

## Transposition of the IORP II Directive

### aba comments

#### on potential EIOPA guidelines and recommendations

##### Main points

- **State of play:** After the publication of the IORP II Directive in the Official Journal, the process of transposition has begun. However, the Member States are invited by the Commission to a workshop regarding the transposition of the Directive, and EIOPA's Single Programming Document 2017-2019 (Annual Work Programme 2018) lists the regulatory work concerning IORP II for four areas: governance, information for members and beneficiaries, risk evaluation and ESG factors.
- **Legal background:** According to the EIOPA Regulation guidelines and recommendations are one means EIOPA can use to fulfil its task to contribute to the establishment of high-quality common regulatory and supervisory standards and practices. They are not legally binding, but the comply-or-explain-principle puts high pressure on the national competent authorities (in Germany the BaFin) to follow them.

##### aba positions

- Guidelines and recommendations are not needed to complement the IORP II Directive. The IORP II Directive respects the differences in social and labour law by setting minimum standards rather than aiming for full harmonisation. This approach is adequate and should not be undermined by EIOPA issuing guidelines and recommendations with the aim of "common regulatory and supervisory standards and practices". Looking back at the evolution of IORP II, it is worth noting that the three delegated acts proposed by the European Commission in March 2014 were subsequently taken out, and for good reasons. They should not be replaced by guidelines and recommendations.
- EIOPA should not use the guidelines and recommendations to promote or even force the application of its Common Framework approach. They are in particular unsuitable for information requirements.
- Going beyond guidelines and recommendations, EIOPA should not abuse its power to introduce requirements the Directive itself does not contain or even declines.
- We are concerned that at a time when EIOPA seeks more influence over occupational pensions, there are proposals to cut back its expertise and input from the Member States in this area.
- Overall, the transposition should be left to the Member States and the Commission should focus on its remaining task to strengthen occupational pensions by supporting Member States' cooperation with social partners in the improvement of second pillar pension schemes and by establishing a high level expert group to enhance second pillar retirement savings in Member States.

## 1. Introduction

After the publication of the [IORP II Directive](#) in the Official Journal, the process of transposition has begun. In Germany, the responsible Ministry (BMF aligned with BMAS) and the supervisor (BaFin) are working on drafts for national legislation. It is likely that a first draft will be made available in the fourth quarter of 2017. Regarding the transposition, the Commission has organised workshops for experts from the Member States for the autumn of 2017. PensionsEurope has asked its members for best practice proposals regarding the transposition.

But even though the transposition has started, the future role of EIOPA in the transposition is still open: at the aba Annual Conference in May 2017, Dr. Frank Grund (Executive Director at the BaFin and member of the EIOPA Board of Supervisors and EIOPA Management Board) said that EIOPA Guidelines regarding IORP II can be expected. According to our latest information, they might cover topics such as cross-border activity, information requirements and risk management. In EIOPA's [Single Programming Document 2017 -2019 \(Annual Work Programme 2017\)](#) from January 2017, work in these areas was listed as "contingent on demand". The document published at the end of September 2017 ([Single Programming Document 2017-2019 \(Annual Work Programme 2018\)](#)), the regulatory work concerning IORP II is planned in four areas: governance, information for members and beneficiaries, risk evaluation and ESG factors. Still listed as "on demand" is work in the area of risk management: evidence based and extent of implementation of EIOPA opinion on risk assessment (See Annex III).

Looking back at the evolution of IORP II, it is worth noting that the three delegated acts proposed by the European Commission in March 2014 were subsequently taken out, and for good reasons. The adopted IORP II Directive does not include any references to delegated acts or EIOPA guidelines and recommendations.

This paper first sets out the legal background for guidelines and recommendations and then argues that in the case of IORP II, EIOPA should refrain from issuing guidelines and recommendations to leave the Member States leeway when transposing the Directive.

