission*

(44) Institutions should be allowed to entrust ***their management***, in whole or in part, to ***other entities*** operating on their behalf. Institutions should remain fully responsible for discharging all of their obligations under this Directive when they outsource key functions or any other activities.

*Amendment*

(44) Institutions should be allowed to entrust ***any activity including key functions***, in whole or in part, to ***service providers*** operating on their behalf. Institutions should remain fully responsible for discharging all of their obligations under this Directive when they outsource key functions or any other activities.

Or. en

## Amendment 32

### Proposal for a directive Recital 46

#### *Text proposed by the Commission*

(46) Institutions should provide clear and adequate information to prospective members, members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees, and costs should be given. Where members bear an investment risk, additional information on the investment profile, any available options and past performance are also crucial.

#### *Amendment*

(46) Institutions should provide clear and adequate information to prospective members, members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees, and costs should be given. Where members bear an investment risk, additional information on the investment profile, any available options and past performance are also crucial. ***All information should be adequate to the needs of the user and in compliance with the United Nations Convention on the Rights of Persons with Disabilities, in particular as regards accessibility and access to information, as provided for in Articles 3 and 21 thereof respectively.***

Or. en

#### *Justification*

*Aligns with Amendment 18 of EMPL Committee Opinion.*

## Amendment 33

### Proposal for a directive Recital 47

#### *Text proposed by the Commission*

(47) Before joining a scheme, prospective members should be given all the necessary information to make an informed choice such as possibilities to opt out,

#### *Amendment*

(47) Before joining a scheme, prospective members should be given all the necessary information to make an informed choice such as possibilities to opt out,



contributions, costs and investment options, where applicable.

contributions, costs and investment options, where applicable. ***Where prospective members do not have a choice and are automatically enrolled in a pension scheme, the institution should provide them with the key relevant information about their membership immediately after enrolment.***

Or. en

#### *Justification*

*Aligns with Article 55(1) as amended.*

### **Amendment 34**

#### **Proposal for a directive Recital 48**

##### *Text proposed by the Commission*

(48) For the ***institution's*** members that have not yet retired, institutions should draw up a ***standardised*** pension benefit statement containing key personal and generic information about the pension scheme. The pension benefit statement should ***have a standard format in order*** to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility.

##### *Amendment*

(48) For the members that have not yet retired, institutions should draw up a pension benefit statement containing key personal and generic information about the pension scheme. The pension benefit statement should ***be clear and comprehensible and should contain relevant information*** to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility.

Or. en

### **Amendment 35**

#### **Proposal for a directive Recital 50**

##### *Text proposed by the Commission*

(50) During the phase when retirement benefits are paid, beneficiaries should continue to receive information on their

##### *Amendment*

(50) During the phase when retirement benefits are paid, beneficiaries should continue to receive information on their

benefits and corresponding payment options. This is particularly important when a significant level of investment risk is borne by beneficiaries in the pay-out phase.

benefits and corresponding payment options. This is particularly important when a significant level of investment risk is borne by beneficiaries in the pay-out phase. ***Beneficiaries should also be informed of any potential change in the level of benefits due, prior to any decision on such a potential change.***

Or. en

*Justification*

*Aligns with Article 57(1a)(new).*

**Amendment 36**

**Proposal for a directive  
Recital 51**

*Text proposed by the Commission*

(51) The competent authority should exercise its powers having as its prime objective the protection of members and beneficiaries.

*Amendment*

(51) The competent authority should exercise its powers having as its prime objective the protection of ***the rights of*** members and beneficiaries ***and the stability and soundness of the institutions.***

Or. en

*Justification*

*Aligns with amendment 19 of EMPL Committee opinion.*

**Amendment 37**

**Proposal for a directive  
Recital 54**

*Text proposed by the Commission*

(54) In order to ensure effective supervision of outsourced activities, including all subsequent re-outsourcing activities, it is essential that the competent authorities have access to all relevant data

*Amendment*

(54) In order to ensure effective supervision of outsourced activities, including all subsequent re-outsourcing activities, it is essential that the competent authorities have access to all relevant data

held by the service providers to whom activities have been outsourced, regardless of whether the latter is a regulated or unregulated entity, and have the right to conduct on-site inspections. In order to take account of market developments and to ensure continuous compliance with the conditions for outsourcing, *institutions* should **inform competent authorities prior to the outsourcing of critical or important** activities.

held by the service providers to whom activities have been outsourced, regardless of whether the latter is a regulated or unregulated entity, and have the right to conduct on-site inspections. In order to take account of market developments and to ensure continuous compliance with the conditions for outsourcing, *competent authorities* should **have the necessary powers to request information from institutions about any outsourced** activities.

Or. en

### Amendment 38

#### Proposal for a directive

##### Recital 57

###### *Text proposed by the Commission*

(57) In order to ensure the smooth functioning of the internal market for occupational retirement provision organised on a **European** scale, the Commission should, after consulting EIOPA, review and report on the application of this Directive and should submit that report to the European Parliament and to the Council **four** years after the entry into force of this Directive. ***That review should assess in particular the application of the rules regarding the calculation of the technical provisions, the funding of technical provisions, regulatory own funds, solvency margins, investment rules and any other aspect relating to the financial solvency situation of the institution.***

###### *Amendment*

(57) In order to ensure the smooth functioning of the internal market for occupational retirement provision organised on a **Union** scale, the Commission should, after consulting EIOPA, review and report on the application of this Directive and should submit that report to the European Parliament and to the Council ***on... \* [six*** years after the entry into force of this Directive].

Or. en

###### *Justification*

*The review should focus on all aspects of this Directive and should not give priority to certain*

issues. Sufficient time should be given to monitoring the implementation of the Directive before a review takes place. Also aligned with amendment 20 of EMPL Committee opinion.

## Amendment 39

### Proposal for a directive

#### Recital 58

*Text proposed by the Commission*

*Amendment*

***(58) In order to ensure fair competition between institutions, the transitional period allowing insurance undertakings subject to Directive 2009/138/EC of the European Parliament and of the Council<sup>31</sup> to operate their occupational-retirement-provision-business under the rules referred to in Article 4 of Directive 2009/138/EC should be extended until 31 December 2022. Directive 2009/138/EC should therefore be amended accordingly.***

***deleted***

---

<sup>31</sup> *Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).*

Or. en

#### *Justification*

*Deletion was agreed during Trilogue negotiations on Solvency II/Omnibus II.*

## Amendment 40

### Proposal for a directive

#### Recital 59

*Text proposed by the Commission*

*Amendment*

***(59) In order to specify the requirements set out in this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the***

***deleted***

*Commission in respect of clarifying the remuneration policy, the risk evaluation for pensions and the pension benefit statement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.*

Or. en

*Justification*

*Pension policy is primarily a matter for Member States; in this context delegated acts should not be included in this Directive.*

**Amendment 41**

**Proposal for a directive**  
**Recital 60 a (new)**

*Text proposed by the Commission*

*Amendment*

*(60a) The further development at Union level of solvency models, such as the Holistic Balance Sheet (HBS), is not realistic in practical terms and not effective in terms of costs and benefits, particularly given the diversity of institutions within and across Member States. No quantitative capital requirements - such as Solvency II or Holistic Balance Sheet models derived therefrom - should therefore be developed at the Union level with regard to institutions for occupational retirement provision, as they could potentially decrease the willingness of employers to provide occupational pensions.*

Or. en

*Aligns with amendment 22 of the EMPL Committee Opinion.*

## **Amendment 42**

### **Proposal for a directive**

#### **Article 2 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) institutions which are covered by Directives **2004/39/EC**<sup>35</sup>, 2009/65/EC<sup>36</sup>, 2009/138/EC, 2011/61/EU<sup>37</sup> **and** 2013/36/EU<sup>38</sup> ;

---

<sup>35</sup> Directive **2004/39/EC** of the European Parliament and of the Council of **21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).**

<sup>36</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>37</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

*Amendment*

(b) institutions which are covered by Directives 2009/65/EC<sup>35</sup>, 2009/138/EC<sup>1a</sup>, 2011/61/EU<sup>36</sup>, 2013/36/EU<sup>37</sup> **and 2014/65/EU**<sup>38</sup> **of the European Parliament and of the Council** ;

---

<sup>35</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>35a</sup> **Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).**

<sup>36</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

<sup>37</sup> Directive 2013/36/EU of European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>38</sup> Directive 2013/36/EU of European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>38</sup> **Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).**

*(This amendment applies throughout the text)*

Or. en

### *Justification*

*This amendment replaces the reference to MiFiD I with a reference to MiFiD II.*

## **Amendment 43**

### **Proposal for a directive Article 4 – paragraph 1**

#### *Text proposed by the Commission*

Home Member States may choose to apply the provisions of Articles 9 to 15, Articles 20 to 24(2), Articles 25 to 29, Articles 31 to 53 and Articles 55 to 71 of this Directive to the occupational retirement provision business of life insurance undertakings **which are covered by** Directive 2009/138/EC. In that case, all assets and liabilities corresponding to the said business shall be ring-fenced, managed and organised separately from the other activities of the life insurance undertakings, without any possibility of transfer.

#### *Amendment*

Home Member States may choose to apply the provisions of Articles 9 to 15, Articles 20 to 24(2), Articles 25 to 29, Articles 31 to 53 and Articles 55 to 71 of this Directive to the occupational retirement provision business of life insurance undertakings **as referred to in Article 2(3)(b)(iii) and (iv) of** Directive 2009/138/EC. In that case, all assets and liabilities corresponding to the said business shall be ring-fenced, managed and organised separately from the other activities of the life insurance undertakings, without any possibility of transfer.

Or. en

### *Justification*

*This amendment provides clarity in relation to the term "occupational retirement provision business of life insurance undertakings".*

## Amendment 44

### Proposal for a directive Article 5 – paragraph 1

#### *Text proposed by the Commission*

With the exception of Articles 34 **to 37** , Member States may choose not to apply this Directive, in whole or in part, to any institution located in their territories which operates pension schemes which together have less than 100 members in total. Subject to Article 2(2), such institutions shall nevertheless be given the right to apply this Directive on a voluntary basis. Article 12 may be applied only if all the other provisions of this Directive apply.

#### *Amendment*

With the exception of Articles 34 **and 35(3)** , Member States may choose not to apply this Directive, in whole or in part, to any institution located in their territories which operates pension schemes which together have less than 100 members in total. Subject to Article 2(2), such institutions shall nevertheless be given the right to apply this Directive on a voluntary basis. Article 12 may be applied only if all the other provisions of this Directive apply.

Or. en

#### *Justification*

*Articles 34 and 35(3) are the only necessary exceptions that should be applied to institutions that have less than 100 members*

## Amendment 45

### Proposal for a directive Article 6 – paragraph 1 – point c

#### *Text proposed by the Commission*

(c) 'sponsoring undertaking' means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which ***under national legislation is legally obliged or voluntarily commits to offering a pension scheme***;

#### *Amendment*

(c) 'sponsoring undertaking' means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which ***acts as an employer or in a self-employed capacity or any combination thereof and which pays contributions into an institution for occupational retirement provision***;

Or. en



*Justification*

*This has been amended to use the original definition from Directive 2003/41/EC as this provides a more accurate definition of a 'sponsoring undertaking'*

**Amendment 46**

**Proposal for a directive**

**Article 6 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) 'retirement benefits' means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death. ***In order to facilitate financial security in retirement, these benefits usually take the form of payments for life. They may, however, also be payments made for a temporary period or as a lump sum.***

*Amendment*

(d) 'retirement benefits' means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death, ***which may*** take the form of payments for life, for a temporary period, as a lump sum, ***or any combination thereof.***

Or. en

*Justification*

*There should be no priority given to payment methods. The payment methods described above should be afforded equal importance in this Directive.*

**Amendment 47**

**Proposal for a directive**

**Article 6 – paragraph 1 – point h**

*Text proposed by the Commission*

(h) '***biometrical*** risks' mean risks linked to death, disability and longevity;

*Amendment*

(h) '***biometric*** risks' mean risks linked to death, disability and longevity;

Or. en

## Amendment 48

### Proposal for a directive

#### Article 6 – paragraph 1 – point i

*Text proposed by the Commission*

(i) 'home Member State' means the Member State in which the institution has ***been authorised or registered and in which its main administration is located.*** *The place of main administration refers to a place where the main strategic decisions of the institution's decision making body are made;*

*Amendment*

(i) 'home Member State' means the Member State in which the institution has ***its registered office or, if it does not have a registered office, its main administration;***

Or. en

*Justification*

*This amendment is based on the original definition of 'home Member State' in Directive 2003/41/EC with some minor changes. This provides a clearer and more accurate definition of 'home Member State'*

## Amendment 49

### Proposal for a directive

#### Article 6 – paragraph 1 – point j

*Text proposed by the Commission*

(j) 'host Member State' means the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the ***relationship between the sponsoring undertaking and members or beneficiaries*** ;

*Amendment*

(j) 'host Member State' means the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the ***pension scheme operated by the institution;***

Or. en

## Amendment 50

### Proposal for a directive

#### Article 6 – paragraph 1 – point k

*Text proposed by the Commission*

*Amendment*

(k) 'transferring institution' means an institution transferring all or a part of a pension *scheme* to an institution *in another Member State*;

(k) 'transferring institution' means an institution transferring all or a part of a pension *scheme's liabilities, technical provisions, other obligations and rights and corresponding assets, and cash equivalent thereof*, to an institution *established within the Union*;

Or. en

*Justification*

*Institutions should be able to transfer all or a part of a pension scheme to an institution, not only in another Member State, but also to an institution in the same Member State*

**Amendment 51**

**Proposal for a directive**

**Article 6 – paragraph 1 – point l**

*Text proposed by the Commission*

*Amendment*

(l) 'receiving institution' means an institution receiving all or a part of a pension *scheme* from an institution *in another Member State*;

(l) 'receiving institution' means an institution receiving all or a part of a pension *scheme's liabilities, technical provisions, other obligations and rights and corresponding assets, and cash equivalent thereof*, from an institution *established within the Union*;

Or. en

*Justification*

*Institutions should be able to receive all or a part of a pension scheme from an institution, not only in another Member State, but also from an institution in the same Member State*

**Amendment 52**

**Proposal for a directive**

**Article 6 – paragraph 1 – point m**

*Text proposed by the Commission*

*Amendment*

(m) 'regulated market' means a **multilateral system in the Union within the meaning of Article 2(1)(5) of Regulation (EU) No .../... [MiFIR]**;

(m) 'regulated market' means a **regulated market as defined in Article 4(1)(21) of Directive 2014/65/EU**;

Or. en

*Justification*

*This definition is aligned to the corresponding definition in MiFiD II.*

### **Amendment 53**

#### **Proposal for a directive Article 6 – paragraph 1 – point n**

*Text proposed by the Commission*

*Amendment*

(n) 'multilateral trading facility' means a multilateral **system in the Union within the meaning of Article 2(1)(6) of Regulation (EU) No .../... [MiFIR]**;

(n) 'multilateral trading facility' **or 'MTF'** means a multilateral **trading facility or MTF as defined in Article 4(1)(22) of Directive 2014/65/EU**;

Or. en

*Justification*

*This definition is aligned to the corresponding definition in MiFiD II.*

### **Amendment 54**

#### **Proposal for a directive Article 6 – paragraph 1 – point o**

*Text proposed by the Commission*

*Amendment*

(o) 'organised trading facility' **means a system or facility in the Union referred to in Article 2(1)(7) of Regulation (EU) No .../... [MiFIR]**;

(o) 'organised trading facility' **or 'OTF'** means an **organised trading facility or OTF as defined in Article 4(1)(23) of Directive 2014/65/EU**;

Or. en

*Justification*

*This definition is aligned to the corresponding definition in MiFiD II.*

**Amendment 55**

**Proposal for a directive**

**Article 6 – paragraph 1 – point p**

*Text proposed by the Commission*

(p) 'durable medium' means **an** instrument which enables a member or a beneficiary to store information addressed personally to that member or beneficiary in a way that is accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

*Amendment*

(p) 'durable medium' means **any** instrument which enables a member or a beneficiary to store information addressed personally to that member or beneficiary in a way that is accessible for future reference **and** for a period of time adequate for the purposes of the information, and which allows the unchanged reproduction of the information stored;

Or. en

*Justification*

*This definition is aligned to the corresponding definition in MiFiD II.*

**Amendment 56**

**Proposal for a directive**

**Article 6 – paragraph 1 – point q**

*Text proposed by the Commission*

(q) 'key function', within a system of governance, means an internal capacity to undertake practical tasks; **a system of governance includes** the risk management function, the internal audit function, and **where the institution enters into financial commitments or establishes technical provisions, also** the actuarial function.

