OPSG

OCCUPATIONAL PENSIONS STAKEHOLDER GROUP

OPSG Own-Initiative Opinion

On the Review of the IORP II Directive

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OPSG-26/09
20 April 2026

European Insurance and
Occupational Pensions Authority

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1. INTRODUCTION

The Occupational Pensions Stakeholder Group (OPSG) has examined the European Commission's proposal to revise Directive (EU) 2016/2341 (IORP II), presented within the Supplementary Pensions Package.

In accordance with its mandate under the EIOPA Regulation, the OPSG provides this Own-Initiative Opinion to support the European Insurance and Occupational Pensions Authority (EIOPA) in its advisory and supervisory convergence functions.

In line with the OPSG Rules of Procedure, this Opinion reflects the position supported by the majority of OPSG members. A minority advice submitted by the OPSG members representing consumers is included as addendum at the end of this document (see pages 38–42)

2. EXECUTIVE SUMMARY

The OPSG supports the overarching objective of strengthening the resilience, adequacy and transparency of occupational pensions across the Union. Demographic ageing, fiscal pressures on first-pillar systems and the growing reliance on supplementary pensions make it essential that IORPs remain robust, trusted and able to deliver long-term retirement income.

At the same time, the revision of IORP II should preserve the equilibrium underpinning the current framework. The Directive is built on three fundamental pillars—minimum harmonisation, proportionality, and forward-looking, risk-based supervision—which together reflect the structural diversity of occupational pension systems across Member States and the embeddedness of IORPs in national labour and social protection frameworks.

Against this background, the OPSG emphasises that the reform should raise the minimum level of protection without destabilising well-functioning national arrangements or undermining social partner governance. Legislative changes should avoid regulatory layering—particularly through expansive mandates for delegated acts and technical standards—that risks reducing legal certainty, duplicating established national frameworks and increasing administrative costs which are ultimately borne by members and beneficiaries (especially in case of DC schemes but also of some DB schemes) and/or by the employer (in case of some DB schemes).

The OPSG recalls that IORPs are not homogeneous retail financial service providers. They are collective social protection institutions, frequently established through collective bargaining, operating within a triangular relationship between employers, employees and the IORP. Regulatory requirements should therefore remain aligned with the long-term, collective nature of occupational pensions, preserve supervisory focus on prudential outcomes (governance, risk management and

long-term sustainability), and support IORPs' capacity to act as long-horizon institutional investors in the best interests of members and beneficiaries.

Against this background, the OPSG has reservations about further attempts to harmonise aspects of the Directive through overly prescriptive requirements, particularly in areas already addressed effectively by Member States. In the OPSG's view, the review should focus on strengthening protection and supervisory consistency where needed, while preserving national flexibility in areas closely linked to labour law, social protection and established governance structures.

This approach is fully consistent with the principle of mutual recognition. Where an IORP is adequately regulated and managed under the framework of its home Member State, it should be able to operate across borders without additional layers of mistrust or regulatory duplication. Precisely because national frameworks already ensure sufficient levels of robustness, reliability and sound management, the review should build on mutual confidence and equivalence rather than on further detailed harmonisation.

2.1 Minimum harmonisation and supervisory architecture

The IORP II Directive was deliberately designed as a minimum-harmonisation instrument. This design reflects the considerable heterogeneity of occupational pension systems across the Union, e.g. differences in scheme type (defined benefit, defined contribution, hybrid), in the allocation of biometric and investment risks, in governance arrangements, and in the degree of social partner involvement. Occupational pensions are also deeply intertwined with national tax regimes, labour law and social security systems.

The Commission proposal introduces a series of new empowerments for delegated acts and technical standards, notably in relation to solvency parameters (Article 17), the Pension Benefit Statement (Articles 38–40) and supervisory reporting (Article 50). While the objective of supervisory convergence is legitimate, these empowerments collectively represent a potential shift in the regulatory architecture.

In particular, allowing solvency margins to be recalibrated via delegated acts may reduce legal certainty for institutions operating with multi-decade investment horizons. Occupational pension funds make long-term strategic asset allocation decisions, including investments in infrastructure, private equity and other illiquid assets aligned with broader EU policy goals. Such strategic long-term decisions take regulatory boundary conditions into account and cannot be simply adapted (at reasonable cost) to significant changes in regulatory requirements. Regulatory stability is therefore not merely a procedural concern but a precondition for effective long-term investment.