## 2. Guidelines and recommendations – legal background

The [EIOPA Regulation](#) is the legal framework within which EIOPA operates, but for IORPs, EIOPA is also bound by the IORP II Directive (for the relevant parts see Annex I). The following references all refer to the EIOPA Regulation. For an overview of all the relevant articles, please refer to Annex II.

- **Which purpose do guidelines and recommendations serve?** Guidelines and recommendations are one means EIOPA can use to fulfil its task to contribute to the establishment of high-quality common regulatory and supervisory standards and practices (Art. 8.1(a)). They are also intended to strengthen consistency in supervisory outcomes (Art. 8.1(e)). Art 16.1 ("Guidelines and recommendations") states: "The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to competent authorities or financial institutions."

- **When can EIOPA issue guidelines and recommendations?** Since the EIOPA Regulation does not state anything to the contrary, EIOPA decides when it deems it necessary to issue guidelines and recommendations.
- **What is the process for issuing them?** The EIOPA Regulation (Art. 16.2) states that EIOPA should – where appropriate – conduct an open public consultation regarding the guidelines and recommendations, and that the related costs and benefits should be analysed. In addition, EIOPA should seek advice or opinions from the relevant Stakeholder Group.
- **Are they legally binding?** EIOPA's guidelines and recommendations follow the comply-or-explain-principle: in case of non-compliance, the competent national authority needs to inform EIOPA about the reasons for the non-compliance. Art. 16.3 states, “The competent authorities and financial institutions shall make every effort to comply with those guidelines and recommendations. Within 2 months of the issuance of a guideline or recommendation, each competent authority shall confirm whether it complies or intends to comply with that guideline or recommendation. In the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority, stating its reasons.” In case of non-compliance, EIOPA has a duty to publish that a national authority has stated non-compliance, whether the given reasons are also published is decided on a case-by-case basis. So while they are not legally binding, there is a high pressure to comply with guidelines and recommendations.

### 3. aba position towards EIOPA guidelines and recommendations

- **Guidelines and recommendations are not needed to complement the IORP II Directive.** As stated above, guidelines and recommendations are one means for EIOPA to contribute to “the establishment of high-quality common regulatory and supervisory standards and practices” (Art. 8.1(a)). The IORP II Directive covers Institutions for Occupational Retirement Provision. Occupational pensions generally and the vehicles which are used to deliver them vary widely across Member States. They have evolved over time, taking into account the provision offered by the first pillar, cultural preferences (e.g. regarding risk) and financial circumstances. No less important are the differences in national social and labour law (a prerogative of the Member States). The IORP II Directive respects the differences in social and labour law by setting minimum standards rather than aiming for full harmonisation. In a way, the IORP II Directive therefore recognises and approves national diversity. This approach is adequate and should not be undermined by EIOPA issuing guidelines and recommendations with the aim of “common regulatory and supervisory standards and practices”.

Acknowledging the diversity of occupational pensions, the Delegated Acts (empowering EIOPA to issue draft regulatory standards) from the Commission Proposal were not kept in the Directive. Rather, room was given to the Member States in the transposition to accommodate their national social and labour law and tailor the requirements of the Directive to fit their national system – while of course following the minimum standards set by the Directive.

Regulatory technical standards are of course different from guidelines and recommendations, not least because the Commission needs to make them legally binding by including a delegated act (after the European Parliament and the Council delegated this power to the Commission, see Art. 10). Guidelines and recommendations are voted upon by the national competent authorities of the Member States in the Board of Supervisors<sup>1</sup> (qualified majority voting). However, since only a minority in the Board of Supervisors have occupational pension expertise and significant IORPs in their countries, it can be difficult for those members to push for changes or for dropping the guidelines and recommendations in question. This issue is exacerbated by the Brexit, because a Member State where with long tradition and experience in occupational pensions will be leaving.