*Amendment*

(q) 'key function', within a system of governance, means an internal capacity to undertake practical tasks, **comprising** the risk management function, the internal audit function, and the actuarial function.

Or. en

## Amendment 57

### Proposal for a directive

#### Article 6 – paragraph 1 – point q a (new)

*Text proposed by the Commission*

*Amendment*

***(qa) 'cross-border activity' means operating a pension scheme governed by the social and labour law relevant to the field of occupational pension schemes of a Member State other than the home Member State.***

Or. en

#### *Justification*

*Introducing a definition of cross-border activity would provide clear certainty to Member States as to what exactly constitutes a host Member State in the context of cross-border activity.*

## Amendment 58

### Proposal for a directive

#### Article 8 – title

*Text proposed by the Commission*

*Amendment*

Legal separation between sponsoring undertakings and institutions ***for occupational retirement provision***

Legal separation between sponsoring undertakings and institutions

Or. en

## Amendment 59

### Proposal for a directive

#### Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

Member States shall, in respect of every institution located in their territories, ensure that the ***institution is registered in a national register by the competent***

Member States shall, in respect of every institution located in their territories, ensure that ***the institution is registered in a national register, or authorised, by the***

**authority or authorised by it** ; in the case of cross-border activities referred to in Article 12, the register shall also indicate the Member States in which the institution is operating; that information shall be communicated to **the European Insurance and Occupational Pensions Authority (hereinafter 'EIOPA')**, established by **Regulation (EU) No 1094/2010<sup>39</sup>** which shall publish it on its website.

**competent authority.**

**The location of the main administration refers to the place where the main strategic decisions are made.** In the case of cross-border activities referred to in Article 12, the register shall also indicate the Member States in which the institution is operating.

That information shall be communicated to **EIOPA**, which shall publish it on its website.

Or. en

## **Amendment 60**

### **Proposal for a directive Article 9 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**Member States shall require any institution to have its main administration in the same Member State as its registered office.**

Or. en

### *Justification*

*Institutions should not be permitted to register in one Member State and then carry out their main administration activities in another Member State.*

## Amendment 61

### Proposal for a directive

#### Article 10 – title

*Text proposed by the Commission*

***Pension scheme rules***

*Amendment*

***Operating requirements***

Or. en

*Justification*

*This title provides a more accurate representation of the procedures outlined*

## Amendment 62

### Proposal for a directive

#### Article 10 – paragraph 1

*Text proposed by the Commission*

Member States shall, in respect of every institution located in their territories, ensure that ***properly constituted rules regarding the functioning of any pension scheme operated by the institution have been implemented***.

*Amendment*

***1.*** Member States shall, in respect of every institution located in their territories, ensure that:

Or. en

## Amendment 63

### Proposal for a directive

#### Article 10 – paragraph 1 – point a (new)

*Text proposed by the Commission*

*Amendment*

***(a) the institution has implemented properly constituted rules regarding the operation of any pension scheme;***

Or. en



## Amendment 64

### Proposal for a directive

#### Article 10 – paragraph 1 – point b (new)

*Text proposed by the Commission*

*Amendment*

***(b) where the sponsoring undertaking guarantees the payment of the retirement benefits, it is committed to regular financing.***

Or. en

## Amendment 65

### Proposal for a directive

#### Article 10 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. In accordance with the principle of subsidiarity and taking due account of the scale of pension benefits offered by the social security regimes, Member States may provide that the option of longevity and disability cover, provision for surviving dependants and a guarantee of repayment of contributions as additional benefits are offered to members with the agreement of the employers and the employees or their respective representatives.***

Or. en

## Amendment 66

### Proposal for a directive

#### Article 11

*Text proposed by the Commission*

*Amendment*

***Article 11***

***deleted***

***Commitment of regular financing and***

### *additional benefits*

**1. Member States shall, in respect of every institution located in their territories, ensure that where the sponsoring undertaking guarantees the payment of the retirement benefits, it is committed to regular financing.**

**2. In accordance with the principle of subsidiarity and taking due account of the scale of pension benefits offered by the social-security regimes, Member States may provide that the option of longevity and disability cover, provision for surviving dependants and a guarantee of repayment of contributions as additional benefits be offered to members if employers and employees, or their respective representatives, so agree.**

*(Paragraph 1 of this Article should be moved to Article 10(1)(b) and paragraph 2 of this article should be moved to Article 10(1a))*

Or. en

### *Justification*

*This Article has been moved to Article 10.*

## **Amendment 67**

### **Proposal for a directive Article 12 – paragraph 1**

#### *Text proposed by the Commission*

1. Without prejudice to national social and labour law on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall allow undertakings located within their territories to sponsor institutions which propose to or carry out cross-border activity . **They** shall also allow institutions authorised in their territories to carry out

#### *Amendment*

1. Without prejudice to national social and labour law on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall allow undertakings located within their territories to sponsor institutions which propose to or carry out cross-border activity. **Member States** shall also allow institutions authorised in their territories to

cross-border activity by accepting sponsorship *by undertakings located within the territories* of any *Member State*.

carry out cross-border activity by accepting sponsorship of any *undertaking*.

Or. en

## Amendment 68

### Proposal for a directive

#### Article 12 – paragraph 3 – introductory part

*Text proposed by the Commission*

3. Member States shall require institutions *authorised or registered in* their territories and proposing to receive sponsorship to provide the following information when effecting a notification under paragraph 2:

*Amendment*

3. Member States shall require institutions *in* their territories and proposing to receive sponsorship to provide the following information when effecting a notification under paragraph 2:

Or. en

## Amendment 69

### Proposal for a directive

#### Article 12 – paragraph 3 – point b

*Text proposed by the Commission*

(b) the name and the location of the administration of the sponsoring undertaking;

*Amendment*

(b) the name and the location of the *main* administration of the sponsoring undertaking;

Or. en

## Amendment 70

### Proposal for a directive

#### Article 12 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

Where a competent authority of the home Member State is notified under paragraph

*Amendment*

Where a competent authority of the home Member State is notified under paragraph

2, and unless it has issued a decision that the administrative structure or the financial situation of the institution or the good repute or professional qualifications or experience of the persons running the institution are not compatible with the proposed **operations**, it shall within three months of receiving all the information referred to in paragraph 3 communicate that information to the competent authorities of the host Member State and inform the institution accordingly.

2, and unless it has issued a **reasoned** decision that the administrative structure or the financial situation of the institution or the good repute or professional qualifications or experience of the persons running the institution are not compatible with the proposed **cross-border activity**, it shall within three months of receiving all the information referred to in paragraph 3 communicate that information to the competent authorities of the host Member State and inform the institution accordingly.

Or. en

## Amendment 71

### Proposal for a directive

#### Article 12 – paragraph 4 – subparagraph 2

##### *Text proposed by the Commission*

The decision referred to in the first subparagraph shall be **reasoned**.

##### *Amendment*

The **reasoned** decision **as** referred to in the first subparagraph shall be **issued within three months of receipt of all of the information referred to in paragraph 3**.

Or. en

## Amendment 72

### Proposal for a directive

#### Article 12 – paragraph 4 – subparagraph 3

##### *Text proposed by the Commission*

Where the competent authority of the home Member State refuses to communicate the information referred in the first subparagraph to the competent authorities of the host Member State, it shall give the reasons for its refusal to the institution concerned within three months of receiving all the information referred to

##### *Amendment*

Where the competent authority of the home Member State refuses to communicate the information referred in the first subparagraph to the competent authorities of the host Member State, it shall give the reasons for its refusal to the institution concerned within three months of receiving all the information referred to in paragraph

in paragraph 3. That refusal or a failure to act shall be subject to a right *to apply* to the courts in the home Member State.

3. That refusal or a failure to act shall be subject to a right *of appeal* to the courts in the home Member State.

Or. en

### **Amendment 73**

#### **Proposal for a directive Article 12 – paragraph 5**

##### *Text proposed by the Commission*

5. Before the institution starts to carry out a cross-border activity, the competent authorities of the host Member State shall, within *one month* of receiving the information referred to in paragraph 3, inform the competent authorities of the home Member State, of the requirements of social and labour law relevant to the field of occupational *pensions* under which the pension scheme sponsored by an undertaking in the host Member State must be operated. The competent authorities of the home Member State shall communicate this information to the institution.

##### *Amendment*

5. Before the institution starts to carry out a cross-border activity, the competent authorities of the host Member State shall, within *two weeks* of receiving the information referred to in paragraph 3, inform the competent authorities of the home Member State, of the requirements of social and labour law relevant to the field of occupational *pension schemes* under which the pension scheme sponsored by an undertaking in the host Member State must be operated. The competent authorities of the home Member State shall communicate this information to the institution.

Or. en

##### *Justification*

*Two weeks is a sufficient amount of time for competent authorities to communicate the social and labour law requirements relevant to the field of occupational pension schemes. This should be a standard procedure which can be communicated quickly and efficiently.*

### **Amendment 74**

#### **Proposal for a directive Article 12 – paragraph 6**

##### *Text proposed by the Commission*

6. On receiving the communication referred to in paragraph 5, or if no communication is received from the

##### *Amendment*

6. On receiving the communication referred to in paragraph 5, or if no communication is received from the

competent authorities of the home Member State on expiry of the period provided for in paragraph 5, the institution may start to carry out a cross-border activity in accordance with the host Member State's requirements of social and labour law relevant to the field of occupational *pensions*.

competent authorities of the home Member State on expiry of the period provided for in paragraph 5, the institution may start to carry out a cross-border activity in accordance with the host Member State's requirements of social and labour law relevant to the field of occupational *pension schemes*.

*(This amendment applies throughout the text.)*

Or. en

## **Amendment 75**

### **Proposal for a directive Article 12 – paragraph 7**

#### *Text proposed by the Commission*

7. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any significant change in the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes which may affect the characteristics of the pension scheme insofar as it concerns the cross-border activity .

#### *Amendment*

7. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any significant change in the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes which may affect the characteristics of the pension scheme insofar as it concerns the cross-border activity. ***The competent authorities of the home Member State shall communicate that information to the institution.***

Or. en

#### *Justification*

*It should be ensured that any information regarding changes to social and labour law is communicated to the institution.*

## **Amendment 76**

### **Proposal for a directive Article 12 – paragraph 10**

*Text proposed by the Commission*

*Amendment*

**10. Member States shall ensure that an institution carrying out cross-border activity shall not be subject to any requirements concerning information to members and beneficiaries imposed by the competent authorities of the host Member State in respect of the members which that cross-border activity concerns.**

**deleted**

Or. en

*Justification*

*Aligns with Amendment 26 of the EMPL Committee Opinion.*

#### **Amendment 77**

##### **Proposal for a directive Article 13 – title**

*Text proposed by the Commission*

*Amendment*

**Cross-border** transfers of pension schemes

Transfers of pension schemes

Or. en

*Justification*

*This Directive should account not only for the transfer of cross-border schemes but also for the transfer of schemes within Member States.*

#### **Amendment 78**

##### **Proposal for a directive Article 13 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall allow institutions authorised or registered in their territories to transfer all or a part of **their** pension schemes to receiving institutions authorised or registered in other Member

1. **Without prejudice to Article 12,** Member States shall allow institutions authorised or registered in their territories to transfer all or a part of **a** pension scheme's liabilities, technical provisions,

*States.*

*other obligations and rights and corresponding assets, and cash equivalent thereof, to a receiving institution.*

Or. en

## **Amendment 79**

### **Proposal for a directive Article 13 – paragraph 2**

*Text proposed by the Commission*

2. The transfer of all or part of a pension *scheme* between transferring and receiving institutions authorised or registered in different Member States shall be subject to prior authorisation by the competent authority of the home Member State of the receiving institution. The application for authorisation of the transfer shall be submitted by the receiving institution.

*Amendment*

2. The transfer of all or part of a pension *scheme's liabilities, technical provisions, other obligations and rights and corresponding assets, and cash equivalent thereof*, between transferring and receiving institutions authorised or registered in different Member States shall be subject to prior authorisation by the competent authority of the home Member State of the receiving institution. The application for authorisation of the transfer shall be submitted by the receiving institution.

Or. en

## **Amendment 80**

### **Proposal for a directive Article 13 – paragraph 3**

*Text proposed by the Commission*

3. *Unless national social and labour law on the organisation of pension systems provides otherwise*, the transfer and its conditions shall be made subject to prior approval by the members and beneficiaries concerned or, where applicable, their representatives. *In any event*, information on the conditions of the transfer shall be made available to the members and beneficiaries concerned or, where

*Amendment*

3. The transfer and its conditions shall be made subject to prior approval by *a majority of* the members and *a majority of the* beneficiaries concerned or, where applicable, *by a majority of* their representatives. *The* information on the conditions of the transfer shall be made available to the members and beneficiaries concerned or, where applicable, their representatives at least four months before



applicable, their representatives at least four months before the application referred to in paragraph 2 is submitted.

the application referred to in paragraph 2 is submitted.

