IORP II REVIEW

Carving out the detail

The review of the IORP II Directive took a significant step forward in September when EIOPA issued technical advice on how it should progress. But while the broad thrust of the advice was given a cautious welcome by the IORP community, concerns linger over some key issues

WRITTEN BY **SIMON WATKINS**, A FREELANCE JOURNALIST

At every stage of its evolution, the European Commission's directive on Institutions for Occupational Retirement Provision (IORP) has been hotly contested. From its first iteration in 2003 to its review in 2012 and the issuing of IORP II in 2016, concerns have centred on the pace and depth of harmonisation of IORP rules across the EU. According to those in the IORP community, the latest advice from the European Insurance and Occupational Pensions Authority (EIOPA) on further reforms to the directive, issued in September last year, has gone some way to easing those concerns.

EIOPA highlighted the trend across Europe for pensions to move from defined benefit (DB) to defined contribution (DC) and emphasised the need to protect the legacy of DB schemes while ensuring members in DC are protected and empowered.

On these broad principles there is little or no dissent from key stakeholders."We are not that unhappy with the advice," says PensionsEurope secretary general and chief executive, Matti Leppälä, "because, if we compare this to the previous review, it is better."

Leppälä is most relieved by EIOPA's decision not to recommend harmonisation of solvency rules across the IORP community. "A harmonised solvency framework on IORPs – in the same way as for insurers and banks – is not there and that is the main thing that we are very happy about," says Leppälä.

The relief is shared by the Dutch Federation of Pension Funds head of Brussels office, Matthies Verstegen. "EIOPA is proposing evolution not revolution. When we moved from IORP I to IORP II they were talking about harmonised capital requirements and there is no such idea in this advice. They are tweaking IORP II and that is the right approach," Verstegen says.

One aspect of the advice that has been broadly welcomed has been its statements on proportionality – how the directive distinguishes between IORPs of differing sizes and risks.

The IORP community across Europe is far from homogenous. EIOPA data shows that at the end of 2021 there were 88,848 separate IORPs in the EU, with 99 per cent of these entities located in Ireland. With such a range of IORPs, establishing common risk assessments has been a fundamental challenge. Earlier proposals had suggested a binary distinction between 'low risk' and 'non-low risk' IORPs. The idea raised concerns at PensionsEurope and at several national IORP groups.

The range of governance structures across the IORP community is a particularly important matter for the European Association of Paritarian Institutions (AEIP), as its members are non-profit social institutions, in which the IORP forms one pillar of a triangular structure alongside employers and employees.

AEIP's policy adviser on pensions and financial affairs, Panayiotis Elia, says the AEIP is concerned the advice does not adequately distinguish this type of organisation within the IORP community.

"Our members are not-for-profit, they do not sell products and this is critical to us," he says.

Exemptions

Earlier proposals suggested IORPs with fewer than 100 members should be exempt. The new advice suggests the bar should be raised to IORPs with fewer than 1,000 members and assets of less than €50 million.

Again, this has been welcomed by PensionsEurope, but Leppälä points out the threshold still raises some issues: "About 30 per cent of IORPs would fall below this threshold and in some countries all IORPs will fall below this threshold. If, in the end, only a few countries are left within the full scope of the directive, how legitimate is the whole European framework? On the other hand, of course, the smaller countries with smaller IORPs can see advantages."

Communications

Proposals for how IORPs must communicate with members are another point on which there is unease and for the Dutch Federation of Pension Funds this is the biggest single sticking point. "Our number one issue is over communications with members," says Verstegen. "EIOPA is looking to have more information put in the pension benefit statement; more details about sustainable finance and more details about costs. We are not against transparency, but is it right to put all this information in this single document?"

PensionsEurope also favours a less prescriptive approach, again because of the wide variety of practices already in place among IORPs. "We would rather have a more principles-based approach," says Leppälä.

Sustainability requirements

The importance of sustainability in IORPs' investments is not contested, but once again there are worries EIOPA is aiming for too much standardisation, in particular the mechanism by which IORP members can guide sustainability policies. One of EIOPA's proposals is for surveys of members, wherever possible, to determine their views and expectations for sustainability.

"EIOPA IS PROPOSING EVOLUTION NOT REVOLUTION"

Again, there is sector approval for the broad principle, but not for the detailed solution.

"It is right that boards of trustees should be required to integrate sustainability into policy as a matter of principle," says Verstegen. "We are cautious about how that would be implemented and if requiring a member survey [*is necessary*] when many IORPs have governance structures for reflecting members' interests such as member representation on boards."

The cross-border challenge

EIOPA concedes that its cross-border pension objective remains unfulfilled. At the end of 2021 there were just 31 IORPs operating across national borders. Differences in national social and labour laws are a significant obstacle to an expansion of cross-border arrangements. Rules on the size of majority of members needed to permit cross-border transfers also vary between states.

Standardising voting rules for transfers are proposed in the EIOPA advice, but the responsibility for establishing the prudential rules required by IORPs for cross-border operations is seen as being a matter for national authorities.

Verstegen points out that a number IORPs are working effectively cross-border between Belgium and the Netherlands, but he questions whether trying to drive a single market in IORPs is worth the effort.

The bigger picture

The future of IORPs, and pensions in general, is inseparable from wider social and economic issues. EIOPA's advice references these issues, but Mercer strategic risk management leader for Europe Zone, John O'Brien, says integrating IORP II with action on these other issues is vital.

"While we welcome the focus on DEI, ESG and the impact of the shift from DB to DC in the latest draft advice, some of the biggest issues in European pensions currently relate to areas not directly addressed – pensions adequacy against the backdrop of ageing populations, coverage and the gender pensions gap. While it is not exclusively for future IORP directives to solve these issues, the regulation of IORPs needs to dovetail carefully with the commission's broader legislative."

For now, the industry doesn't expect any further announcements on IORP II until after June's upcoming European elections. The IORP community is overall in a positive state of mind but there are areas where the devil will be in the detail.