The removal of the delegated acts showed that a consensus was reached that the IORP II Directive should leave sufficient room for the Member States to transpose the Directive and adapt the prudential regulations for IORPs to the national social and labour law. While of course EIOPA generally has the right to issue guidelines and recommendations, it should not abuse this right to push for full harmonisation when the Directive merely sets minimum standards. EIOPA should therefore leave the Member States the leeway the Directive prescribes and not issue any further guidelines or recommendations.

- **EIOPA should not use the guidelines and recommendations to promote or even force the application of its Common Framework approach.** We are concerned that EIOPA might decide to use the Common Framework methodology in any guidelines or recommendations regarding the risk assessment, making the Common Framework a management and transparency tool. Doing that, the risk is high that the EIOPA figures lead to regulatory measures of the national authorities (as called for by EIOPA). This would inevitably influence the financials of IORPs and therefore on their solvency requirements, which is strictly rejected by the IORP II Directive (see Recital 77 of the Directive). As stated in our previous position papers,<sup>2</sup> the Common Framework approach is not suitable for IORPs. While the framework can be seen as in itself is consistent, its approach is not adequate for German IORPs with liabilities running over several decades – often without any possibility for early withdrawal.

We note that EIOPA stated in its Opinion on a Common Framework „that the common framework adds value to these existing instruments, not least because it also provides a common, comparable transparency tool“<sup>3</sup>. We appreciate that EIOPA selected the provisions for the valuation of sponsor support, insolvency protection and benefit adjustment mechanisms in a way which makes the calculations pragmatic and feasible. However, this does not make it a transparency tool which leads to comparable results across Europe. And in any case, no such transparency tool is needed – there is no market on which consumers buy their occupational pension provision, but are rather offered an occupational pension by their employer, in Germany under the protection of national social, labour and co-determination law. Bearing in mind that the objective of guidelines and recommendations is to contribute to the establishment of high-quality common regulatory and supervisory

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<sup>1</sup> See articles 40, 43 and 44 of the EIOPA Regulation.

<sup>2</sup> See for example [aba Positionspapier zur EIOPA Veröffentlichung „Opinion to EU Institutions on a Common Framework for Risk Assessment and Transparency for IORPs](#) (Juli 2016).

<sup>3</sup> [Opinion to EU Institutions on a Common Framework for Risk Assessment and Transparency for IORPs](#), paragraph 24.

standards and practices, the Common Framework is therefore – in addition to all other criticism – not suitable to be employed through guidelines and recommendations.

More generally, we would like to point out that a risk assessment according to the Common Framework methodology could lead to implications which are contradictory to steering signals from existing national regulation (in Germany e.g. BaFin-Stresstest for Pensionskassen und BaFin-Prognoserechnung for all IORPs). This should be avoided.

- **Guidelines and recommendations are in particular unsuitable for information requirements.** Providing information always comes at a cost, which should be carefully balanced against the benefits additional information provides in order to decide whether information requirements are justified. They add value if they focus on the type of information the members and beneficiaries need. This might vary significantly with the type of benefit promise and the national occupational pension system: in a system where individual members and beneficiaries have little to no influence over the investment strategy for example, in-depth information on investment issues is not necessary. Based on the minimum standards set out in IORP II, the information requirements should therefore be broken down in more detailed requirements at the national level. Only this way it can be ensured that they will truly add value for members and beneficiaries.
- **Going beyond guidelines and recommendations, EIOPA should not abuse its power to introduce requirements the Directive itself does not contain.** The EIOPA reporting requirements are a de facto introduction of the Pillar 3 requirements of Solvency II for IORPs. In the insurance sector the Solvency II Directive – and with that an ordinary European legislating process – was necessary to require insurance undertakings to report this kind of data. How can an EIOPA consultation lead to similar requirements as a Directive discussed for several years (in particular since the IORP II Directive does not stipulate anything in this regard)?
- Finally, we would like to stress that occupational pensions are important for many people across the EU, and that they therefore should be adequately considered in the current review of the operation of the European Supervisory Authorities. The proposed regulation would reorganise the tasks, competences and governance of the three supervisory Authorities. The aim is to make them more independent as well as more European in their decision-making. The proposal to introduce a “Strategic Supervisory Plan” (if adopted new Art. 29a of the EIOPA Regulation) against which the national competent authorities are measured would from our perspective mean a shift of tasks and power from the national competent authorities to EIOPA. We doubt that in the area of occupational pensions, which differ hugely between Member States (relevance of national social and labour law), this shift of tasks and power will contribute to better supervision. For sure it will bear higher cost for IORPs which finally will lead to lower benefits for the beneficiaries. The most adequate solution is that the competent national authorities – who know their systems best – continue to directly supervise their IORPs taking into account the national social and labour law. We call on the European Parliament and the Council to review the Commission’s proposal carefully and ensure that the characteristics of different (occupational) pension system are acknowledged and taken into account whatever the new set-up of EIOPA will look like.