Or. en

## **Amendment 81**

### **Proposal for a directive Article 13 – paragraph 4 – point a**

*Text proposed by the Commission*

a) the written agreement between the transferring and the receiving institutions setting out the conditions of the transfer, ***including the main characteristics of the pension scheme and the description of the transferred assets and, where applicable, the corresponding liabilities;***

*Amendment*

a) the written agreement between the transferring and the receiving institutions setting out the conditions of the transfer;

Or. en

## **Amendment 82**

### **Proposal for a directive Article 13 – paragraph 4 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***aa) a description of the main characteristics of the pension scheme;***

Or. en

## **Amendment 83**

### **Proposal for a directive Article 13 – paragraph 4 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

***ab) a description of the transferred***

*liabilities or technical provisions, as well as other obligations and rights and corresponding assets, or cash equivalent thereof;*

Or. en

#### **Amendment 84**

##### **Proposal for a directive Article 13 – paragraph 4 – point a c (new)**

*Text proposed by the Commission*

*Amendment*

*ac) approval by the members and beneficiaries of the transferring institution or where applicable, their representatives.*

Or. en

#### **Amendment 85**

##### **Proposal for a directive Article 13 – paragraph 4 – point b**

*Text proposed by the Commission*

*Amendment*

b) the name and the *seat* of the transferring institution;

b) the name and the *locations of the main administrations* of the transferring *and receiving institutions and the name of the Member State in which the transferring institution is registered or authorised*;

Or. en

#### **Amendment 86**

##### **Proposal for a directive Article 13 – paragraph 4 – point c**

*Text proposed by the Commission*

c) the location of the administration of the sponsoring undertaking and the name of the sponsoring undertaking;

*Amendment*

c) the location of the **main** administration of the sponsoring undertaking and the name of the sponsoring undertaking;

Or. en

**Amendment 87**

**Proposal for a directive**

**Article 13 – paragraph 4 – point d**

*Text proposed by the Commission*

d) ***the host Member State or the host Member States, if there are more than one.***

*Amendment*

d) ***where applicable, the name of the host Member States where the social and labour law relevant to the field of occupational pension schemes is applicable to the pension scheme concerned.***

Or. en

**Amendment 88**

**Proposal for a directive**

**Article 13 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

Where a competent authority of the home Member State of the receiving institution ***receives the application referred to in paragraph 2, and it has not issued a decision stating that the administrative structure or the financial situation of the receiving institution, or the good repute or the professional qualifications or experience of the persons running the receiving institution are not compatible with the operations proposed in the home Member State of the receiving institution,*** it shall within three

*Amendment*

Where a competent authority of the home Member State of the receiving institution has not issued a ***reasoned decision in accordance with Article 12(4)***, it shall within three months of receiving all the information referred to in paragraph 4 communicate its decision authorising the transfer to the receiving institution and to the competent authority of the home Member State of the transferring institution. The competent authority of the home Member State of the transferring institution shall inform the transferring

months of receiving all the information referred to in paragraph 4 communicate its decision authorising the transfer to the receiving institution and to the competent authority of the home Member State of the transferring institution. The competent authority of the home Member State of the transferring institution shall inform the transferring institution of that decision.

institution of that decision, ***together with the reasons therefor.***

Or. en

## Amendment 89

### Proposal for a directive

#### Article 13 – paragraph 5 – subparagraph 2

*Text proposed by the Commission*

***The decisions referred to in the first subparagraph shall be reasoned.*** Where the competent authority of the home Member State of the receiving institution refuses to communicate the ***information*** referred to in the first subparagraph to the competent authorities of the home Member State of the transferring institution, it shall give reasons for its refusal to the ***institution concerned*** within three months of receiving all the information referred to in paragraph 4. That refusal or a failure to act shall be subject to a right of the receiving institution ***to apply*** to the courts in the home Member State of the receiving institution.

*Amendment*

Where the competent authority of the home Member State of the receiving institution refuses to communicate the ***authorisation decision*** referred to in the first subparagraph to the competent authorities of the home Member State of the transferring institution, it shall give reasons for its refusal to the ***receiving institution*** within three months of receiving all the information referred to in paragraph 4. That refusal or a failure to act shall be subject to a right of the receiving institution ***of appeal*** to the courts in the home Member State of the receiving institution.

Or. en

## Amendment 90

### Proposal for a directive

#### Article 13 – paragraph 6

*Text proposed by the Commission*

6. The competent authority of the home Member State of the transferring institution shall, within **one month** of receiving the **information** referred to in paragraph 5, inform the competent authority of the home Member State of the receiving institution of the requirements of social and labour law relevant to the field of occupational pensions of the host Member State under which the pension scheme **must be** operated. The competent authority of the home Member State of the receiving institution shall communicate this information to the receiving institution.

*Amendment*

6. The competent authority of the home Member State of the transferring institution shall, within **two weeks** of receiving the **authorisation decision** referred to in paragraph 5, inform the competent authority of the home Member State of the receiving institution of the requirements of social and labour law relevant to the field of occupational pensions of the host Member State under which the pension scheme **is** operated. The competent authority of the home Member State of the receiving institution shall communicate this information to the receiving institution.

Or. en

*Justification*

*Aligns with Article 12(5) as amended.*

**Amendment 91**

**Proposal for a directive**  
**Article 13 – paragraph 7**

*Text proposed by the Commission*

7. Upon receiving the communication referred to in paragraph 6, or if no communication is received from the competent authority of the home Member State of the receiving institution on expiry of the period laid down in paragraph 6, the receiving institution may start to operate the pension scheme in accordance with the requirements of social and labour law relevant to the field of occupational **pensions** of the host Member State.

*Amendment*

7. Upon receiving the communication referred to in paragraph 6, or if no communication is received from the competent authority of the home Member State of the receiving institution on expiry of the period laid down in paragraph 6, the receiving institution may start to operate the pension scheme in accordance with the requirements of social and labour law relevant to the field of occupational **pension schemes** of the host Member State.

Or. en

## Amendment 92

### Proposal for a directive Article 13 – paragraph 8

*Text proposed by the Commission*

**8. Where the receiving institution carries out a cross-border activity, Article 12(8) and (9) shall apply.**

*Amendment*

**deleted**

Or. en

## Amendment 93

### Proposal for a directive Article 14 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. The calculation of the technical provisions shall be executed and certified by an actuary or by another specialist in this field, including an auditor, according to national legislation, on the basis of actuarial methods recognised by the competent authorities of the home Member State, according to the following principles:

*Amendment*

4. The calculation of the technical provisions shall be executed **by an actuary** and certified by an actuary or by another specialist in this field, including an auditor, according to national legislation, on the basis of actuarial methods recognised by the competent authorities of the home Member State, according to the following principles:

Or. en

## Amendment 94

### Proposal for a directive Article 14 – paragraph 4 – point b – point i

*Text proposed by the Commission*

(i) the yield on the corresponding assets held by the institution and the future investment returns **and/or**

*Amendment*

(i) the yield on the corresponding assets held by the institution and the future investment returns or

Or. en

## Amendment 95

### Proposal for a directive

#### Article 14 – paragraph 4 – point b – point ii a (new)

*Text proposed by the Commission*

*Amendment*

***(iia) a combination of points (i) and (ii);***

Or. en

## Amendment 96

### Proposal for a directive

#### Article 15 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) the institution shall set up a concrete and realisable plan to re-establish the required amount of assets to cover fully the technical provisions in due time. The plan shall be made available to members or, where applicable, to their representatives and/or shall be subject to approval by the competent authorities of the home Member State;

(a) the institution shall set up a concrete and realisable plan to re-establish the required amount of assets to cover fully the technical provisions in due time. The plan shall be made available to members or, where applicable, to their representatives and shall be subject to approval by the competent authorities of the home Member State;

Or. en

## Amendment 97

### Proposal for a directive

#### Article 15 – paragraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) in the event of **termination** of a pension scheme during the period referred to in the first sentence of **this** paragraph, the institution shall inform the competent authorities of the home Member State. The institution shall establish a procedure in order to transfer **the** assets and **the**

(c) in the event of **winding up** of a pension scheme during the period referred to in the first sentence of paragraph **2**, the institution shall inform the competent authorities of the home Member State. The institution shall establish a procedure in order to transfer **all** assets and **all** corresponding

corresponding liabilities to another financial institution or a similar body. ***This procedure shall be disclosed to the competent authorities of the home Member State and a general outline of the procedure shall be made available to members or, where applicable, to their representatives in accordance with the principle of confidentiality.***

liabilities to another financial institution or a similar body.

Or. en

## Amendment 98

### Proposal for a directive Article 15 – paragraph 3

*Text proposed by the Commission*

***3. In the event of cross-border activity as referred to in Article 12, the technical provisions shall at all times be fully funded in respect of the total range of pension schemes operated. If these conditions are not met, the competent authorities of the home Member State shall intervene in accordance with Article 62. To comply with this requirement the home Member State may require ring-fencing of the assets and liabilities.***

*Amendment*

***3. An institution's*** technical provisions shall be fully funded, in respect of the total range of pension schemes operated, ***at the moment the institution starts operating a new or additional scheme.***

Or. en

### *Justification*

*The requirement for institutions to be fully funded should only apply at the moment when the institution starts operating a new or additional scheme. This should not only apply to cross-border activity but to all institutions.*

## Amendment 99

### Proposal for a directive Article 16 – paragraph 1



*Text proposed by the Commission*

*Amendment*

1. The home Member State shall ensure that institutions operating pension schemes, where the institution itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, hold on a permanent basis additional assets above the technical provisions to serve as a buffer. The amount thereof shall reflect the type of risk and **asset base** in respect of the total range of schemes operated. These assets shall be free of all foreseeable liabilities and serve as a safety capital to absorb discrepancies between the anticipated and the actual expenses and profits.

1. The home Member State shall ensure that institutions operating pension schemes, where the institution itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, hold on a permanent basis additional assets above the technical provisions to serve as a buffer. The amount thereof shall reflect the type of risk and **the portfolio of assets** in respect of the total range of schemes operated. These assets shall be free of all foreseeable liabilities and serve as a safety capital to absorb discrepancies between the anticipated and the actual expenses and profits.

Or. en

**Amendment 100**

**Proposal for a directive**

**Article 20 – paragraph 1 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) **the assets shall be predominantly invested on regulated markets. Investment** in assets which are not admitted to trading on a regulated financial market **must in any event** be kept to prudent levels;

(c) **investments** in assets which are not admitted to trading on a regulated financial market **shall** be kept to prudent levels;

Or. en

**Amendment 101**

**Proposal for a directive**

**Article 20 – paragraph 6 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) investing in instruments that have a long-term **economic profile** and are not traded on regulated markets, multilateral trading facilities or organised trading facilities .

(c) investing in instruments that have a long-term **investment horizon** and are not traded on regulated markets, **MTFs** or **OTFs**,

Or. en

## **Amendment 102**

### **Proposal for a directive**

#### **Article 20 – paragraph 6 – subparagraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) investing in instruments that are issued or guaranteed by the European Investment Bank provided in the framework of the European Fund for Strategic Investments.***

Or. en

## **Amendment 103**

### **Proposal for a directive**

#### **Article 20 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. Paragraph 6 shall not preclude the right for** Member States **to** require the application to institutions authorised or registered in their territory of more stringent investment rules **also** on an individual basis provided they are prudentially justified, in particular in the light of the liabilities entered into by the institution.

**7. Without prejudice to paragraph 6,** Member States **may** require the application to institutions authorised or registered in their territory of more stringent investment rules on an individual basis provided they are prudentially justified, in particular in the light of the liabilities entered into by the institution.

Or. en

## Amendment 104

### Proposal for a directive

#### Article 21 – title

*Text proposed by the Commission*

Responsibility of the **administrative**,  
management or supervisory body

*Amendment*

Responsibility of the management or  
supervisory body

*(This amendment applies throughout the  
text)*

Or. en

## Amendment 105

### Proposal for a directive

#### Article 22 – paragraph 2

*Text proposed by the Commission*

2. The system of governance **referred to in  
paragraph 1** shall be proportionate to the  
nature, scale and complexity of the  
activities of the institution.

*Amendment*

2. The system of governance shall be  
proportionate to the nature, scale and  
complexity of the activities of the  
institution.

Or. en

## Amendment 106

### Proposal for a directive

#### Article 22 – paragraph 3

*Text proposed by the Commission*

3. **Member States** shall **ensure that the  
administrative, management or  
supervisory body of the institution shall  
adopt** written policies in relation to risk  
management, internal audit and, where  
relevant, **actuaries** and outsourcing, **and  
this body ensures** that those policies are  
implemented. **The** policies shall be

*Amendment*

3. **Institutions** shall **establish and apply**  
written policies in relation to risk  
management, internal audit and, where  
relevant, **actuarial activities** and  
outsourcing. **The institutions shall ensure**  
that those policies are implemented. **Those  
written** policies shall be **subject to prior  
approval by the administrative,**

reviewed **annually** and shall be adapted in view of any significant change in the system or area concerned.

**management or supervisory body of the institution and shall be reviewed at least every three years** and shall be adapted in view of any significant change in the system or area concerned.

Or. en

#### *Justification*

*'At least every three years' is a sufficient period for a review of written policies.*

### **Amendment 107**

#### **Proposal for a directive**

#### **Article 23 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. Member States shall require institutions to ensure that **all** persons who effectively run the institution **or have other** key functions fulfil the following requirements when carrying out their tasks:

##### *Amendment*

1. Member States shall require institutions to ensure that persons who effectively run the institution, **persons who have** key functions **and, where applicable, persons or entities employed to carry out functions in accordance with Article 33**, fulfil the following requirements when carrying out their tasks:

Or. en

### **Amendment 108**

#### **Proposal for a directive**

#### **Article 23 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) **their professional qualifications**, knowledge and experience are adequate to enable them to ensure a sound and prudent management of the institution and to properly carry out their key functions (**requirement to be fit**); and

##### *Amendment*

(a) **the requirement to be fit: their** knowledge and experience are **collectively** adequate to enable them to ensure a sound and prudent management of the institution and to properly carry out their key functions; and

Or. en

## Amendment 109

### Proposal for a directive Article 23 – paragraph 1 – point b

*Text proposed by the Commission*

(b) they are of good repute and integrity  
*(requirement to be proper)*.

*Amendment*

(b) ***the requirement to be proper***: they are  
of good repute and integrity.

Or. en

## Amendment 110

### Proposal for a directive Article 23 – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that ***there are effective procedures and regular controls in place to enable the*** competent authorities ***to*** assess whether the persons who effectively run the institution or have ***other*** key functions fulfil the requirements laid down in paragraph 1.

*Amendment*

2. Member States shall ensure that competent authorities assess whether the persons who effectively run the institution or have key functions fulfil the requirements laid down in paragraph 1.

Or. en

### *Justification*

*The only necessary requirement is that Member States ensure that competent authorities assess whether the requirements in paragraph 1 are fulfilled.*

## Amendment 111

### Proposal for a directive Article 23 – paragraph 3

*Text proposed by the Commission*

3. Where a Member State requires of its own nationals proof of good repute, proof of no previous bankruptcy, or both, that

*Amendment*

3. Where a ***home*** Member State requires of its own nationals proof of good repute, proof of no previous bankruptcy, or both,

Member State shall accept as sufficient evidence in respect of nationals of other Member States the production of an extract from the judicial record of the other Member State or, in the absence of a judicial record in the other Member State, **of** an equivalent document issued by a competent judicial or administrative authority in the **home** Member State **or the Member State whose national** the concerned person is **showing that those requirements have been met**.

that Member State shall accept as sufficient evidence in respect of nationals of other Member States the production of an extract from the judicial record of the other Member State or, in the absence of a judicial record in the other Member State, an equivalent document, **showing that those requirements have been met**, issued by a competent judicial or administrative authority in the Member State **of which** the concerned person is **a national or by the home Member State**.

Or. en

#### *Justification*

*The original text is unclear. This amendment aims to simplify the meaning of the paragraph.*

### **Amendment 112**

#### **Proposal for a directive Article 23 – paragraph 4 – subparagraph 1**

##### *Text proposed by the Commission*

Where the **home** Member State or the Member State **whose national** the concerned person is does not issue an equivalent document as referred to in paragraph 3, **the national of the other Member State** shall be allowed to produce in its place a declaration on oath.

##### *Amendment*

Where the Member State or the Member State **of which** the concerned person is **a national** does not issue an equivalent document as referred to in paragraph 3, **that person** shall be allowed to produce in its place a declaration on oath.

Or. en

### **Amendment 113**

#### **Proposal for a directive Article 23 – paragraph 4 – subparagraph 2**

##### *Text proposed by the Commission*

However, in Member States where there is no provision for declarations on oath the national of the other Member State

##### *Amendment*

However, in Member States where there is no provision for declarations on oath the national of the other Member State

concerned shall be allowed to produce a solemn declaration made by him or her before a competent judicial or administrative authority in *their* home Member State or the Member State *from* which they *come* or before a notary in one of those Member States.

concerned shall be allowed to produce a solemn declaration made by him or her before a competent judicial or administrative authority in *the* home Member State or the Member State *of* which they *are a national* or before a notary in one of those Member States.

