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1. PensionsEurope statement on Covid-19 crisis

On 9 April 2020, PensionsEurope published a statement on the Covid-19 crisis 2020.

PensionsEurope and its member associations have asked EU level and national regulators and supervisors for close collaboration and support to ensure that pension funds can overcome the challenges posed by the current situation in the financial markets and the severe consequences of the threatening imminent economic downturn. Workplace and personal pensions need to preserve their operational capacities as well as their role to complement public social security pensions and provide adequate and sustainable retirement income.

We highlighted that is vital that the EU and Member States do their utmost to alleviate the adverse short-term effects of the crisis. As pension funds are long-term investors with long-term liabilities, we believe that with the right policy measures they will be able to get out and recover from this crisis and contribute to financial market stability and the swift recovery of the financial markets and the real economy.

In our statement, we suggested a number of measures that could be considered to alleviate the pressures of funding obligations, to provide operational relief and to support sponsoring companies.

You can read our statement at this link.

In addition to this letter, PensionsEurope is also providing weekly updates to his members and corporate and supporter members, aggregating helpful information and resources related to the COVID-19 virus. We are closely following the on-going economic and financial market crisis and its impact on issues relevant for funded pensions and our members. We will take any further actions as deemed opportune by our members.

2. FTT - PensionsEurope letter to enhanced co-operating countries

On 16 March 2020, we sent a letter to the enhanced co-operating countries in the area of financial transaction tax (FTT) in which we thanked them for adding an exemption for pension funds in the draft FTT text. We reiterated that we have stayed against the establishment of taxes on financial transactions (because of numerous reasons highlighted in our letter to the enhanced co-operating countries on 18 July 2019) and provided our expertise to clarify the draft FTT text on exempting pension funds, so that it would be fit for purpose.

There should be a 'general exemption' and not an "opt-out" solution. According to the latter, each Member State would have possibility to exempt their pension funds from the domestic tax. However, given the current concept of the tax – being a tax levied on the acquisition of a shares issued by certain companies based in one of the countries of the enhanced cooperation – this would only be a partial solution for pension funds. If for example Belgium were to put such an exemption in place for Belgian pension funds, this would not prevent them from having to pay the FTT in the 9 other MSs of the enhanced cooperation (supposing that the other MSs would not introduce such an exemption). In general, the opt-out could also introduce complexity to the design of the FTT, and therefore, we plead for a general exemption in the FTT without leaving it up to each MS individually.

The permanent exemption should not only apply to shares directly held by pension funds but also to the indirectly held shares, namely through investments funds. We are pleased that an exemption has been added for *"Collective investment undertakings, insofar and to the extent that their units are held by pension funds on the date of the financial transaction"*. This is very important to many pension funds as a big part of their assets are held via investments funds.

In some countries, the assets of pension funds are managed in two ways: (i) via so-called segregated account for individual pension funds (individual discretionary portfolio management), where transaction are done in the name of pension fund itself (here the exemption for pension funds would be helpful), and (ii) via collective investment funds in which pension funds participate (collective portfolio management). These collective investment funds also conclude transactions in financial instruments in their own name, so there should be an exclusion of transactions done by these collective investment funds as well. Many large service providers have collective investment undertakings set up for their clients to invest in. As the purchase of shares in these funds is exempt and transactions by the CIUs themselves too, this would be helpful.

Currently it is expected the discussion on introducing FTT will continue under the EU Presidency of Germany during the second half of 2020.

3. EIOPA publishes IORPs' Pension Benefit Statement models

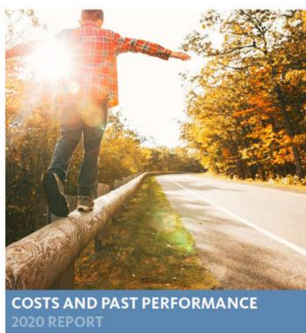
At the end of March 2020, EIOPA published two models for the Pension Benefit Statement to be provided by IORPs. Since the IORP II Directive introduced – amongst other information requirements - the obligation for IORPs to draw up a pension benefit statement, which should be made available to each member at least annually, EIOPA deemed opportune to develop two model Pension Benefit Statements to provide practical guidance on how to implement this information document.

Together with the two models, EIOPA also published an accompanying Report, which describes the process for developing the designs of PBS, the improvements made after every consultation stage and a brief explanation of their contents.