#### 4. Conclusions

Based on these arguments, we call on EIOPA to respect that the IORP II Directive sets minimum standards rather than aiming for full harmonisation. We would like to emphasise that the IORP II Directive limits what can be regulated at the European level (which is what the Directives regulates), everything which goes beyond the Directive can only be decided at the national level.

The transposition should be left to the Member States and the Commission should focus on its remaining task to strengthen occupational pensions by supporting Member States' cooperation with social partners in the improvement of second pillar pension schemes and by establishing a high level expert group to enhance second pillar retirement savings in Member States (see Recital 20 of the IORP II Directive). We therefore think it was correct to list this work in the area of the IORP II Directive as "contingent on demand" in the Annual Work Programme 2017. We wonder whether any Member States called on EIOPA to develop this work further, or whether anyone else "demanded" that EIOPA becomes active in this regard. Only if this was the case, EIOPA should prepare opinion papers / best practice guides for the Council, which would give the Member States the possibility to decide on any political and / or material questions.

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## Annex:

### I. IORP II Directive

**(3)** This Directive is aimed at minimum harmonisation and therefore should not preclude Member States from maintaining or introducing further provisions in order to protect members and beneficiaries of occupational pension schemes, provided that such provisions are consistent with Member States' obligations under Union law. This Directive does not concern issues of national social, labour, tax or contract law, or the adequacy of pension provision in Member States.

**(5)** The way in which IORPs are organised and regulated varies significantly between Member States. Both IORPs and life insurance undertakings manage occupational pension schemes. It is not appropriate, therefore, to adopt a 'one-size-fits-all' approach to IORPs. 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 should have regard to the various traditions of Member States in their activities and should act without prejudice to national social and labour law in determining the organisation of IORPs.

**(19)** In accordance with the principle of subsidiarity, Member States should retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three pillars of the retirement system in individual Member States. In the context of the second pillar, they should also retain full responsibility for the role and functions of the various institutions providing occupational retirement benefits, such as industry-wide pension funds, company pension funds and life insurance undertakings. This Directive is not intended to call this prerogative of Member States into question, but rather encourage them to build up adequate, safe and sustainable occupational retirement provision and facilitate cross-border activity.

**(39)** In order to facilitate the coordination of supervisory practices, EIOPA can request information from the competent authorities in accordance with the powers conferred on it by Regulation (EU) No 1094/2010. Furthermore, in the event of a whole or partial cross-border transfer of a pension scheme, where there is a disagreement between the competent authorities concerned, it should be possible for EIOPA to carry out mediation.

**(69)** The competent authority should exercise its powers having as its prime objectives the protection of the rights of members and beneficiaries and the stability and soundness of IORPs.

**(73)** Provision should be made for exchanges of information between the competent authorities, other authorities and bodies tasked with strengthening of financial stability and the termination of pension schemes. It is therefore necessary to specify the conditions under which those exchanges of information should be possible. Moreover, where information may be disclosed only with the express agreement of the competent authorities, those authorities should be able, where appropriate, to make their agreement subject to compliance with strict conditions.

