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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: COMMISSION STAFF WORKING DOCUMENT IMPLEMENTATION
PLAN Accompanying the document PROPOSAL FOR A DIRECTIVE OF
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the
activities and supervision of institutions for occupational retirement
provision (IORP II) (recast)

Delegations will find attached document SWD(2014) 104 final.

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COMMISSION STAFF WORKING DOCUMENT

IMPLEMENTATION PLAN

Accompanying the document

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL**

on the activities and supervision of institutions for occupational retirement provision

(IORP II)

(recast)

{ COM(2014) 167 final }

{ SWD(2014) 102 final }

{ SWD(2014) 103 final }

1. INTRODUCTION

The main objectives of the revision of Directive 2003/41/EC on the activities and supervision of institutions for occupational provision (IORP 2 Directive) are to enhance the protection of members and beneficiaries of pension funds through the improvement of governance rules for institutions, the increase of transparency for members' and beneficiaries about their occupational retirement entitlements and facilitating cross-border activities of pension funds and schemes.

The field of occupational retirement provision is complex and can be very technical. Moreover, even though some of the existing provisions have not changed as to their substance (or have been deleted), a considerable number of new provisions have been introduced in the legal text.

Both the risks relating to external actors (Member States, pension funds, and social partners) and risks related to the actions to be taken by the Commission departments in the transposition of the IORP 2 Directive are assessed in this implementation plan.

It should, however, be noted that possible adjustments or modifications of the present plan could be necessary to reflect future developments in the implementation of the new directive.

2. GENERAL ASSISTANCE BY THE COMMISSION

The Commission departments are conscious that co-operation with national authorities must be developed at a very early stage. The following general actions should be put in place as soon as possible after the adoption by the co-legislators of the IORP 2 Directive to guide Member States in their transposition efforts:

- providing a contact point for Member States to facilitate the dissemination of information regarding the proposed legislation as well as transposition procedures (e.g., a functional mailbox); and
- up-dating DG MARKT's web-site with relevant information on the IORP 2 Directive.

3. DETAILED RISK ASSESSMENT AND PROPOSED ACTIONS

a. The effective implementation of the new requirements within the timeframe

The time-limit for transposition of the IORP 2 Directive is 18 months after its publication in the *Official Journal of the European Union*. The IORP 2 Directive stipulates that Member States shall report on the effective implementation, i.e., they shall notify the text of the main provisions of national law which they adopted to transpose the Directive.

The current IORP 1 Directive has triggered 25 infringement proceedings, i.e., 16 non-communication and, in particular, nine non-conformity cases. The IORP 2 Directive includes a large number of new legal obligations. It will introduce novel aspects to prudential legislation in the occupational pension sector. The standards under the IORP 2 Directive are higher and stricter compared to the IORP 1 regime.

Therefore, explanatory documents are necessary for the Commission departments to help Member States in transposing the IORP 2 Directive.

A standard Recital is introduced into the IORP 2 Directive "*In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.*" Following the most recent experience with the adoption of the insurance-related Omnibus 2 Directive, the IORP 2 Directive requires Member States to communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Moreover, in order to ensure smooth implementation and address potential risks linked to this element of the IORP 2 Directive, the Commission departments will consider the following actions:

Box 1 Actions:

- **Hold meetings with Member States** to closely monitor the implementation process. *The Expert group on banking, payments and insurance (insurance formation)* could also serve as a forum for sharing information on implementation issues. The Commission departments can, on request, also organise bilateral meetings. This would allow the Commission departments to obtain informal oral and written feedback on the implementation (but also effectiveness) of the IORP 2 Directive;
- **Focus on problems emerging during the preparation of the national measures and spread best practices amongst all Member States.** Where questions are common, advisory guidance on how to deal with the issue may be issued by the Commission departments. The Commission departments will, on request, also organise bilateral meetings; and
- **Set up training programmes addressed to national authorities.** Where necessary, the Commission departments will collaborate with *the European Insurance and Occupational Pensions Authority (EIOPA)* which would be in a position to organise training courses.

