Pensions Committee of the 100 Group of Finance Directors

Position Paper on the IORP Directive

The European Commission published its proposal for a revised IORP (institutions for occupational retirement provision) directive in March 2014. The purpose of this position paper is to highlight the key issues in the revised directive for 100 Group companies in order to assist when discussing the directive with contacts both within the UK and in Europe. The directive now has to go through the co-decision-making process in the European Parliament and the Council of the EU. If the directive is passed, member states will be required to bring it into force by 31 December 2016.

Overall position

The changes being made in the revised IORP directive are concerned with governance and disclosure to members. The 100 Group strongly supports high quality pension scheme governance and communication. However, we have concerns that the new IORP directive is far too prescriptive. The directive should focus on high-level principles not on detailed requirements, with it being left to member states to decide how best to achieve those principles given the specific circumstances of pension provision in individual member states, in line with the principle of subsidiarity. There is no compelling need for homogenisation as EU citizens do not need to compare benefits from pension schemes located in more than one member state (since employers will generally not offer them a choice of schemes).

Professional qualifications for trustees

All persons who run a pension scheme will be required to have the 'professional qualifications, knowledge and experience' to enable them to manage the scheme. We agree that it is very important that pension schemes should be run by highly competent, trained and knowledgeable individuals, but it is not clear that requiring professional qualifications is the only way to achieve this. In the UK, this would mean that most member-nominated trustees and some employer-nominated trustees would no longer be able to act as pension scheme trustees (unless they were prepared to undertake a professional qualification).

Risk evaluation for pensions

Pension schemes will be required to perform a 'risk evaluation for pensions' both regularly and following any change in the risk profile of the scheme. It is clearly important that pension schemes should assess the level of risk that they are exposed to and identify how those risks can be mitigated. However, the IORP directive contains a considerable level of prescription about what should go into that risk evaluation, with the European Commission also empowered to adopt a delegated act specifying further provisions. We argue that the IORP directive should only specify the high-level principles with it being left to member states to specify the nature of the risk evaluation that is appropriate to the pension schemes in that member state. For example, in the UK, the Pensions Regulator's recently updated code of practice on defined benefit funding specifies that trustees should take an integrated approach to risk management and gives guidance on how they might achieve that, whilst the code of practice on internal controls sets out how trustees can manage their operational risk.

Single depositary for defined contribution schemes

The IORP directive will require all defined contribution schemes to have a single depositary with responsibility for the safe-keeping of assets and oversight functions. This is not normal practice in the UK where a scheme may have a number of custodians, and would therefore lead to additional costs which would ultimately be paid by the defined contribution scheme members (for no obvious benefit to them).

Supervisory objectives

The revised IORP directive specifies that the main objective for supervisors (such as the Pensions Regulator) is the 'protection of members and beneficiaries'. This is at odds with the position in the UK where the Pensions Regulator has a number of objectives which carry equal weight. As well as protecting members, the Pensions Regulator also has objectives to protect the Pension Protection Fund and (from July 2014) to minimise adverse impacts on the sustainable growth of employers in its regulatory approach to defined benefit scheme funding. This new balance between the needs of the scheme and those of the employer in the Pensions Regulator's objectives has been an important development and it would be disappointing if the IORP directive were to revert to a one-sided objective that took no account of the position of the sponsor who funds the scheme. The EU has adopted its own strategy for increased growth, the Europe 2020 Strategy, which might be more compatible with the new objective for the Pensions Regulator than it is with the revised IORP Directive.

Disclosure to members

The IORP directive proposes that new EU-harmonised pension benefit statements are sent to every member. The content for these statements is specified over six pages of the directive with further detail to follow in a delegated act. Whilst we are in favour of regular, clear and helpful communication with members, we do not believe that this detailed prescription will help them. In particular, the proposed form of the benefit statement (which is supposed to fit onto two pages of A4) will provide members of UK defined benefit schemes with a great deal of information which is irrelevant to them (for example details of the charges and investment strategy, which are only an issue for the sponsor), but will not provide them with information that would be useful and with which they are normally provided at present (for example, information on death benefits or the existence of the Pension Protection Fund).

Solvency funding

The IORP directive does not contain any measures relating to the solvency funding of pension schemes. However, this does not mean that this has disappeared from Europe's agenda. EIOPA (the European regulatory authority) is expected to publish five further consultation papers later this year on issues relating to the so-called 'holistic balance sheet'. It is important, therefore, to continue to make the case that the case for funding pensions on a solvency basis is based on a fundamental misunderstanding of pensions, in that it seeks to apply insurance-company standards to a completely different kind of vehicle. In the UK, pensions are provided by employers on a not-for-profit basis and are supported on an ongoing basis by both the employer and (as a last resort) the Pension Protection Fund. There is therefore no need for UK pension schemes to be funded on a solvency basis. Requiring funding at this level would be likely to inflict significant damage on defined benefit provision in the UK, on the employers sponsoring such schemes and ultimately on the economy as a whole.

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