**(77)** 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 diver-

sity of IORPs within and across Member States. No quantitative capital requirements, such as Solvency II or HBS models derived therefrom, should therefore be developed at the Union level with regard to IORPs, as they could potentially decrease the willingness of employers to provide occupational pension schemes.

#### Article 21 (General governance requirements)

1. Member States shall require all IORPs to have in place an effective system of governance which provides for sound and prudent management of their activities. That system shall include an adequate and transparent organisational structure with a clear allocation and appropriate segregation of responsibilities and an effective system for ensuring the transmission of information. The system of governance shall include consideration of environmental, social and governance factors related to investment assets in investment decisions, and shall be subject to regular internal review.

#### Article 28 (Own-risk assessment)

1. Member States shall require IORPs, in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities, to carry out and document their own-risk assessment. ...

2. Member States shall ensure that the risk assessment referred to in paragraph 1, having regard to the size and internal organisation of the IORP, as well as to the size, nature, scale and complexity of the IORP's activities, includes the following:

#### Article 37 (General information on the pension scheme)

1. Member States shall, in respect of every IORP registered or authorised in their territories, ensure that members and beneficiaries are sufficiently informed about the respective pension scheme operated by the IORP, in particular concerning: ...

#### Article 38 (General provisions)

1. Member States shall require IORPs to draw up a concise document containing key information for each member taking into consideration the specific nature of national pension systems and of relevant national social, labour and tax law ('Pension Benefit Statement'). The title of the document shall contain the words 'Pension Benefit Statement'.

## II. EIOPA Guidelines – legal framework

### EIOPA Regulation

#### Recital 25

In areas not covered by regulatory or implementing technical standards, the Authority should have the power to issue guidelines and recommendations on the application of Union law. In order to ensure transparency and to strengthen compliance by national supervisory authorities with those guidelines and recommendations, it should be possible for the Authority to publish the reasons for supervisory authorities' non-compliance with those guidelines and recommendations.



#### Recital 47

The Authority should consult interested parties on regulatory or implementing technical standards, guidelines and recommendations and provide them with a reasonable opportunity to comment on proposed measures. Before adopting draft regulatory or implementing technical standards, guidelines and recommendations, the Authority should carry out an impact study. For reasons of efficiency, an Insurance and Reinsurance Stakeholder Group and an Occupational Pensions Stakeholder Group should be used for that purpose and should represent, in balanced proportions and respectively, the relevant financial institutions operating in the Union, representing the diverse business models and sizes of financial institutions and businesses; small and medium-sized enterprises (SMEs); trade unions; academics; consumers; other retail users of those financial institutions; and representatives of relevant professional associations. Those stakeholder groups should work as an interface with other user groups in the financial services area established by the Commission or by Union legislation.

#### Recital 53

As a general rule, the Board of Supervisors should take its decisions by simple majority in accordance with the principle where each member has one vote. However, for acts of a general nature, including those relating to regulatory and implementing technical standards, guidelines and recommendations, for budgetary matters as well as in respect of requests by a Member State to reconsider a decision by the Authority to temporarily prohibit or restrict certain financial activities, it is appropriate to apply the rules of qualified majority voting as laid down in Article 16(4) of the Treaty on European Union and in the Protocol (No 36) on transitional provisions annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. (...)

#### Art. 8 – Tasks and Powers of the Authority

1. The Authority shall have the following tasks:

(a) to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, in particular by providing opinions to the Union institutions and by developing guidelines, recommendations, and draft regulatory and implementing technical standards which shall be based on the legislative acts referred to in Article 1(2);

(e) to organise and conduct peer review analyses of competent authorities, including issuing guidelines and recommendations and identifying best practices, in order to strengthen consistency in supervisory outcomes;

2. To achieve the tasks set out in paragraph 1, the Authority shall have the powers set out in this Regulation, in particular to: (...)