They have been developed specifically for defined contribution schemes and, while containing the same information, reflect different communication styles. The models are non-binding and not intended to supersede national approaches to information provision in the PBS. They are designed to be a practical tool to be further developed and adapted either by National Competent Authorities (NCAs) or by IORPs to reflect the national specificities and/or characteristics of each pension scheme.

4. EIOPA 2020 Report on Costs and Past performance

This report provides an analysis of costs – for 2018 – and past performance – for the period 2014-2018 of Insurance-based Investments Products (IBIPs) and Personal Pension Products (PPPs). This is the second report published by EIOPA on this matter and follows the 2019 edition, which was covering the period 2013 – 2017.



Findings are based on publicly available disclosures – mainly packaged retail and insurance-based investment products (PRIIPs) Key Information Documents (KIDs) – and on data reported by insurance undertakings which selected products based on representativeness and risk profile.

Given the lack of harmonization of PPPs, for this analysis PPP data has had to be adjusted to follow a methodology similar to the one used for PRIIPs KIDs, with the aim of increasing comparability. Hence, the findings for PPPs, must be interpreted with caution.

EIOPA found that performance in 2018 was the lowest for five years and that costs continue to have a significant impact on net returns.

Looking ahead, EIOPA will work on improving the methodology to calculate returns for profit participation, begin including occupational pensions and also working on costs definitions, for which more harmonization is necessary to ensure cost structures can be better understood and compared.

5. ESMA's first report on central clearing solutions for PSAs under EMIR

European authorities recognize the challenges that pension scheme arrangements (PSAs) would face in providing cash for the variation margin (VM) calls related to their cleared derivative contracts and therefore introduced an exemption from the clearing obligation for PSAs until June 2021, potentially to be extended by another year or two under EMIR Refit. Central clearing however remains the ultimate aim, considering that regulatory and market developments enable market participants to develop appropriate technical solutions within that transitional period. The European Commission has set up a dedicated stakeholder group which brings together pension funds, CCPs, banks, central securities depositories, EU policymakers and central banks in order to work on a robust solution, and has received a mandate to monitor the progresses achieved. In order to provide input to the European Commission, ESMA is required to produce a report every year until the end of the exemption period, in cooperation with EBA, EIOPA and ESRB. PensionsEurope has been asking for the extension of the temporary exemption for PSAs until a permanent solution amongst market participants is found and works for a good permanent solution in clearing.

On April 2nd, ESMA released its first report for central clearing solutions for PSAs under EMIR. The report explores different options to facilitate central clearing by PSAs and discards a first possible solution that would consist in CCPs accepting non-cash collateral for VM settlement since this approach would increase operational and legal risk at CCPs and challenge the premise that CCPs maintain a risk-neutral and flat book, raising concerns on CCPs' resilience and systemic risk.

A second option focusing on the collateral transformation services already provided by clearing members, such as banks, to their direct clearing clients (PSAs) is explored. However, banks may be reluctant to extend collateral transformation to VM flows due to the unfavourable treatment of securities VM in banks' prudential regulation. Although banks' capital rules have been reviewed recently and would now encourage banks to engage further in repo intermediation activities with their clearing clients, these changes are still too recent to draw a conclusion.

A third alternative consists in CCPs intermediating between repo borrowers and lenders. However, further analysis appears necessary to assess the extent to which repo markets would be able to absorb pension funds' liquidity demand in business-as-usual as in stressed circumstances. In periods of markets stress, repo market may shrink and the access of PSAs to repo markets may be undermined. Therefore, it may be necessary to ensure the access of PSAs to alternative emergency liquidity arrangements through CCPs.

Traditionally PSAs do not have direct access to liquidity arrangements provided by central banks. ESMA envisages the possibility that CCPs will act as intermediaries in emergency situations. Instead of being declared in default when they have no sufficient liquidity to meet their VM obligation in cash, PSAs would provide bonds, passed through by the CCP to the central bank, which would return cash, at a cost, to the CCP. The cash received by the CCP would be passed to the VM gainer, while the cost charged by the central bank would be borne ultimately by PSAs.

PensionsEurope welcomes the publication of this first report, which recognizes the conclusions of the stakeholder group. The report is opened to public consultation until 15 June 2020 in view of the preparation of a second report by December 2020. ESMA is requesting PSAs and other stakeholders to provide data and evidence, for example granular and comprehensive data on PSAs' liquidity needs, in order to support the conclusions on the different options for central clearing by PSAs.