Or. en

## Amendment 114

### Proposal for a directive Article 23 – paragraph 5

*Text proposed by the Commission*

5. The proof in respect of no previous bankruptcy referred to in paragraph 3 may be provided in the form of a declaration made by the nationals of the other Member State concerned before a competent judicial, professional or trade body in that other Member State concerned.

*Amendment*

5. The proof in respect of no previous bankruptcy referred to in paragraph 3 may *also* be provided in the form of a declaration made by the nationals of the other Member State concerned before a competent judicial, professional or trade body in that other Member State concerned.

Or. en

## Amendment 115

### Proposal for a directive Article 24 – paragraph 1

*Text proposed by the Commission*

1. Member States shall require institutions to *have* a sound remuneration policy for those persons who effectively run the institution in a manner that is appropriate to their size and internal organisation, as well as to the nature, *scope* and complexity of their activities.

*Amendment*

1. Member States shall require institutions to *establish and apply* a sound remuneration policy for *all* those persons who effectively run the institution, *perform key functions and other categories of staff whose professional activities have a material impact on the risk profile of the institution* in a manner that is appropriate to their size and internal organisation, as well as to the nature and complexity of

their activities.

Or. en

*Justification*

*This amendment aligns with the text in the Council's General Approach with some necessary adjustments.*

**Amendment 116**

**Proposal for a directive  
Article 24 – paragraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to  
adopt a delegated act in accordance with  
Article 77 specifying:** **deleted**

Or. en

*Justification*

*A delegated act is not justified in this case as pension policy is primarily a Member State competence.*

**Amendment 117**

**Proposal for a directive  
Article 24 – paragraph 3 – point a – introductory part**

*Text proposed by the Commission*

*Amendment*

**(a) the required elements of remuneration  
policies to be applied by institutions on the  
basis of the following principles:**

**3. When establishing and applying the  
remuneration policy referred to in  
paragraph 1, institutions shall comply  
with the following principles:**

Or. en



## Amendment 118

### Proposal for a directive

#### Article 24 – paragraph 3 – point a – indent 1

*Text proposed by the Commission*

– the remuneration policy **shall be established, implemented and maintained** in line with the **institution's activities and risk management strategy, its** risk profile, objectives, **risk management practices** and the long-term **interests** and performance of the institution as a whole;

*Amendment*

– the remuneration policy **is** in line with the activities, risk profile, objectives and the long-term **interest** and performance of the institution as a whole, **and the remuneration policy supports sound, prudent and effective management of institutions;**

Or. en

*Justification*

*The reference to risk management is deleted since it is covered in indent 3 as amended. The reference to sound, prudent and effective management takes into account indent 7.*

## Amendment 119

### Proposal for a directive

#### Article 24 – paragraph 3 – point a – indent 1 a (new)

*Text proposed by the Commission*

*Amendment*

**- the remuneration policy is in line with the risk profile and the long-term interests of members and beneficiaries of pension schemes operated by the institution;**

Or. en

*Justification*

*It is important that there is a reference to the long-term interest of the members and beneficiaries in the context of remuneration policy*

## Amendment 120

### Proposal for a directive

#### Article 24 – paragraph 3 – point a – indent 2

*Text proposed by the Commission*

*Amendment*

– the remuneration policy **shall incorporate proportionate** measures aimed at avoiding conflicts of interest;

– the remuneration policy **incorporates** measures aimed at avoiding conflicts of interest;

Or. en

*Justification*

*The word 'proportionate' is not necessary in this indent.*

**Amendment 121**

**Proposal for a directive**

**Article 24 – paragraph 3 – point a – indent 3**

*Text proposed by the Commission*

*Amendment*

– the remuneration policy **shall promote** sound and effective risk management and **shall** not encourage risk-taking that exceeds the risk tolerance limits **of the institution**;

– the remuneration policy **is consistent with** sound and effective risk management and **does** not encourage risk-taking that exceeds the risk tolerance limits **set**;

Or. en

**Amendment 122**

**Proposal for a directive**

**Article 24 – paragraph 3 – point a – indent 5**

*Text proposed by the Commission*

*Amendment*

– **the remuneration policy shall contain provisions that are specific to the tasks and performance of the administrative, management and supervisory body of the institution, persons who effectively run the institution, holders of key functions and other categories of staff whose professional activities have a material impact on the institution's risk profile;**

**deleted**

*Justification*

*This indent is deleted since this provision is covered in Paragraph 1 of this Article*

**Amendment 123**

**Proposal for a directive**

**Article 24 – paragraph 3 – point a – indent 6**

*Text proposed by the Commission*

– the administrative, management or supervisory body **of the institution shall establish** the general principles of **the** remuneration policy **for those categories of staff whose professional activities have an impact on the institution's risk profile and shall be** responsible for **the control of its implementation**;

*Amendment*

– the **institutions's** administrative, management or supervisory body **establishes and periodically reviews** the general principles of **its** remuneration policy **and is** responsible for **overseeing its implementation**;

**Amendment 124**

**Proposal for a directive**

**Article 24 – paragraph 3 – point a – indent 7**

*Text proposed by the Commission*

– **the administrative, management or supervisory body of the institution shall be responsible for the implementation of the remuneration policy which support sound, prudent and effective management of institutions**;

*Amendment*

**deleted**

*Justification*

*This indent was deleted as the first part of the indent is covered by indent 6 as amended and the second part is covered by indent 1 as amended.*

## Amendment 125

### Proposal for a directive

#### Title 3 – chapter 1 – section 2 – title

*Text proposed by the Commission*

Functions

*Amendment*

**Key functions**

Or. en

## Amendment 126

### Proposal for a directive

#### Article 25 – paragraph 1

*Text proposed by the Commission*

1. Member States shall require institutions to incorporate a risk-management function, an internal audit function, and, where applicable, an actuarial function. ***The reporting lines associated with each key function shall ensure the key function's ability*** to undertake its duties effectively in an objective, fair and independent manner.

*Amendment*

1. Member States shall require institutions to incorporate ***the following key functions:*** a risk-management function, an internal audit function, and, where applicable, an actuarial function. ***Institutions shall enable the holder of a key function*** to undertake its duties effectively in an objective, fair and independent manner.

Or. en

## Amendment 127

### Proposal for a directive

#### Article 25 – paragraph 2

*Text proposed by the Commission*

2. Institutions may allow a single person or organisational unit to carry out more than one key function. ***However, the risk management function shall be allocated to a different person or organisational unit from the one carrying out the internal audit function.***

*Amendment*

2. Institutions may allow a single person or organisational unit to carry out more than one key function. ***The internal audit function shall be carried out by a single person or organisational unit.***

Or. en

## Amendment 128

### Proposal for a directive Article 25 – paragraph 3

*Text proposed by the Commission*

**3. Without prejudice to the role of social partners in the overall management of institutions, the person** or organisational unit carrying out the key function shall be different from the one carrying out a similar key function in the sponsoring undertaking. On the basis of a reasoned request from the institution, the competent **authority may grant an exemption from this restriction taking into account the size, nature, scope and complexity of the activities of the institution.**

*Amendment*

**3. The single person** or organisational unit carrying out the key function shall be different from the one carrying out a similar key function in the sponsoring undertaking. On the basis of a reasoned request from the institution, the competent **authorities may authorise the institution to conduct key functions through the same person or organisational unit, provided that no conflict of interest with the sponsoring undertaking exists.**

Or. en

*Justification*

*The objective of this amendments is to state that Member States may only grant an exemption when no conflict of interest exists.*

## Amendment 129

### Proposal for a directive Article 25 – paragraph 4

*Text proposed by the Commission*

**4. The person performing a key function shall promptly report any major problem in the area of responsibility of that person to the administrative, management or supervisory body of the institution.**

*Amendment*

**deleted**

Or. en

*Justification*

*Covered by Paragraph 5 of this Article.*

## Amendment 130

### Proposal for a directive Article 25 – paragraph 5

*Text proposed by the Commission*

5. Any findings and recommendations *of the risk management, internal audit and, where applicable, actuarial functions* shall be reported to the administrative, management or supervisory body of the institution which shall determine what actions are to be taken.

*Amendment*

5. Any findings and recommendations *by holders of a key function* shall be reported to the administrative, management or supervisory body of the institution which shall determine what actions are to be taken.

Or. en

## Amendment 131

### Proposal for a directive Article 25 – paragraph 6 – introductory part

*Text proposed by the Commission*

6. The *risk management, internal audit and, where applicable, actuarial functions* shall inform the competent authority of the institution *if the administrative, management or supervisory body of the institution does not take appropriate and timely remedial action:*

*Amendment*

6. The *holder of a key function* shall inform the competent authority of the institution *of any finding that could have a significant impact on the interests of members and beneficiaries.*

Or. en

*Justification*

*The objective of this amendment is to ensure protection of members and beneficiaries in case of any event that could significantly impact their interests in a pension scheme.*

## Amendment 132

### Proposal for a directive Article 25 – paragraph 6 – point a

*Text proposed by the Commission*

*Amendment*

***(a) when the person or organisational unit carrying out the key function has detected a risk that the institution is unlikely to comply with a materially significant statutory requirement and reported it to the administrative, management or supervisory body of the institution;*** ***deleted***

Or. en

*Justification*

*This is covered under paragraph 6, introductory part, of this Article.*

### **Amendment 133**

#### **Proposal for a directive Article 25 – paragraph 6 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) when the person or organisational unit carrying out the key function has observed a materially significant breach of the legislation or regulations applicable to the institution and its activities in the context of the key function of that person or organisational unit and reported it to the administrative, management or supervisory body of the institution.*** ***deleted***

Or. en

*Justification*

*Procedures regarding breach of legislation should be defined by Member States, it should not be defined in this Directive.*

### **Amendment 134**

#### **Proposal for a directive Article 26 – title**

*Text proposed by the Commission*

Risk management ***system and function***

*Amendment*

Risk management

Or. en

### **Amendment 135**

#### **Proposal for a directive**

#### **Article 26 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

That risk-management system shall be well-integrated into the organisational structure and in the decision-making processes of the institution.

*Amendment*

That risk-management system shall be ***effective and*** well-integrated into the organisational structure and in the decision-making processes of the institution.

Or. en

### **Amendment 136**

#### **Proposal for a directive**

#### **Article 26 – paragraph 4**

*Text proposed by the Commission*

4. Institutions shall provide for a risk-management function structured in such a way as to facilitate the ***implementation*** of the risk-management system.

*Amendment*

4. Institutions shall provide for a risk-management function structured in such a way as to facilitate the ***functioning*** of the risk-management system.

Or. en

### **Amendment 137**

#### **Proposal for a directive**

#### **Article 27 – title**



*Text proposed by the Commission*

*Amendment*

Internal audit **function**

Internal audit

Or. en

## **Amendment 138**

### **Proposal for a directive Article 27 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall require institutions to provide for an effective internal audit function. The internal audit function shall **evaluate** the adequacy and effectiveness of the internal control system and other elements of the system of governance **laid down in Articles 21 to 24, including outsourced activities**.

1. Member States shall require institutions to provide for an effective internal audit function. The internal audit function shall **include an evaluation of** the adequacy and effectiveness of the internal control system and other elements of the system of governance.

Or. en

## **Amendment 139**

### **Proposal for a directive Article 27 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Member States shall require institutions to designate at least one independent person, inside or outside of the institution, who is responsible for the internal audit function. **Except for the execution and certification referred to in Article 14(4), that person shall not assume responsibility for key functions other than those laid down in this Article.**

2. Member States shall require institutions to designate at least one independent person, inside or outside of the institution, who is responsible for the internal audit function.

Or. en

## Amendment 140

### Proposal for a directive Article 27 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. Findings and recommendations of the internal audit function shall be reported to the administrative, management or supervisory body of the institution. The administrative, management or supervisory body of the institution shall determine what actions are to be taken with respect to each of those findings and recommendations and shall ensure that those actions are carried out.**

**deleted**

Or. en

*Justification*

*This paragraph was deleted because it is already covered in Article 25(5)*

## Amendment 141

### Proposal for a directive Article 28 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

**1. Member States shall require that institutions where members and beneficiaries do not bear all the risks** provide for an effective actuarial function to:

**1. Where the institution itself provides cover against biometric risks or guarantees either an investment performance or a given level of benefits, Member States shall require that institutions** provide for an effective actuarial function to:

Or. en

*Justification*

*Aligned to the wording in Article 14(2)*

## Amendment 142

### Proposal for a directive

#### Article 28 – paragraph 1 – point b

*Text proposed by the Commission*

(b) *assess* the appropriateness of the methodologies and underlying models used in the calculation of technical provisions and the assumptions made for this *purposes*;

*Amendment*

(b) *ensure* the appropriateness of the methodologies and underlying models used in the calculation of technical provisions and the assumptions made for this *purpose*;

Or. en

## Amendment 143

### Proposal for a directive

#### Article 28 – paragraph 1 – point d

*Text proposed by the Commission*

(d) compare *best estimates* with the experience;

*Amendment*

(d) compare *the assumptions underlying the technical provisions' calculation* with the experience;

Or. en

*Justification*

*Best estimates are required under Solvency II, not under this Directive.*

## Amendment 144

### Proposal for a directive

#### Article 29 – title

*Text proposed by the Commission*

*Risk evaluation for pensions*

*Amendment*

*Own risk assessment*

Or. en

## Amendment 145

### Proposal for a directive

#### Article 29 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. **Member States shall require, appropriately to their size, internal organisation and the nature, scope and complexity of their activities, institutions, as part of *their* risk-management system, to carry out *their* own risk assessment and to produce a risk evaluation for pensions in order to document that assessment.**

*Amendment*

1. As part of **its** risk-management system, **every institution shall conduct its** own risk assessment, **which is appropriate to the nature, scale and complexity of its activities.**

Or. en

*Justification*

*This amendment is intended to make the text clearer and more concise.*

## Amendment 146

### Proposal for a directive

#### Article 29 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

The risk **evaluation for pensions** shall be performed regularly and without delay following any significant change in the risk profile of the institution or of the pension **scheme**.

*Amendment*

The risk **assessment** shall be performed regularly and without delay following any significant change in the risk profile of the institution or of the pension **schemes operated by the institution**.

Or. en

*Justification*

*Risk assessment is the correct term.*

## Amendment 147

### Proposal for a directive

#### Article 29 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. The risk ***evaluation for pensions*** referred to in paragraph 1 shall cover:

2. The risk ***assessment*** referred to in paragraph 1 shall cover:

Or. en

#### **Amendment 148**

##### **Proposal for a directive Article 29 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) the ***ability to comply with the requirements regarding*** technical provisions ***laid down in Article 14;***

(c) the ***risks inherent to the sufficiency of*** technical provisions ***in respect of the total range of pension schemes operated;***

Or. en

#### **Amendment 149**

##### **Proposal for a directive Article 29 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) ***a qualitative assessment of the margin for adverse deviation as part of the calculation of the technical provisions in accordance with national law;***

***deleted***

Or. en

*Justification*

*This indent is deleted because it has been covered by Article 29(2)(c) as amended*

#### **Amendment 150**

##### **Proposal for a directive Article 29 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

(e) *a description of pension benefits or capital accumulation;*

(e) *the risks to members and beneficiaries relating to their entitlements being paid out and the effectiveness of any remedial action;*

Or. en

## **Amendment 151**

### **Proposal for a directive Article 29 – paragraph 2 – point f**

*Text proposed by the Commission*

*Amendment*

(f) a qualitative assessment of *the sponsor* support accessible to the institution;

(f) a qualitative assessment of *any financial* support accessible to the institution;

Or. en

## **Amendment 152**

### **Proposal for a directive Article 29 – paragraph 2 – point g**

*Text proposed by the Commission*

*Amendment*

(g) a qualitative assessment of the operational risks *for all schemes of the institution,*

(g) a qualitative assessment of the operational risks,

Or. en

## **Amendment 153**

### **Proposal for a directive Article 29 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

***(h) a qualitative assessment of new or emerging risks relating to climate change, use of resources and the environment.***

***deleted***

Or. en

#### **Amendment 154**

##### **Proposal for a directive Article 29 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. For the purposes of paragraph 2, the institutions shall have in place methods to identify and ***evaluate*** the risks they are or could be exposed to in the short and in the long term. Those methods shall be proportionate to the nature, scale and complexity of the risks inherent in its activities. The methods shall be described in the ***evaluation***.