(c) issue guidelines and recommendations, as laid down in Article 16;

#### Article 9 - Tasks related to consumer protection and financial activities

The Authority shall take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by:

(a) collecting, analysing and reporting on consumer trends;

(b) reviewing and coordinating financial literacy and education initiatives by the competent authorities;

(c) developing training standards for the industry; and

(d) contributing to the development of common disclosure rules.

2. The Authority shall monitor new and existing financial activities and may adopt guidelines and recommendations with a view to promoting the safety and soundness of markets and convergence of regulatory practice.

#### Art. 16 – Guidelines and recommendations

1. The Authority shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to competent authorities or financial institutions.

2. The Authority shall, where appropriate, conduct open public consultations regarding the guidelines and recommendations and analyse the related potential costs and benefits. Such consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. The Authority shall, where appropriate, also request opinions or advice from the relevant stakeholder group referred to in Article 37.

3. The competent authorities and financial institutions shall make every effort to comply with those guidelines and recommendations.

Within 2 months of the issuance of a guideline or recommendation, each competent authority shall confirm whether it complies or intends to comply with that guideline or recommendation. In the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority, stating its reasons. The Authority shall publish the fact that a competent authority does not comply or does not intend to comply with that guideline or recommendation. The Authority may also decide, on a case-by-case basis, to publish the reasons provided by the competent authority for not complying with that guideline or recommendation. The competent authority shall receive advanced notice of such publication.

If required by that guideline or recommendation, financial institutions shall report, in a clear and detailed way, whether they comply with that guideline or recommendation.

4. In the report referred to in Article 43(5) the Authority shall inform the European Parliament, the Council and the Commission of the guidelines and recommendations that have been issued, stating which competent authority has not complied with them, and outlining how the Authority intends to ensure that the competent authority concerned follow its recommendations and guidelines in the future.

#### Art. 22 – General Provisions

3. Without prejudice to the acts referred to in Article 1(2)<sup>4</sup>, the Authority shall draw up, as necessary, additional guidelines and recommendations for financial institutions, to take account of the systemic risk posed by them.

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<sup>4</sup> Art. 1 (Establishment and scope of action): 2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2009/138/EC with the exception of Title IV thereof, of Directives 2002/92/EC, 2003/41/EC, 2002/87/EC, 64/225/EEC, 73/239/EEC, 73/240/EEC, 76/580/EEC, 78/473/EEC, 84/641/EEC, 87/344/EEC, 88/357/EEC, 92/49/EEC, 98/78/EC, 2001/17/EC, 2002/83/EC, 2005/68/EC and, to the extent that those acts apply to insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision and insurance intermediaries, within the relevant parts of Directives 2005/60/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

#### Art. 29 – Common Supervisory Culture

1. The Authority shall play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union. The Authority shall carry out, at a minimum, the following activities: (...)

(d) reviewing the application of the relevant regulatory and implementing technical standards adopted by the Commission, and of the guidelines and recommendations issued by the Authority and proposing amendments where appropriate; and

#### Art. 30 – Peer reviews of competent authorities

2. The peer review shall include an assessment of, but shall not be limited to: (...)

(b) the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted under Articles 10 to 16, and the extent to which the supervisory practice achieves the objectives set out in Union law;

3. On the basis of a peer review, the Authority may issue guidelines and recommendations pursuant to Article 16. In accordance with Article 16(3), the competent authorities shall endeavour to follow those guidelines and recommendations. The Authority shall take into account the outcome of the peer review when developing draft regulatory technical or implementing technical standards in accordance with Articles 10 to 15.

#### Article 37 - Insurance and Reinsurance Stakeholder Group and Occupational Pensions Stakeholder Group

1. To help facilitate consultation with stakeholders in areas relevant to the tasks of the Authority, an Insurance and Reinsurance Stakeholder Group and an Occupational Pensions Stakeholder Group shall be established (hereinafter collectively referred to as the 'Stakeholder Groups'). The Stakeholder Groups shall be consulted on actions taken in accordance with Articles 10 to 15 concerning regulatory technical standards and implementing technical standards, and, to the extent that these do not concern individual financial institutions, Article 16 concerning guidelines and recommendations. If actions must be taken urgently and consultation becomes impossible, the Stakeholder Groups shall be informed as soon as possible.