b. Ensuring an adequate monitoring and evaluation of the IORP 2 Directive in co-operation with EIOPA

A full evaluation of the effects of the policy choices could, however, only be undertaken in the longer term. Some of the important policy choices will take time to have any impact, e.g., cross-border pension funds. It would be necessary to carry out such evaluation: a preliminary examination by EIOPA three to four years after the entry into force (followed by an evaluation report by the Commission five years after the adoption), on selected issues such as:

- changes in structure of the market (further shift towards DC-schemes);
- changes in the patterns of cross-border activity;
- assessment of the improvement in transparency and governance;

- impact of the changes regarding costs; or
- possible future changes in quantitative requirements for pension funds.

In order to ensure smooth implementation and address potential risks linked to this element of the proposed Directive, the Commission departments will consider the following actions:

Box 2 Actions:

- **Address issues relating to the evaluation of different topics** in meetings with Member States during the implementation and also inform relevant stakeholders;
- **Create a group of experts** to serve as a forum for mutual learning and exchange of best practices on the implementation process (longer term perspective);
- **Organise meetings with sector representatives** in order to promote the benefits of the new regime;
- **Foresee information campaigns among employers and pension funds** through various channels immediately after the adoption of the IORP 2 Directive. Raising awareness will also make Member States more aware of the importance of a timely and proper transposition at the national level;
- **Provide information tools** (e.g. brochures) to inform Member States and all relevant stakeholders immediately after the adoption of the legislative instrument;
- **Promote mutual learning and exchange of best practices between Member States** on the implementation of the provisions by providing information in meetings with Member States.
- **Co-operate with EIOPA.**

DETAILED IMPLEMENTATION PLAN

A. ACTIONS BY THE COMMISSION TO PROVIDE GENERAL ASSISTANCE TO THE MEMBER STATES

Objective	Action	Timing
Disseminate information and facilitate transposition procedures	Providing a contact point for Member States	As soon as the proposal is adopted
Disseminate all relevant information	Developing DG MARKET website	As soon as the proposal is adopted

B. ACTIONS BY THE COMMISSION TO ENSURE SMOOTH IMPLEMENTATION AND ADDRESS POTENTIAL RISKS

Objective	Action	Timing
Providing full coverage within the timeframe	Hold meetings with Member States to closely monitor the implementation process	Starting three months after the adoption of the proposal
	Focus on problems emerging during the preparation of the national measures	During the transposition period
	Spread best practices amongst all Member States	During the transposition period
	Set up training addressed to national authorities	During the transposition period
Ensuring an adequate monitoring and evaluation of the IORP 2 Directive in cooperation with EIOPA	Address issues relating to the evaluation of different topics (such as changes in structure of the market (further shift towards DC-schemes); changes in the patterns of cross-border activity; assessment of the	Starting three months after the adoption of the proposal

	<p>improvement in transparency and governance; or impact of the changes regarding costs) in meetings with Member States on the implementation process, paying specific attention to inform relevant stakeholders</p>	
<p><i>At the end of the transposition deadline</i></p>	<p>Create a group of experts to serve as a forum for mutual learning and exchange of best practices</p>	
<p><i>Immediately after the adoption of the proposal</i></p>	<p>Organise meetings with sector representatives in order to promote the new regime</p>	
<p><i>Starting three months after the adoption of the proposal</i></p>	<p>Foresee information campaigns among social partners and pension funds through various channels immediately after the adoption of the IORP 2 Directive. Raising awareness will also make Member States more aware of the importance of a timely and proper transposition at national level</p>	
<p><i>Immediately after the adoption of the proposal</i></p>	<p>Provide information tools (e.g. brochures) to inform Member States and all relevant stakeholders immediately after the adoption of the legislative instrument</p>	
<p><i>During the transposition period</i></p>	<p>Promote mutual learning and exchange of best practices between Member States on the implementation of the provisions in meetings with Member States</p>	
<p><i>As soon as the proposal is adopted</i></p>	<p>Co-operate with EIOPA</p>	

IORP 2 Directive - Implementation Time-line

IORP 2