3. For the purposes of paragraph 2, the institutions shall have in place methods to identify and ***assess*** the risks they are or could be exposed to in the short and in the long term. Those methods shall be proportionate to the nature, scale and complexity of the risks inherent in its activities. The methods shall be described in the ***assessment***.

Or. en

#### **Amendment 155**

##### **Proposal for a directive Article 29 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The risk ***evaluation for pensions*** shall be an integral part of the operational strategy and shall be taken into account in the strategic decisions of the institution.

4. The risk ***assessment referred to in paragraph 3*** shall be an integral part of the operational strategy and shall be taken into account in the strategic decisions of the institution.

Or. en

## Amendment 156

### Proposal for a directive Article 30

*Text proposed by the Commission*

*Amendment*

#### **Article 30**

**deleted**

#### **Delegated act for the risk evaluation for pensions**

**The Commission shall be empowered to adopt a delegated act in accordance with Article 77 specifying:**

- (a) the elements to be covered by paragraph 2 of Article 29;**
- (b) the methods referred to in paragraph (3) of Article 29 taking into account the identification and the evaluation of the risks they are or could be exposed to in the short and in the long term; and**
- (c) the frequency of the risk evaluation for pensions taking into account the requirements in paragraph 1 of Article 29.**

**The delegated act shall not impose additional funding requirements beyond those foreseen in this Directive.**

Or. en

#### *Justification*

*Pension policy is primarily a matter for Member States; in this context delegated acts should not be included in this Directive.*

## Amendment 157

### Proposal for a directive Article 33 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States may permit **or require** institutions located in its territory to entrust **management** of those institutions, in whole or in part, to **other entities** operating on

1. Member States may permit institutions located in its territory to entrust **any activity including key functions** of those institutions, in whole or in part, to **service**



behalf of those institutions.

*providers* operating on behalf of those institutions.

Or. en

## Amendment 158

### Proposal for a directive Article 33 – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that institutions remain responsible for compliance with their obligations under this Directive when they outsource key functions or any other activities.

*Amendment*

2. Member States shall ensure that institutions remain **fully** responsible for compliance with their obligations under this Directive when they outsource key functions or any other activities.

Or. en

## Amendment 159

### Proposal for a directive Article 33 – paragraph 4

*Text proposed by the Commission*

4. The institution shall ensure the proper functioning of the outsourced activities through the process of selecting **the** service provider and the on-going monitoring of the activities.

*Amendment*

4. The institution shall ensure the proper functioning of the outsourced activities through the process of selecting **a** service provider and the on-going monitoring of the activities **of that service provider**.

Or. en

## Amendment 160

### Proposal for a directive Article 33 – paragraph 5

*Text proposed by the Commission*

5. Member States shall ensure that

*Amendment*

5. Member States shall ensure that

institutions outsourcing **key functions or any other activities** enter into **at least** a written agreement with the service provider. The agreement shall be legally enforceable and shall clearly define the rights and obligations of the institution and the service provider.

institutions outsourcing **any activity** enter into a written agreement with the service provider. The agreement shall be legally enforceable and shall clearly define the rights and obligations of the institution and the service provider.

Or. en

## Amendment 161

### Proposal for a directive Article 33 – paragraph 6

*Text proposed by the Commission*

6. Member States shall ensure that institutions notify, in a timely manner, competent authorities in advance of any outsourcing of **key functions or any other activities** as well as of any subsequent important developments with respect to **the key functions or any other** activities.

*Amendment*

6. Member States shall ensure that institutions notify, in a timely manner, competent authorities in advance of any outsourcing of **any activity** as well as of any subsequent important developments with respect to **those** activities.

Or. en

## Amendment 162

### Proposal for a directive Article 33 – paragraph 7

*Text proposed by the Commission*

7. Member States shall ensure that competent authorities have the necessary powers to request information from institutions about **outsourced key functions or any other** activities **at any time**.

*Amendment*

7. Member States shall ensure that competent authorities have the necessary powers to request information from institutions about **any outsourced** activities.

Or. en

## Amendment 163

### Proposal for a directive Article 34 – paragraph 1

*Text proposed by the Commission*

Member States shall not restrict institutions from appointing, for the management of the investment portfolio, investment managers established in another Member State and duly authorised for this activity, in accordance with **Directive 2004/39/EC and Directives**, 2009/65/EC, 2009/138/EC, , 2011/61/EU **and** 2013/36/EU, as well as those referred to in Article 2(1) of this Directive.

*Amendment*

Member States shall not restrict institutions from appointing, for the management of the investment portfolio, investment managers established in another Member State and duly authorised for this activity, in accordance with **Directives** 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU **and 2014/65/EU**, as well as those **institutions** referred to in Article 2(1) of this Directive.

Or. en

## Amendment 164

### Proposal for a directive Article 35 – paragraph 1

*Text proposed by the Commission*

1. For each occupational pension scheme in which members and beneficiaries fully bear the investment risk, the home Member State shall require the institution to appoint a **single** depository for safe-keeping of assets and oversight duties in accordance with Article 36 and 37.

*Amendment*

1. For each occupational pension scheme in which members and beneficiaries fully bear the investment risk, the home Member State shall require the institution to appoint a depository for safe-keeping of assets and oversight duties in accordance with Article 36 and 37.

Or. en

## Amendment 165

### Proposal for a directive Article 35 – paragraph 3

*Text proposed by the Commission*

3. Member States shall not restrict institutions from appointing, **for the**

*Amendment*

3. Member States shall not restrict institutions from appointing depositories

*custody of their assets*, depositaries established in another Member State and duly authorised in accordance with Directive **2004/39/EC** or **Directive** 2013/36/EU, or accepted as a depositary for the purposes of Directive 2009/65/EC.

established in another Member State and duly authorised in accordance with Directive 2013/36/EU or **2014/65/EU**, or accepted as a depositary for the purposes of Directive 2009/65/EC **or 2011/61/EU**.

Or. en

## Amendment 166

### Proposal for a directive Article 35 – paragraph 4

#### *Text proposed by the Commission*

4. Member States shall take the necessary steps to enable competent authorities under their national law to prohibit, in accordance with Article 62, the free disposal of assets **held by a depositary or custodian** located within their territory at the request of the institution's home Member State.

#### *Amendment*

4. Member States shall take the necessary steps to enable competent authorities under their national law to prohibit, in accordance with Article 62, the free disposal of assets located within their territory at the request of **the competent authorities in** the institution's home Member State.

Or. en

## Amendment 167

### Proposal for a directive Article 35 – paragraph 5

#### *Text proposed by the Commission*

5. The depositary shall be appointed by means of **at least** a written contract. The contract shall stipulate the transmission of the information necessary for the depositary to perform its duties **for the pension scheme for which it has been appointed as depositary**, as set out in this Directive **and in other relevant laws, regulations or administrative provisions**.

#### *Amendment*

5. The depositary shall be appointed by means of a written contract. The contract shall stipulate the transmission of the information necessary for the depositary to perform its duties as set out in this Directive.

Or. en

## Amendment 168

### Proposal for a directive Article 35 – paragraph 7

*Text proposed by the Commission*

7. A depositary shall not carry out activities with regard to the institution which may create conflicts of interest between the institution, the scheme's members and beneficiaries and itself, unless the depositary has functionally and hierarchically separated the performance of its depositary tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the *scheme's* members and beneficiaries.

*Amendment*

7. A depositary shall not carry out activities with regard to the institution which may create conflicts of interest between the institution, the scheme's members and beneficiaries and itself, unless the depositary has functionally and hierarchically separated the performance of its depositary tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the *institution and the scheme* members and beneficiaries.

Or. en

## Amendment 169

### Proposal for a directive Article 36 – paragraph 2

*Text proposed by the Commission*

2. Where the assets of *a pension scheme* consist of other assets than those referred to in paragraph 1, the depositary shall verify that the institution *or the members and beneficiaries are the owners* of the assets and shall maintain a record of their assets. The verification shall be carried out on the basis of information or documents provided by the institution and, where available, on external evidence. The depositary shall keep its record up-to-date.

*Amendment*

2. Where the assets of *an institution* consist of other assets than those referred to in paragraph 1, the depositary shall verify that the institution *is the owner* of the assets and shall maintain a record of their assets. The verification shall be carried out on the basis of information or documents provided by the institution and, where available, on *the basis of* external evidence. The depositary shall keep its record up-to-date.

Or. en

## Amendment 170

### Proposal for a directive Article 36 – paragraph 3

*Text proposed by the Commission*

3. Member States shall ensure that a depositary is liable to the institution **or** the members and beneficiaries for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of them.

*Amendment*

3. Member States shall ensure that a depositary is liable to the institution **and** the members and beneficiaries for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of them.

Or. en

## Amendment 171

### Proposal for a directive Article 36 – paragraph 5 – point c

*Text proposed by the Commission*

(c) take the necessary measures to avoid conflicts of interest **or incompatibility**;

*Amendment*

(c) take the necessary measures to avoid conflicts of interest **in relation to the safe-keeping of assets**;

Or. en

## Amendment 172

### Proposal for a directive Article 36 – paragraph 5 – point d

*Text proposed by the Commission*

(d) inform the competent **authority**, upon request, about the manner in which assets are kept.

*Amendment*

(d) inform the competent **authorities**, upon request, about the manner in which assets are kept.

Or. en

## Amendment 173

### Proposal for a directive

#### Article 37 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. *The depositary appointed for oversight duties shall carry out the tasks referred to in paragraphs 1 and 2 of Article 36 in addition to* the following:

*Amendment*

1. *At least one of the depositaries appointed shall also carry out* the following *tasks*:

Or. en

## Amendment 174

### Proposal for a directive

#### Article 37 – paragraph 1 – point a

*Text proposed by the Commission*

*(a) carry out instructions of the institution, unless they conflict with national law or the institution's rules;*

*Amendment*

*deleted*

Or. en

## Amendment 175

### Proposal for a directive

#### Article 37 – paragraph 1 – point b

*Text proposed by the Commission*

(b) ensure that in transactions involving the assets of an institution *or of a pension scheme* any consideration is remitted to the institution within the usual time limits;

*Amendment*

(b) ensure that in transactions involving the assets of an institution any consideration is remitted to the institution within the usual time limits;

Or. en

## Amendment 176

### Proposal for a directive Article 38 – paragraph 1

*Text proposed by the Commission*

1. Depending on the nature of the pension scheme established, Member States shall ensure that every institution located in their territories provides prospective members, **members and beneficiaries** at least the information set out in **Articles 39 to 53 and Articles 55 to 58**.

*Amendment*

1. Depending on the nature of the pension scheme established, Member States shall ensure that every institution located in their territories provides **to** prospective members **at least the information set out in Article 55, to members** at least the information set out in **Articles 40a and 58 and to beneficiaries at least the information set out in Articles 57 and 58**.

Or. en

## Amendment 177

### Proposal for a directive Article 38 – paragraph 2 – subparagraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

**(da) it shall be available in an official language of the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the pension scheme concerned;**

Or. en

## Amendment 178

### Proposal for a directive Article 38 – paragraph 2 – subparagraph 1 – point d b (new)

*Text proposed by the Commission*

*Amendment*

**(db) the information shall be made available to members and beneficiaries free of charge through any electronic means, including a durable medium or by**



*means of a website, or on request through a paper copy.*

Or. en

## **Amendment 179**

### **Proposal for a directive**

#### **Article 39 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the *financial, technical and other risks* associated with the pension scheme;

*Amendment*

(b) the *risks borne by members and beneficiaries* associated with the pension scheme;

Or. en

## **Amendment 180**

### **Proposal for a directive**

#### **Article 39 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) *the nature and distribution of those risks.*

*Amendment*

*deleted*

Or. en

## **Amendment 181**

### **Proposal for a directive**

#### **Article 39 – paragraph 2**

*Text proposed by the Commission*

2. For schemes in which members bear an investment risk and which provide for more than one option with different investment profiles, the members shall be informed of the conditions regarding the range of investment options available, the

*Amendment*

2. For schemes in which members bear an investment risk and which provide for more than one option with different investment profiles, the members shall be informed of the conditions regarding the range of investment options available, the

default investment option and, where applicable, the pension scheme's rule to allocate a particular member to an investment option, ***in addition to the information listed in points (a), (b) and (c) of the first paragraph.***

default investment option and, where applicable, the pension scheme's rule to allocate a particular member to an investment option.

Or. en

## **Amendment 182**

### **Proposal for a directive Title 4 – chapter 2 – title**

*Text proposed by the Commission*

Pension Benefit Statement

*Amendment*

Pension Benefit Statement ***and other information***

Or. en

## **Amendment 183**

### **Proposal for a directive Article 40**

*Text proposed by the Commission*

***Article 40***

***Frequency and changes***

***(1) Member States shall require institutions to draw up a document containing key information for each member (the 'pension benefit statement').***

***(2) Members States shall ensure that the information contained in the pension benefit statement is updated and sent to each member at least once every twelve months and free of charge.***

***(3) Any material change to the information contained in the pension benefit statement compared to the previous year shall be clearly explained in***

*Amendment*

***deleted***

*an accompanying letter.*

Or. en

## **Amendment 184**

### **Proposal for a directive Article 40 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 40a**

##### ***Pension benefit statement***

- 1. Member States shall require institutions to draw up a document containing key relevant information for each member. The title of the document shall contain the words 'Pension Benefit Statement'.***
- 2. Member States shall require that the information contained in the pension benefit statement is updated and sent to each member, free of charge, at least annually.***
- 3. When laying down rules for the pension benefit statement, Member States shall require that it contains the key relevant information for the members, taking into consideration the specific nature of national pension systems and of relevant national social, labour and tax law.***
- 4. Within the framework of this Directive, key relevant information for members shall include:***
  - (a) personal details of the member, including a clear indication of the date of the statutory retirement or the date when retirement benefits are due;***
  - (b) identification of the institution and identification of the pension scheme of the member;***
  - (c) where applicable, any information on full or partial guarantees under the***

*pension scheme. Where no guarantee is provided, this should be indicated. Where a guarantee is provided, the pension benefit statement shall briefly explain the nature of the guarantee and provide information on the current level of financing of the member's accrued individual entitlements;*

*(d) information on pension projections, taking into consideration the specific nature and organisation of the pension scheme;*

*(e) information on the accumulated entitlements, contributions and costs of the pension scheme, taking into consideration the specific nature and organisation of the pension scheme;*

*(f) information on the investment profile, taking into consideration the specific nature of the pension scheme;*

*(g) information on the past performance of the pension scheme, taking into account the specific nature of the pension scheme.*

*5. Member States shall exchange best practices with regard to the format and the content of the pension benefit statement.*

*(Replaces articles 40-54)*

Or. en

#### *Justification*

*Aligns with Amendment 41 of EMPL Committee Opinion with modifications. This Directive should provide guiding principles for the Pension Benefit Statement, it should not be a prescriptive set of rules.*