III. Excerpts of the EIOPA „[Single Programming Document 2017-2019](#)“

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EIOPA contributes to the development of the internal market in pensions.			
Target	2017	2018	2019
	Outline of ideas to improve cross-border Defined Contribution IORPs.	Proposals delivered by EIOPA on facilitating the implementation of IORP II, in particular on improved standardised information to members and beneficiaries, governance, risk management as well as cross-border activities.	Implementation of EIOPA’s vision on pensions data.

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Leading the development of a sound and prudent regulatory framework in 2018, EIOPA has the following priorities:

...

- **Develop regulatory works arising from IORPII in areas such as information to members, governance and risk evaluation** – this represents the guidance provided by EIOPA regarding the implementation of IORPII. It also includes proposals how to ensure that Environmental Social Governance (ESG) factors are taken into account by IORPs and overseen by supervisors.
- **Stand ready to develop regulatory framework for risk assessment of pensions considering EIOPA’s opinion on risk assessment** – this applies to a further refinement of the framework, for stress testing purposes but also as part of the implementation of the IORP II Directive.

..

In the area of pensions EIOPA will continue to encourage cross-border pensions as part of the development of the internal market. This will include a review of the Budapest protocol which specifies how home and host member states for cross-border pensions shall cooperate with each other to facilitate authorisation and notification and stimulate the Internal Market. Work is also expected to be underway on guiding the implementation and eventual application of the IORP II Directive and linked to that work on relevant information to members and beneficiaries with a specific focus on cost measures. In addition, ESG factors in the IORP II Directive will find increased attention regarding their practical and consistent implementation. The pension data requirements will be finalised latest at the beginning of 2018 and preparation for data collection from National Competent Authorities be supported by EIOPA. The legislative proposal for PEPP

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**Planning priority for 2018:**

- **Develop regulatory works arising from IORP II in areas such as information to members, governance, ESG factors and risk evaluation** - IORP II specifies new requirements in governance and information to members, and EIOPA can play a role in their further definition as well as provide guidance for consistent implementation.
- **Stand ready to develop regulatory framework for risk assessment of pensions considering EIOPA's opinion on risk assessment** – under this activity, EIOPA is prepared to undertake work on risk assessment, should it be required.

<b>Resources</b>	<b>6.5</b> FTE	<b>Evolution (Stable):</b> EIOPA will maintain the level of work in the domain of pensions regulation. 2018 will be crucial for EIOPA to provide guidance with regards to IORPII implementation, in particular in the above mentioned areas. Depending the further evolution of the PEPP Regulation, this area would need additional resources.
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<b>Products</b>	<b>Due Date</b>
<ul style="list-style-type: none"> <li>• Implementation of IORPII                             <ul style="list-style-type: none"> <li>○ Information to members and beneficiaries</li> <li>○ Governance of IORPs</li> <li>○ Risk evaluation</li> <li>○ ESG factors</li> </ul> </li> <li>• Risk management: Evidence based on extent of implementation of EIOPA opinion on risk assessment</li> <li>• Personal pensions: follow up to Capital Market Union initiative and PEPP Regulation</li> <li>• Cross-border activities, IORP II: European occupational DC pension framework and finalisation of revision of Budapest protocol</li> <li>• Market development report</li> <li>• Finalisation of pensions data requirements</li> <li>• Initial preparations for the pensions stress test 2019</li> </ul>	Q3 Q4 Q4 Q2 – Q3 Contingent on demand Contingent on demand Q2  Q4 Q1 Q3 – Q4

<b>Services</b>	<b>Frequency</b>
<ul style="list-style-type: none"> <li>• Assessment of eligibility for temporary exemption from clearing obligation (EMIR)</li> </ul>	Contingent on demand