6. A renewed strategy for sustainable finance

Despite the challenging times, the European Commission re-emphasized its strong commitment with its pre-defined agenda on sustainable finance. On April 8th, the Commission opened a consultation on its renewed strategy for sustainable finance, which will define next steps and key initiatives to be developed by EU authorities in the forthcoming months. The consultation runs until 15 July 2020 and the complete strategy is expected in autumn 2020.

The Commission opens the debate on many relevant questions such as the potential extension of the EU Taxonomy to social objectives and the potential adoption of a Brown Taxonomy, the establishment of a common EU ESG database, as well as other issues related to sustainability ratings, ESG accounting standards, EU green bonds, benchmarks and potential actions to mitigate short termism.

More importantly and in view of the review of the IORP II Directive planned in 2023, the consultation paves the way for the introduction of new amendments to further improve the integration of members' and beneficiaries' ESG preferences in the investment strategies and the management and governance of IORPs as well as other considerations to improve ESG integration and reporting beyond what is currently required by the regulatory framework. This raises concerns since there is a possibility that certain stakeholders recommend mandatory due diligence or consultation of members to better reflect their ESG preferences in investment decisions. The Commission also highlights the conclusions of the 2019 stress test on IORPs run by EIOPA[1] which may suggest a need to adopt further actions to improve the integration of ESG factors in IORPs' risk management and investment allocation.

In the last months, the European Commission has set up a new framework to mobilize finance for sustainable growth in the European Union and several legislative proposals were adopted in parallel. The renewed strategy is an opportunity to ensure the coherence of the whole framework and to minimize the inconsistencies and gaps that have emerged.

One of the main challenges faced by pension funds as well as all investors in the financial markets relates to the scarce availability of ESG data on investee companies. In this sense, the whole framework on sustainable finance must enable pensions funds and all other investors to comply with the new disclosure requirements imposed by the Sustainable Finance Disclosure Regulation (SFDR). For that purpose, the new ESG reporting requirements for investee companies under the review of the Non Financial Reporintg Directive (NFRD, currently under public consultation) must be aligned with the disclosure requirements for investors under SFDR. On the positive side, the renewed strategy for sustainable finance opens the debate on the possibility that the EU takes action to support the development of an open source ESG database and links this question to the European strategy for data, and the on-going potential development of a single point of access to market data on listed companies.

[1] Only about 30% of IORPs in the EU have a strategy in place to manage ESG related risks to their investments. While most IORPs claimed to have taken appropriate steps to identify ESG risks to their investments, only 19% assess the impact of ESG factors on investments' risks and returns. IORPs have significant exposures to business sectors with high greenhouse gas emissions.

7. European Commission launches the process for MiFIDII/MiFIR review

On February 17th, the European Commission launched a public consultation on the forthcoming review of MiFID II and MiFIR and identified a list of priorities to be considered under the review. The consultation runs until 18 May 2020.

A first area of priority relates to the establishment of an EU consolidated tape, more specifically the absence of a consolidated tape under the MiFID II / MiFIR framework. Regarding investor protection, the Commission seeks stakeholders' views on issues including easier access to simple and transparent products, relevance and accessibility of adequate information, client profiling and classification, as well as product oversight, governance and inducements, distance communication and reporting on best execution.

Another important aspect tackled by the Commission relates to the new rules on research unbundling and the research coverage for SMEs. Noting that the rules governing unbundling of research were designed to ensure that the cost of research funded by clients is not linked to, among others, the volume or value of other services, the Commission asks for stakeholders' overall assessment of the effect of unbundling on the quantity, quality and pricing of research. The Commission also asks for stakeholder views on increasing the production of research on SMEs.

The last priority area for the review includes MiFID II provisions on position limits for commodity derivatives and pre-trade transparency regime for commodity derivatives.

In past occasions, PensionsEuope shared its position on several elements of MiFID II and MiFIR that could have negative consequences on the financial activities of pension funds.

Pre-trade and post-trade transparency provisions, both for equity and for non-equity instruments, are of particular importance for pension funds and their asset managers. Due to the long duration of their liabilities, pension funds and their asset managers are long-term investors that typically engage in large transactions in the financial markets. We are concerned that excessive disclosure of information could be used by short-term speculative investors to advantageously price against these large orders and dramatically increase the prices/costs.

PensionsEurope broadly welcomes the measures enhancing investor protection. However, concerns were raised on the possibility that a ban on inducements, in combination with strict requirements for the provision of independent investment advice, will make investment firms increase their fees charged to pension funds in order to compensate the loss of income they used to obtain through inducement.