#### **Amendment 185**

#### **Proposal for a directive Article 41**

*Text proposed by the Commission*

*Amendment*

**Article 41**

**deleted**

***Comprehensibility and language***

***1. The information provided in the pension benefit statement shall be comprehensible without reference to other documents.***

***2. Member States shall ensure that the pension benefit statement is available in an official language of the Member State whose social and labour law relevant to the field of occupational pension schemes is applicable to the relationship between the sponsoring undertaking or the institution on the one hand and the members or the beneficiaries on the other.***

Or. en

**Amendment 186**

**Proposal for a directive  
Article 42**

*Text proposed by the Commission*

*Amendment*

**Article 42**

**deleted**

***Length***

***The pension benefit statement shall use characters of easily readable size and shall not be longer than two pages of A4-sized paper when printed.***

Or. en

**Amendment 187**

**Proposal for a directive  
Article 43**

*Text proposed by the Commission*

*Amendment*

**Article 43**

**deleted**

**Medium**

***Member States may allow institutions to provide the pension benefit statement in a durable medium or by means of a website. A paper copy shall be delivered to the members and beneficiaries on request and free of charge, in addition to any electronic means.***

Or. en

**Amendment 188**

**Proposal for a directive**

**Article 44**

*Text proposed by the Commission*

*Amendment*

**Article 44**

**deleted**

**Liability**

***1. Member States shall ensure that institutions do not incur civil liability solely on the basis of the pension benefit statement, or a translation of the pension benefit statement, unless it is misleading, inaccurate or inconsistent with the relevant part of the pension scheme.***

***2. The pension benefit statement shall contain a clear warning in this respect.***

Or. en

**Amendment 189**

**Proposal for a directive**

**Article 45**

*Text proposed by the Commission*

*Amendment*

**Article 45**

**deleted**

**Title**

- 1. The title of the pension benefit statement shall contain the words 'Pension benefit statement'.**
- 2. A short statement explaining the purpose of the pension benefit statement shall appear directly underneath the title.**
- 3. The exact date to which the information in the pension benefit statement refers shall be stated prominently.**

Or. en

**Amendment 190**

**Proposal for a directive  
Article 46**

*Text proposed by the Commission*

*Amendment*

**Article 46**

**deleted**

**Personal details**

**The pension benefit statement shall specify the personal details of the member, including the legal retirement age, where applicable.**

Or. en

**Amendment 191**

**Proposal for a directive  
Article 47**

*Text proposed by the Commission*

*Amendment*

**Article 47**

**deleted**

### *Identification of the institution*

*The pension benefit statement shall identify the institution and provide information about:*

- (1) the name of the institution and its address;*
- (2) the Member States in which the institution is authorised or registered and the name of the competent authority;*
- (3) the name of the sponsoring undertaking.*

Or. en

### **Amendment 192**

#### **Proposal for a directive Article 48**

*Text proposed by the Commission*

*Amendment*

#### *Article 48*

*deleted*

#### *Guarantees*

*1. The pension benefit statement shall contain one of the following indications regarding guarantees under the pension scheme:*

*(a) a full guarantee where the institution or the sponsoring undertaking guarantees a given level of benefits;*

*(b) no guarantee where the member fully bears the risk;*

*(c) a partial guarantee in all other cases.*

*2. Where a guarantee is provided, the following shall be briefly explained:*

*(a) the nature of the guarantee;*

*(b) the current level of financing of the member's accrued individual entitlements;*

*(c) mechanisms protecting accrued individual entitlements;*



*(d) benefit reduction mechanisms, where those laid down in national legislation.*

Or. en

## **Amendment 193**

### **Proposal for a directive Article 49**

*Text proposed by the Commission*

*Amendment*

*Article 49]*

*deleted*

*Balance, contributions and costs*

*1. With regard to balance, contributions and costs, the pension benefit statement shall indicate the following amounts expressed in the currency relevant for the pension scheme:*

*(a) the sum of the costs deducted from the gross contributions paid by the sponsoring undertaking, where applicable, or by the member over the past twelve months, or, if the member has joined the scheme less than twelve months ago, the sum of the costs deducted from their contributions since joining;*

*(b) the sum of the contributions paid by the member over the past twelve months, or, if the member has joined the scheme less than twelve months ago, the sum of their contributions since joining;*

*(c) the sum of the contributions paid by the sponsoring undertaking over the past twelve months, or, if the member has joined the scheme less than twelve months ago, the sum of the contributions paid by the sponsoring undertaking since the member joined;*

*(d) the balance on the date of the pension benefit statement calculated in one of the two following ways depending on the nature of the pension scheme:*

*(i) for pension schemes that do not*

*provide for a target level of benefits, the total sum of the capital accumulated by the member, expressed also as an annuity per month,*

*(ii) for pension schemes that provide for a target level of benefits, the accrued individual entitlements per month.*

*(e) other contributions or costs relevant to the member such as transfer of accrued capital;*

*(f) the costs referred to in point (a) broken down into the following separate amounts expressed in the currency relevant for the pension scheme:*

*(i) costs of administration of the institution;*

*(ii) costs of safekeeping of assets;*

*(iii) costs related to portfolio transactions;*

*(iv) other costs.*

*2. The 'other costs' referred to in paragraph 1 (f)(iv) shall be briefly explained where they account for 20% or more of the total charges.*

Or. en

## **Amendment 194**

### **Proposal for a directive Article 50**

*Text proposed by the Commission*

*Amendment*

#### *Article 50*

*deleted*

#### *Pension projections*

*1. Where the pension scheme provides for a target level of benefits, the pension benefit statement shall indicate the following three amounts concerning pension projections expressed in the currency relevant for the pension scheme:*

*(a) the target level of benefits per month*

*at the retirement age under best estimate assumptions;*

*(b) the target level of benefits per month two years before the retirement age under best estimate assumptions;*

*(c) the target level of benefits per month two years after the retirement age under best estimate assumptions.*

*2. The assumptions referred to in paragraph 1 shall take into account future wages.*

*3. Where the pension scheme does not provide for a target level of benefits, the pension benefit statement shall indicate the following amounts concerning pension projections expressed in the currency relevant for the pension scheme:*

*(a) the expected amount of capital accumulated until two years before the retirement age under best estimate assumptions relevant for the scheme;*

*(b) the expected amount of capital accumulated until the retirement age under best estimate assumptions relevant for the scheme;*

*(c) the expected amount of capital accumulated until two years after the retirement age under best estimate assumptions relevant for the scheme;*

*(d) the amounts referred to in points (a) to (c) expressed as a benefit per month.*

*4. The assumptions referred to in paragraph 3 shall take into account the following factors:*

*(a) the annual rate of nominal investment returns;*

*(b) the annual rate of inflation;*

*(c) future wages.*

*5. For the purposes of calculating the projections referred to in paragraphs 1 and 3, the contribution rates shall be assumed to remain constant.*

## Amendment 195

### Proposal for a directive Article 51

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

Or. en

## Amendment 196

### Proposal for a directive Article 52

*Text proposed by the Commission*

*Amendment*

*Article 52*

*deleted*

*Past performance*

***1. The pension benefit statement shall contain the following information about past performance:***

***(a) information about the past performance of the pension scheme as a whole, or where relevant, of the member's investment option presented in a chart covering that performance for any years available and up to the last ten years;***

***(b) the chart layout supplemented by statements which appear prominently and which:***

***(i) warn about its limited value as a guide to future performance;***

***(ii) indicate which costs have been included or excluded from the calculation of past performance;***

***(iii) indicate the currency in which past performance has been calculated.***

***2. Where a material change occurs to a***

*pension scheme's objective and investment policy during the period displayed in the chart referred to in paragraph 1, the pension scheme's past performance prior to that material change shall be shown. The period prior to the material change shall be indicated on the chart and labelled with a clear warning that the performance was achieved under circumstances that no longer apply.*

*3. Where a member changes investment option, the past performance of that investment option shall be shown.*

Or. en

## **Amendment 197**

### **Proposal for a directive Article 53**

*Text proposed by the Commission*

*Amendment*

*Article 53*

*deleted*

#### *Supplementary information*

*The pension benefit statement shall specify the following supplementary information:*

- (a) where and how to obtain further information about the institution or the pension scheme, including from websites and relevant legal acts of a general nature;*
- (b) where and how to obtain further information about the arrangements relating to the transfer of pension rights to another institution for occupational retirement provision in the event of termination of the employment relationship;*
- (c) information about the assumptions used for amounts expressed in annuities, in particular with respect to the annuity rate, the type of provider and the duration*

*of the annuity, where the member requests that information;*

*(d) where and how to obtain access to additional information about the member's individual situation including the target level of the retirement benefits, if applicable, and the level of benefits in case of cessation of employment.*

Or. en

## **Amendment 198**

### **Proposal for a directive Article 54**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

Or. en

*Justification*

*Pension policy is primarily a matter for Member States; in this context delegated acts should not be included in this Directive.*

## **Amendment 199**

### **Proposal for a directive Title 4 – chapter 3 – title**

*Text proposed by the Commission*

*Amendment*

**CHAPTER 3**

*deleted*

*Other information and documents to be provided*

Or. en

## Amendment 200

### Proposal for a directive Article 55 paragraph 1

*Text proposed by the Commission*

*The institution shall ensure that prospective members are informed **about all the** features of the scheme and any **investment** options **including information on how environmental, climate, social and corporate governance issues are considered in the investment approach.***

*Amendment*

*Member States shall **require institutions to** ensure that prospective members are informed, **before they join a pension scheme, about the relevant** features of the **pension** scheme, **including the relevant information about the investment approach** and any options **available to members.***

*Where prospective members do not have a choice and are automatically enrolled in a pension scheme, the institution shall provide them with the key relevant information about their membership immediately after enrolment.*

Or. en

## Amendment 201

### Proposal for a directive Article 56 – point a

*Text proposed by the Commission*

(a) information about the options available to members in taking their retirement income, **including information about the advantages and disadvantages of those options, in a way which supports them in choosing the option most appropriate to their circumstances;**

*Amendment*

(a) information about the options available to members in taking their retirement income;

Or. en

## Amendment 202

### Proposal for a directive Article 56 – point b

*Text proposed by the Commission*

(b) where the pension scheme is not paid out as a lifetime annuity, information about the benefit payment products available, ***including their advantages and disadvantages, and the key considerations members should consider when making the decision to buy a benefit payment product.***

*Amendment*

(b) where the pension scheme is not paid out as a lifetime annuity, information about the benefit payment products available.

Or. en

**Amendment 203**

**Proposal for a directive  
Article 57 – paragraph 1**

*Text proposed by the Commission*

1. ***Institutions*** shall provide beneficiaries with information about the benefits due and the corresponding payment options.

*Amendment*

1. ***Member States*** shall ***require institutions to periodically*** provide beneficiaries with information about the benefits due and the corresponding payment options.

Or. en

**Amendment 204**

**Proposal for a directive  
Article 57 – paragraph 1 a (new)**

*Text proposed by the Commission*

***1a. Institutions shall inform beneficiaries of any potential change in the level of benefits due, prior to any decision on such a potential change.***

Or. en



*Justification*

*Beneficiaries should be informed in advance if there is any potential change in the level of benefits due.*

**Amendment 205**

**Proposal for a directive  
Article 57 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. When a significant level of investment risk is borne by beneficiaries in the pay-out phase, Member States shall ensure that beneficiaries receive appropriate information.

2. When a significant level of investment risk is borne by beneficiaries in the pay-out phase, Member States shall ensure that beneficiaries receive appropriate information ***in a timely manner***.

Or. en

**Amendment 206**

**Proposal for a directive  
Article 58 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) information about the assumptions used to generate the projections referred to Article 50;

(c) ***any further*** information about the assumptions used to generate the projections referred to Article 40a(4)(d);

Or. en

**Amendment 207**

**Proposal for a directive  
Article 58 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

***(d) information about the assumed annuity rate, the type of provider and the duration of the annuity referred to in Article 53 (c).***

***deleted***

## Amendment 208

### Proposal for a directive Article 58 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. On request from a member, the institution shall also provide ***detailed and substantial*** information on:

*Amendment*

2. On request from a member, the institution shall also provide information on:

Or. en

## Amendment 209

### Proposal for a directive Article 59 – paragraph 1

*Text proposed by the Commission*

1. The main objective of prudential supervision is the protection of members and beneficiaries.

*Amendment*

1. The main objective of prudential supervision is the protection of ***the rights of*** members and beneficiaries ***and the stability and soundness of the institutions.***

Or. en

*Justification*

*Aligns with Amendment 43 of the EMPL Committee Opinion.*

## Amendment 210

### Proposal for a directive Article 59 – paragraph 2

*Text proposed by the Commission*

2. ***Without prejudice to the main objective of prudential supervision as set out in paragraph 1,*** Member States shall ensure that, ***in the exercise of their general***

*Amendment*

2. Member States shall ensure that the competent authorities ***are provided with the necessary means, and have the relevant expertise, capacity, and mandate***

*duties, the competent authorities shall duly consider the potential impact of their decisions on the stability of the financial systems concerned in the Union, in particular in emergency situations, taking into account the information available at the relevant time.*

*to achieve the main objective of supervision.*

Or. en

#### **Amendment 211**

##### **Proposal for a directive Article 60 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that institutions ***for occupational retirement provision*** are subject to prudential supervision including the supervision of the following:

*Amendment*

Member States shall ensure that institutions are subject to prudential supervision including the supervision of the following:

Or. en

#### **Amendment 212**

##### **Proposal for a directive Article 60 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) *technical provisions;*

*Amendment*

(b) *financial situation of the institution;*

Or. en

#### **Amendment 213**

##### **Proposal for a directive Article 60 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) funding of technical provisions;** **deleted**

Or. en

*Justification*

*Covered by Article 60(1)(b) as amended*

#### **Amendment 214**

##### **Proposal for a directive Article 60 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

**(d) regulatory own funds;** **deleted**

Or. en

*Justification*

*Covered by Article 60(1)(b) as amended*

#### **Amendment 215**

##### **Proposal for a directive Article 60 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

**(e) available solvency margin;** **deleted**

Or. en

*Justification*

*Covered by Article 60(1)(b) as amended*

## Amendment 216

### Proposal for a directive Article 60 – paragraph 1 – point f

*Text proposed by the Commission*

*Amendment*

**(f) required solvency margin;**

**deleted**

Or. en

*Justification*

*Covered by Article 60(1)(b) as amended*

## Amendment 217

### Proposal for a directive Article 60 – paragraph 1 – point g

*Text proposed by the Commission*

*Amendment*

**(g) investment rules;**

**(g) investments;**

Or. en

## Amendment 218

### Proposal for a directive Article 60 – paragraph 1 – point h

*Text proposed by the Commission*

*Amendment*

**(h) investment management;**

**deleted**

Or. en

*Justification*

*Covered by Article 60(1)(g) as amended*

## Amendment 219

### Proposal for a directive Article 60 – paragraph 1 – point i

*Text proposed by the Commission*

(i) *conditions governing activities*; and

*Amendment*

(i) *system of governance*; and

Or. en

## Amendment 220

### Proposal for a directive Article 60 – paragraph 1 – point j

*Text proposed by the Commission*

(j) information to be provided to *competent authorities*.

*Amendment*

(j) information to be provided to *members and beneficiaries*.

Or. en

## Amendment 221

### Proposal for a directive Article 61 – paragraph 1

*Text proposed by the Commission*

1. The competent authorities of the home Member State shall be responsible for the prudential supervision of institutions *for occupational retirement provision*.

*Amendment*

1. The competent authorities of the home Member State shall be responsible for the prudential supervision of institutions.

Or. en

## Amendment 222

### Proposal for a directive Article 61 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Supervisory powers shall be applied in a timely and proportionate **manner**.

4. Supervisory powers shall be applied in a **manner which is** timely and proportionate **to the nature, scale and complexity of the risks inherent in operating pension schemes by an institution**.

Or. en

## **Amendment 223**

### **Proposal for a directive Article 62 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. **The competent authorities shall have the power to take any measures including, where appropriate, those of an administrative or financial nature, either with regard to any institution located in their territories or against the persons running the institution, which are appropriate and necessary to prevent or remedy any irregularities prejudicial to the interests of the members and beneficiaries.**

2. **Member States shall lay down rules on and ensure that their competent authorities may impose administrative sanctions and measures applicable to all infringements of the national provisions transposing this Directive, and shall take all measures necessary to ensure that they are implemented. Member States shall ensure that their administrative sanctions and measures are effective, proportionate and dissuasive.**

Or. en

*Justification*

*Aligned with Council text with modifications.*

## **Amendment 224**

### **Proposal for a directive Article 62 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall provide that the competent authority publishes without undue delay any administrative sanction**

*or measure that has been imposed for an infringement of the national provisions transposing this Directive, and against which no appeal was lodged in time, including information on the type and nature of the infringement and the identity of persons held responsible. Where the publication of that information is considered by the competent authority to be disproportionate following a case-by-case assessment of the proportionality of the publication of such data or where publication would jeopardise the stability of financial markets or an on-going investigation, the competent authority may decide to defer publication, not publish or publish on an anonymous basis.*

Or. en

#### Amendment 225

##### Proposal for a directive Article 62 – paragraph 3

*Text proposed by the Commission*

3. Any decision to prohibit or restrict the activities of an institution shall contain detailed reasons and be notified to the institution in question. **It** shall also be notified to EIOPA.

*Amendment*

3. Any decision to prohibit or restrict the activities of an institution shall contain detailed reasons and be notified to the institution in question. **That decision** shall also be notified to EIOPA **which shall communicate it to all competent authorities in the Union.**

Or. en

#### Amendment 226

##### Proposal for a directive Article 62 – paragraph 6 – point d



*Text proposed by the Commission*

(d) in the case of cross-border activity, the institution does not respect the requirements of social and labour law of the host Member State relevant to the field of occupational *pensions*.

*Amendment*

(d) in the case of cross-border activity, the institution does not respect the requirements of social and labour law of the host Member State relevant to the field of occupational *pension schemes*.

Or. en

**Amendment 227**

**Proposal for a directive  
Article 62 – paragraph 7**

*Text proposed by the Commission*

7. Member States shall ensure that decisions taken in respect of an institution under laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right *to apply* to the courts.

*Amendment*

7. Member States shall ensure that decisions taken in respect of an institution under laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right *of appeal* to the courts.

Or. en

**Amendment 228**

**Proposal for a directive  
Article 63 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall ensure that competent authorities review the strategies, processes and reporting procedures which are established by institutions to comply with the laws, regulations and administrative provisions adopted pursuant to this Directive.

*Amendment*

Member States shall ensure that competent authorities review, *where appropriate*, the strategies, processes and reporting procedures which are established by institutions to comply with the laws, regulations and administrative provisions adopted pursuant to this Directive, *taking into account the nature, scale and complexity of the institution*.

Or. en

## Amendment 229

### Proposal for a directive

#### Article 63 – paragraph 1 – subparagraph 2 – point a

*Text proposed by the Commission*

(a) an assessment of the **qualitative requirements relating to the** system of governance;

*Amendment*

(a) an assessment of the system of governance;

Or. en

## Amendment 230

### Proposal for a directive

#### Article 63 – paragraph 1 – subparagraph 2 – point c

*Text proposed by the Commission*

(c) an assessment of the ability of the institution to **assess** those risks.

*Amendment*

(c) an assessment of the ability of the institution to **manage** those risks.

Or. en

## Amendment 231

### Proposal for a directive

#### Article 64 – paragraph 1 – point a

*Text proposed by the Commission*

(a) to require the institution, the members of its board of directors and other managers or directors or persons **controlling** the institution to supply information about all business matters or forward all business documents;

*Amendment*

(a) to require the institution, the members of its board of directors and other managers or directors or persons **who effectively run** the institution **or have key functions** to supply **at any time** information about all business matters or forward all business documents;

Or. en

## Amendment 232

### Proposal for a directive Article 64 – paragraph 1 – point b

*Text proposed by the Commission*

(b) to supervise relationships between the institution and other companies or between institutions, when institutions **transfer** key functions or any other activities to those other companies or institutions (**outsourcing** and all subsequent re-outsourcing), influencing the financial situation of the institution or being in a material way relevant for effective supervision;

*Amendment*

(b) to supervise relationships between the institution and other companies or between institutions, when institutions **outsource** key functions or any other activities to those other companies or institutions and all subsequent re-outsourcing, influencing the financial situation of the institution or being in a material way relevant for effective supervision;

Or. en

## Amendment 233

### Proposal for a directive Article 64 – paragraph 1 – point c

*Text proposed by the Commission*

(c) to obtain regularly the following documents: the **risk evaluation for pensions**, the statement of investment-policy principles **documents relating to the governance system**, the annual accounts and the annual reports, **information documents as provided to members and beneficiaries**, and all other documents necessary for the purposes of supervision.

*Amendment*

(c) to obtain regularly the following documents: the **own risk assessment**, the statement of investment-policy principles, the annual accounts and the annual reports, and all other documents necessary for the purposes of supervision.

Or. en

### *Justification*

*Documents concerning governance are already covered by Section 3, Chapter 1. Additionally, it is not necessary for competent authorities to obtain information documents as provided to members and beneficiaries.*

## Amendment 234

### Proposal for a directive Article 64 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. EIOPA may develop draft implementing technical standards on the forms and formats for the documents listed in paragraph 1(d) (i) to (vi).**

**deleted**

**Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.**

Or. en

#### *Justification*

*This provision is not appropriate. Since the content of these documents has not been defined, it is not appropriate for EIOPA to take decisions on their form or format.*

## Amendment 235

### Proposal for a directive Article 65 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that the competent authorities conduct the tasks laid down in **Articles 60, 61, 62, 63 and 64** in a transparent and accountable manner with due respect for the protection of confidential information.

1. Member States shall ensure that the competent authorities conduct the tasks laid down in **this Directive** in a transparent, **independent** and accountable manner with due respect for the protection of confidential information.

Or. en

## Amendment 236

### Proposal for a directive Article 65 – paragraph 2 – point a

*Text proposed by the Commission*

(a) the texts of laws, regulations, administrative rules and general guidance in the field of occupational pensions **regulation**, and information about whether the Member State chooses to apply this Directive in accordance with Articles 4 and 5;

*Amendment*

(a) the texts of laws, regulations, administrative rules and general guidance in the field of occupational pensions, and information about whether the Member State chooses to apply this Directive in accordance with Articles 4 and 5;

Or. en

**Amendment 237**

**Proposal for a directive  
Article 65 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) **a statement that** the main objective of prudential supervision **is the protection of members and beneficiaries** and information on the main functions and activities of the **supervision**;

*Amendment*

(d) the main objective of prudential supervision and information on the main functions and activities of the **competent authorities**;

Or. en

**Amendment 238**

**Proposal for a directive  
Article 66 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Without prejudice to cases covered by criminal law, those persons shall not divulge confidential information received by them in the course of their duties to any person or authority, except in summary or aggregate form **not allowing for the identification of individual institutions**.

*Amendment*

Without prejudice to cases covered by criminal law, those persons shall not divulge confidential information received by them in the course of their duties to any person or authority, except in summary or aggregate form, **such that individual institutions cannot be identified**.

Or. en

## Amendment 239

### Proposal for a directive Article 66 – paragraph 2

*Text proposed by the Commission*

2. By derogation from paragraph 1, where a pension scheme is **transferred to another institution or another entity**, confidential information **which does not concern third parties involved in attempts to rescue that undertaking** may be divulged in civil or commercial proceedings.

*Amendment*

2. By derogation from paragraph 1, where a pension scheme is **being wound up**, **Member States may allow** confidential information **to** be divulged in civil or commercial proceedings.

Or. en

*Justification*

*This paragraph should refer to the winding up of a pension scheme, not the transfer of a scheme.*

## Amendment 240

### Proposal for a directive Article 67 – paragraph 1 – point a

*Text proposed by the Commission*

(a) to check that the conditions for occupational retirement provision are met by institutions before commencing their activities;

*Amendment*

(a) to check that the conditions for **taking up** occupational retirement provision **business** are met by institutions before commencing their activities;

Or. en

## Amendment 241

### Proposal for a directive Article 67 – paragraph 1 – point d

*Text proposed by the Commission*

(d) appeals against decisions of the

*Amendment*

(d) **in** appeals against decisions of the

competent authorities taken in accordance with the provisions transposing this Directive;

competent authorities taken in accordance with the provisions transposing this Directive;

Or. en

## **Amendment 242**

### **Proposal for a directive Article 67 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 67a*

#### ***European Parliament powers of investigation***

***Articles 66 and 67 shall be without prejudice to the powers of investigation conferred on the European Parliament by Article 226 of the Treaty on the Functioning of the European Union .';***

Or. en

#### *Justification*

*This amendment is a logical consequence of Article 70 as has been agreed in CRD IV and Solvency II.*

## **Amendment 243**

### **Proposal for a directive Article 68 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. **Article** 66 shall not preclude any of the following:

1. **Articles** 66 **and** 67 shall not preclude any of the following:

Or. en

## Amendment 244

### Proposal for a directive

#### Article 68 – paragraph 1 – point c – point iii

*Text proposed by the Commission*

(iii) bodies involved in the **termination** of a pension scheme and in other similar procedures;

*Amendment*

(iii) bodies involved in the **winding up** of a pension scheme and in other similar procedures;

Or. en

## Amendment 245

### Proposal for a directive

#### Article 68 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the disclosure, to bodies which administer the **termination** of a pension scheme, of information necessary for the performance of their duties.

*Amendment*

(d) the disclosure, to bodies which administer the **winding up** of a pension scheme, of information necessary for the performance of their duties.

Or. en

## Amendment 246

### Proposal for a directive

#### Article 68 – paragraph 3 – introductory part

*Text proposed by the Commission*

3. **Article** 66 shall not preclude Member States from authorising exchanges of information between the competent authorities and any of the following:

*Amendment*

3. **Articles** 66 **and** 67 shall not preclude Member States from authorising exchanges of information between the competent authorities and any of the following:

Or. en



## Amendment 247

### Proposal for a directive Article 68 – paragraph 3 – point a

*Text proposed by the Commission*

(a) the authorities responsible for overseeing the bodies involved in the **termination** of pension schemes and other similar procedures;

*Amendment*

(a) the authorities responsible for overseeing the bodies involved in the **winding up** of pension schemes and other similar procedures;

Or. en

## Amendment 248

### Proposal for a directive Article 68 – paragraph 3 – point b

*Text proposed by the Commission*

(b) the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of institutions, **credit institutions**, **investment firms**, insurance undertakings and other financial institutions;

*Amendment*

(b) the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of institutions, insurance undertakings and other financial institutions;

Or. en

## Amendment 249

### Proposal for a directive Article 68 – paragraph 3 – point c

*Text proposed by the Commission*

(c) independent actuaries of institutions carrying out **legal** supervision of those institutions and the bodies responsible for overseeing such actuaries.

*Amendment*

(c) independent actuaries of institutions carrying out supervision of those institutions and the bodies responsible for overseeing such actuaries.

Or. en

## Amendment 250

### Proposal for a directive

#### Article 69 – paragraph 1 – introductory part

##### *Text proposed by the Commission*

1. **Article** 66 shall not prevent a competent authority from transmitting information to the following entities for the purposes of the **exercise** of their respective tasks:

##### *Amendment*

1. **Articles** 66 **and** 67 shall not prevent a competent authority from transmitting information to the following entities for the purposes of the **exercise** of their respective tasks:

Or. en

## Amendment 251

### Proposal for a directive

#### Article 69 – paragraph 1 – point c

##### *Text proposed by the Commission*

(c) the European Systemic Risk Board, EIOPA, **the European Banking Authority and the European Securities and Markets Authority**.

##### *Amendment*

(c) the European Systemic Risk Board **and** EIOPA.

Or. en

##### *Justification*

*ESMA and EBA don't have competence in this area.*

## Amendment 252

### Proposal for a directive

#### Article 70 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

1. Articles 66 (1), 67 and 71 (1) shall not preclude Member States from authorising the disclosure of confidential information **to** other departments of their central government administrations responsible for the enforcement of legislation on the

##### *Amendment*

1. Articles 66 (1), 67 and 71 (1) shall not preclude Member States from authorising the disclosure of confidential information **between competent authorities and** other departments of their central government administrations responsible for the

supervision of institutions, credit institutions, financial institutions, investment services, insurance undertakings and to inspectors acting on behalf of those departments.

enforcement of legislation on the supervision of institutions, credit institutions, financial institutions, investment services, insurance undertakings and to inspectors acting on behalf of those departments.

Or. en

## Amendment 253

### Proposal for a directive

#### Article 70 – paragraph 2 – introductory part

##### *Text proposed by the Commission*

2. Member States *may* authorise the disclosure of confidential information relating to the prudential supervision of institutions to parliamentary enquiry committees or courts of auditors in their Member State and other entities in charge of enquiries in their Member State, where all of the following conditions are fulfilled:

##### *Amendment*

2. Member States *shall* authorise the disclosure of confidential information relating to the prudential supervision of institutions to parliamentary enquiry committees or courts of auditors in their Member State and other entities in charge of enquiries in their Member State, where all of the following conditions are fulfilled:

Or. en

## Amendment 254

### Proposal for a directive

#### Article 71 – paragraph 1 – point a

##### *Text proposed by the Commission*

(a) the information shall be exchanged, transmitted or disclosed for the purpose of carrying out the oversight or *legal* supervision;

##### *Amendment*

(a) the information shall be exchanged, transmitted or disclosed for the purpose of carrying out the oversight or supervision;

Or. en

## Amendment 255

### Proposal for a directive Article 71 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. Article 67 shall not preclude Member States from authorising, with the aim of strengthening the stability, and integrity, of the financial system, the exchange of information between the competent authorities and the authorities or bodies responsible for the detection and investigation of breaches of company law applicable to sponsoring undertakings.**

**deleted**

**Member States which apply the first subparagraph shall require that at least the following conditions are met:**

**(a) the information must be intended for the purpose of detection and investigation as referred to in Article 70(2)(a);**

**(b) information received must be subject to the obligation of professional secrecy laid down in Article 66;**

**(c) where the information originates from another Member State, it shall not be disclosed without the express agreement of the competent authority from which it originates and, where appropriate, solely for the purposes for which that authority gave its agreement.**

Or. en

*Justification*

*Breaches of company law are not within the scope of this Directive.*

## Amendment 256

### Proposal for a directive Article 71 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. Where, in a Member State, the authorities or bodies referred to in the first subparagraph of paragraph 2 perform their task of detection or investigation with the aid of persons appointed, in view of their specific competence, for that purpose and not employed in the public sector, the possibility of exchanging information provided for in Article 70(2) shall apply.**

**deleted**

Or. en

*Justification*

*Breaches of company law are not within the scope of this Directive.*

#### **Amendment 257**

##### **Proposal for a directive Article 72 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall report to EIOPA their national provisions of prudential nature relevant to the field of occupational pension schemes, which are not covered by the **reference to** national social and labour law in Article 12(1).

1. Member States shall report to EIOPA their national provisions of prudential nature relevant to the field of occupational pension schemes, which are not covered by the national social and labour law **on the organisation of pension systems as referred to** in Article 12(1).

Or. en

#### **Amendment 258**

##### **Proposal for a directive Article 73 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. Notwithstanding Article 1(2) and Article 16 of Regulation (EU) No**

***1094/2010, EIOPA shall not adopt any guidelines or recommendations with regard to institutions for occupational retirement provision that fall within the scope of this Directive.***

Or. en

*Justification*

*Since delegated acts have been deleted in this draft report, it should be ensured that further guidelines or recommendations cannot be adopted by EIOPA.*

**Amendment 259**

**Proposal for a directive  
Article 75 – paragraph 1**

*Text proposed by the Commission*

***Four*** years after the entry into force of this Directive, the Commission shall review this Directive and report on its implementation and effectiveness to the European Parliament and the Council.

*Amendment*

***By... \* [Six*** years after the entry into force of this Directive], the Commission shall review this Directive and report on its implementation and effectiveness to the European Parliament and ***to*** the Council.

Or. en

**Amendment 260**

**Proposal for a directive  
Article 76 – paragraph 1 – introductory part** Directive 2009/138/EC  
Article 13

*Text proposed by the Commission*

In Directive 2009/138/EC ***the following***  
Article ***306a is inserted:***

*Amendment*

In Directive 2009/138/EC ***Point (7) of***  
Article ***13 is replaced by the following:***

Or. en

## Amendment 261

### Proposal for a directive

#### Article 76 – paragraph 1 a (new)

Directive 2009/138/EC

Article 13 – point 7

*Text proposed by the Commission*

*Amendment*

***(7) 'reinsurance' means one of the following:***

***(a) the activity consisting in accepting risks ceded by an insurance undertaking or third-country insurance undertaking, or by another reinsurance undertaking or third-country reinsurance undertaking;***

***(b) in the case of the association of underwriters known as Lloyd's, the activity consisting in accepting risks, ceded by any member of Lloyd's, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd's;***

***(c) the provision of cover by a reinsurance undertaking to an institution for occupational retirement provision that falls within the scope of Directive .../.../EU [IORP II].***

Or. en

## Amendment 262

### Proposal for a directive

#### Article 76

2009/138/EC

Article 306a

*Text proposed by the Commission*

*Amendment*

***'Article 306a***

***deleted***

***Where, on the entry into force of this Directive, home Member States applied provisions referred to in Article 4 of Directive .../.../EU of the European Parliament and of the Council<sup>42</sup>, such***

*home Member States may continue to apply the laws, regulations and administrative provisions that had been adopted by them with a view to complying with Articles 1 to 19, Articles 27 to 30, Articles 32 to 35 and Articles 37 to 67 of Directive 2002/83/EC as in force on 31 December 2015 for a transitional period expiring on 31 December 2022.*

*Where a home Member State continues to apply those laws, regulations and administrative provisions, insurance undertakings in that home Member State shall calculate their solvency capital requirement as the sum of the following:*

*(a) a notional solvency capital requirement with respect to their insurance activity, calculated without the occupational retirement provision business under Article 4 of Directive ..././EU,*

*(b) the solvency margin with respect to the occupational retirement provision business, calculated in accordance with the laws, regulations and administrative provisions that have been adopted to comply with Article 28 of Directive 2002/83/EC.*

*By 31 December 2017, Commission shall submit a report to the European Parliament and to the Council, on whether the period referred to in the first paragraph should be extended.'*

---

<sup>42</sup> OJ

Or. en

#### *Justification*

*Deletion was agreed during Trilogue negotiations on Solvency II/Omnibus II.*



## Amendment 263

### Proposal for a directive

#### Article 77

*Text proposed by the Commission*

*Amendment*

#### *Article 77*

*deleted*

##### *Exercise of the delegation*

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The delegation of powers referred to in Article 24(3), Article 30 and Article 54 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 4. A delegated act adopted pursuant to Article 24(3), Article 30 and Article 54 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.*

Or. en

## *Justification*

*Pension policy is primarily a matter for Member States; in this context delegated acts should not be included in this Directive.*

### **Amendment 264**

#### **Proposal for a directive**

#### **Article 78 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 6(c), (i) to (p), Article 12(4) second and third subparagraph, Article 12(10), Article 13, Article 20(6) and (8), Articles 21 to 30, Article 33, Article 35(1) and (2), Article 35(4) to (7), Article 36 to 38, Articles 39(1) and (3), Articles 40 to 53, Articles 55 to 57, Article 58(1), Articles 59 to 61, Article 63, Article 64(1)(b) to (d) and (f), Articles 65 to 71 of this Directive by **31 December 2016**. They shall forthwith communicate to the Commission the text of those provisions.

##### *Amendment*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 6(c), (i) to (p), Article 12(4) second and third subparagraph, Article 12(10), Article 13, Article 20(6) and (8), Articles 21 to 30, Article 33, Article 35(1) and (2), Article 35(4) to (7), Article 36 to 38, Articles 39(1) and (3), Articles 40 to 53, Articles 55 to 57, Article 58(1), Articles 59 to 61, Article 63, Article 64(1)(b) to (d) and (f), Articles 65 to 71 of this Directive by ... ***\*[OJ please insert date: 18 months after the date of entry into force of this Directive]***. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

### **Amendment 265**

#### **Proposal for a directive**

#### **Article 79 – paragraph 1**

##### *Text proposed by the Commission*

Directive 2003/41/EC, as amended by the Directives listed in Annex I, Part A, is repealed with effect from **1 January 2017** without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in

##### *Amendment*

Directive 2003/41/EC, as amended by the Directives listed in Annex I, Part A, is repealed with effect from ... ***\*[OJ please insert date: 18 months after the date of entry into force of this Directive]*** without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and

Annex I, Part B.

application of the Directives set out in  
Annex I, Part B.

Or. en

## **Amendment 266**

### **Proposal for a directive Article 80 – paragraph 2**

#### *Text proposed by the Commission*

Articles 1 to 5, Article 6(a), (b), (d) to (h) and (j), Articles 7 to 11, Article 12(1) to (9), Articles 14 to 19, Article 20(1) to (5) and (7), Articles 31 and 32, Article 34, Article 35(2) and (3), Article 39(1) and (3), Article 58(2), Article 62, Article 64(1)(a) and (e) and Article 64(2) shall apply from **1 January 2017**.

#### *Amendment*

Articles 1 to 5, Article 6(a), (b), (d) to (h) and (j), Articles 7 to 11, Article 12(1) to (9), Articles 14 to 19, Article 20(1) to (5) and (7), Articles 31 and 32, Article 34, Article 35(2) and (3), Article 39(1) and (3), Article 58(2), Article 62, Article 64(1)(a) and (e) and Article 64(2) shall apply from ... **\*[OJ please insert date: 18 months after the date of entry into force of this Directive]**.

Or. en

## **EXPLANATORY STATEMENT**

### **Background**

Institutions for Occupational Retirement Provision (IORPs) play an important role in the long-term financing of the European economy. The financial and economic crisis had a significant impact on pension schemes and it has highlighted the vulnerability of pension funds. Many pension funds lost large amounts.

It should also be recognised that it is the long-term horizon of pension funds, which allows them to run temporary deficits, without structurally being insolvent. The fact that at the peak of the crisis (end 2011) pensioners overall continued to receive pension payments, and that funding ratios are rising again, is therefore a good sign.

Nonetheless, Europe's population is aging and therefore pension reform is needed. Member States will have to find ways of improving the cost-effectiveness, safety and equitable access to supplementary pension schemes. The IORP II Directive can play an important role to achieve this: there is still a large potential to realise further efficiency gains.

There are some 125,000 IORPs operating in the EU, around 95% of which have less than 100 members - for these small schemes, Member States may decide not to apply the Directive. They hold assets worth €2.5 trillion on behalf of around 75 million Europeans, which represents 20% of the EU's working-age population. As of June 2012, only 84 IORPs were actually providing cross-border services.

### **European Commission proposal**

The Commission adopted a legislative proposal for new rules on IORPs on 27 March 2014. The Commission took the view that the IORP I Directive needed to be amended for a number of reasons, including:

- 1) Prudential barriers remain which makes it more expensive for employers to join an IORP in another Member State.
- 2) The number of Europeans relying on Defined-Contribution (DC) schemes, which shifts risks from IORPs and employers to individuals, has increased significantly.
- 3) Recent financial and economic crises have shown that current minimum levels of protection for scheme members and beneficiaries need improving.
- 4) Individuals do not receive essential information in a comprehensible manner, which prevents them from making informed decisions about their retirement financing.
- 5) Supervisory powers are insufficient to ensure that IORPs comply with governance and transparency requirements.

### **Council position**

In December 2014, the Council adopted its general approach on the draft Directive. Some of the key points in the Council position are as follows:

- 1) Council's position aims to highlight that IORPs are pension institutions with a social purpose that provide financial services (recital 20).

- 2) Council has amended rules on cross-border activities and cross-border transfers.
- 3) There is no obligation to appoint a depositary for Defined Contribution schemes if all assets are invested in UCITS or in alternative investment funds under the AIFMD, and when a depositary has been appointed in accordance with these Directives.
- 4) Council accepts a Pension Benefit Statement, but has deleted and amended parts of the content significantly.
- 5) The definition of "Reinsurance" in the Solvency II Directive is amended to specify that risk cover by a reinsurance undertaking to an IORP is also considered to be reinsurance, where Member States so allow.
- 6) Any empowerment to the Commission to adopt Delegated Acts has been deleted.

### **Rapporteur's approach**

The rapporteur provided a working document on 1 April 2015 setting out the main topics of the Commission proposal that was discussed at the ECON meeting of 14 April 2015.

The rapporteur believes that this is a minimum harmonisation Directive which does not concern issues of national social and labour law and therefore has aimed to prevent a 'one-size-fits-all' approach to the draft report.

It should be recognised that there has been limited cross-border activity since the IORP I Directive was adopted in 2003. Therefore, the rapporteur believes that one of the key goals of the IORP II Directive should be to remove obstacles which prevent cross-border activity and improve the functioning of the internal market.

#### ***Cross-border activity***

The rapporteur believes that the rules for cross-border activity and transfers of pension schemes should be clarified to provide certainty for institutions that intend to operate cross-border schemes. The Commission's proposal does not include a definition on 'cross-border activity' despite the fact that it is referred to on many occasions throughout the text. The rapporteur has proposed a definition of cross-border activity to clarify what exactly constitutes a host Member State in the context of such activity. The draft report also aims to provide clearer and more concise definitions of 'home Member State' and 'host Member State'.

#### ***Transfers of pension schemes***

With regard to the transfer of pension schemes, the Commission has proposed rules which would only apply to cross-border transfers. The rapporteur has proposed that this Directive should provide rules not only for cross-border transfers but also for transfers within Member States.

#### ***Technical provisions***

The Commission has proposed that in respect of cross-border activity, institutions' technical provisions should be fully funded at all times. The rapporteur believes that to facilitate more cross-border activity where it is needed, an institution's technical provisions should be fully funded at the moment when the institution starts operating a new or additional scheme. This

requirement should not only be limited to cross-border activity but should also apply to all institutions that start operating a new or additional scheme.

### ***Information requirements***

The Commission has introduced several new articles with regard to information requirements. A standardised annual Pension Benefit Statement is proposed containing personalised generic information about the pension scheme, provided to members. While the rapporteur agrees with the impetus to better inform members, it is not necessary to have such prescriptive rules on a pension benefit statement. The rapporteur has proposed that one specific Article covers the Pension Benefit Statement. This Article details a list of general guiding principles which provides key relevant information to the member.

### ***Delegated acts***

The IORP II Directive contains a number of delegated acts, namely on the risk assessment, on remuneration policy and on the pension benefit statement. Since pension policy is primarily a matter for Member States, the rapporteur believes that delegated acts are not justified in this Directive. Additionally, since delegated acts have been deleted in this draft report, the rapporteur has proposed that EIOPA should not be able to adopt guidelines or recommendations in the context of this Directive.

### ***Reinsurance***

Under the Reinsurance Directive 2005/68/EC, Member States can allow reinsurance undertakings to provide cover directly to IORPs. Under the Solvency II Directive, which will come into force on 1st January 2016, changes to the definition of reinsurance will prevent reinsurers from providing direct cover to IORPs. The rapporteur believes that IORPs should be able to avail of reinsurance cover directly in order to protect against risks and has proposed that reinsurance cover for IORPs should fall within the scope of this Directive.

## ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref. D(2014)40797

Roberto Gualtieri  
Chair, Committee on Economic and Monetary Affairs  
ASP 15G206  
Brussels

**Subject: Proposal for a directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast)  
(COM(2014)167 – C7-0112/2014 – 2014/0091(COD))**

Dear Chair,

The Committee on Legal Affairs has examined the proposal referred to above, pursuant to Rule 104 on Recasting.

Paragraph 3 of that Rule reads as follows:

*"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.*

*In such a case, over and above the conditions laid down in Rules 169 and 170, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.*

*However, if in accordance with point 8 of the Interinstitutional Agreement, the committee responsible intends also to submit amendments to the codified parts of the proposal, it shall immediately notify its intention to the Council and to the Commission, and the latter should inform the committee, prior to the vote pursuant to Rule 58, of its position on the amendments and whether or not it intends to withdraw the recast proposal."*

Following the opinion of the Consultative Working Party, which has examined the recast proposal, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal or in the opinion of the Consultative Working Party and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

Thus, at its meeting of 3 September 2014 the Committee on Legal Affairs decided, by 18 votes in favour and 3 abstentions<sup>1</sup>, to recommend that the Committee on Economic and Monetary Affairs, as the committee responsible, proceed to examine the above proposal in accordance with Rule 104.

Yours sincerely,

Pavel Svoboda

*Encl.: Opinion of the Consultative Working Party.*

---

<sup>1</sup> Max Andersson, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux-Stehres, Andrzej Sebastian Duda, Rosa Estaràs Ferragut, Laura Ferrara, Lidia Joanna Geringer de Oedenberg, Heidi Hautala, Mary Honeyball, Sylvia-Yvonne Kaufmann, Dietmar Köster, Gilles Lebreton, António Marinho e Pinto, Victor Negrescu, Emil Radev, Evelyn Regner, Virginie Rozière, Pavel Svoboda, Axel Voss, and Tadeusz Zwiefka.



**ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION**



CONSULTATIVE WORKING PARTY  
OF THE LEGAL SERVICES

Brussels, 3 July 2014

**OPINION**

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT  
THE COUNCIL  
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision  
COM(2014)167 final of 27.3.2014 – 2014/0091(COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 30 April 2014 for the purpose of examining the aforementioned proposal submitted by the Commission.

At that meeting, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision resulted in the Consultative Working Party's establishing, by common accord, as follows.

1) As far as the explanatory memorandum is concerned, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii) of that agreement.

2) In the draft recast text, the following proposed changes should have been identified with the grey-shaded type generally used for marking substantive changes:

- in the second paragraph of Article 5, the deletion of the word "not" and the replacement of the existing reference to "Articles 9 to 17" with a new reference to "Articles 1 to 8, Article 12, Article 20 and Articles 34 to 37";

- in Article 12(2), the deletion of the words "located within the territory of another Member

State”;

- the deletion of the entire text of Article 18(7) of Directive 2003/41/EC ;
- the deletion of the entire text of Article 20(7) of Directive 2003/41/EC.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

F. DREXLER  
Jurisconsult

H. LEGAL  
Jurisconsult

L. ROMERO REQUENA  
Director General