Similarly, broad mandates for EIOPA to develop RTS and ITS in areas already comprehensively regulated at national level risk creating overlapping frameworks. Many Member States have developed and implemented detailed and mature supervisory and reporting systems tailored to their specific pension landscapes. Introducing additional layers at Union level may increase compliance costs without demonstrable prudential gains. These additional layers of level 2 and level 3 rulemaking, ultimately contradict the EU's simplification agenda and the broader goals of the Savings and Investment Union.

Supervisory convergence should aim at enhancing consistency in the application of principles, not at multiplying detailed prescriptive rules. The minimum harmonisation architecture of IORP II should therefore be preserved.

OPSG advice: IORP II should remain a minimum harmonization framework. No delegated acts should be introduced by the review.

3. SCOPE OF APPLICATION (ARTICLE 4)

The proposal amends Article 4 to allow Member States to extend the application of IORP II to additional funded pension institutions currently outside its scope.

The OPSG recalls that the IORP II Directive was conceived as a minimum-harmonisation framework specifically tailored to occupational retirement provision institutions operating within an employment relationship and under second-pillar arrangements. Preserving this regulatory perimeter is essential to maintaining legal certainty and coherence.

Clear distinctions must continue to be upheld between:

- First-pillar statutory social security systems, and
- Second-pillar occupational pension institutions governed by the IORP framework.

Social security institutions coordinated at Union level under Regulations (EC) No 883/2004 and No 987/2009 fulfil a fundamentally different legal and social function. They provide statutory pension entitlements forming part of national social security systems and operate within solidarity-based frameworks that differ structurally from occupational pension institutions established under labour law.

The IORP II Directive must therefore continue to ensure that e.g.:

- Pay-as-you-go (PAYG) systems remain excluded;

- Statutory schemes, including partially funded systems forming part of the first pillar, remain outside its scope;
- Institutions operating within solidarity-based or jointly liable solvency frameworks characteristic of statutory systems are not inadvertently captured by occupational pension rules.

Against this background, the OPSG considers that extending the scope of IORP II to institutions not already covered by the Directive risks creating regulatory overlaps, conflicting supervisory regimes and legal uncertainty. It could also dilute the tailored framework developed for IORPs, which is grounded in the internal market rationale applicable to employment-based pension provision.

Moreover, the Directive is based on internal market legal grounds, which do not extend to statutory social security systems, as consistently clarified in the case law of the Court of Justice of the European Union. To the extent that Article 4 merely provides Member States with an option to apply the Directive to certain additional funded arrangements, this can only be acceptable if that option is understood as entirely voluntary and reversible. In other words, Member States must remain free both to apply and, if they so decide, to discontinue applying the Directive to such arrangements. This is particularly important in relation to so-called "first pillar bis" arrangements, which remain part of national social security systems and therefore fall within Member State competence. EU law should not be interpreted as constraining that discretion.

For these reasons, the OPSG considers that the existing exclusions under Directive (EU) 2016/2341 should be maintained and that the scope of the Directive should remain clearly confined to occupational pension institutions as originally defined.

Finally, under the current IORP II framework, Article 4 allows Member States to apply certain provisions of the Directive to the occupational retirement provision business of life insurance undertakings, provided that the relevant assets and liabilities are strictly ring-fenced and managed separately from the rest of the insurance activities. This mechanism has been used in some Member States to allow insurance companies to manage occupational pension business under an IORP-type prudential framework, while the remainder of their activities continues to fall under the Solvency II regime. This clause should remain while the deletion of the current Article 4 removes a useful and well-established mechanism for the treatment of occupational pension business within insurance groups.

OPSG advice: The OPSG considers that the scope of IORP II should remain clearly limited to occupational pension institutions as originally defined. Extending the Directive to additional funded pension institutions risks creating legal uncertainty, supervisory overlaps and regulatory inconsistency. Any optional application by Member States under Article 4 should therefore remain entirely voluntary, reversible and without prejudice to national competence over statutory and quasi-statutory pension arrangements. Ring-fencing of occupational retirement provision business of life insurance undertakings under IORP II should remain possible.

4. PROPORTIONALITY

Proportionality is a structural safeguard within the IORP framework. Occupational pension institutions differ significantly across the Union in size, governance models, scheme design and risk allocation. A regulatory approach that does not adequately calibrate requirements to the size, nature, scale and complexity of institutions risks imposing disproportionate administrative and compliance burdens, particularly on small and medium-sized IORPs. These costs are ultimately borne by members and beneficiaries and/or the respective employers and may negatively affect net returns and pension adequacy. Moreover, occupational pensions are long-term social protection mechanisms, not retail financial products; over-calibration of governance, reporting or disclosure requirements risks importing regulatory models designed for other sectors without commensurate prudential benefit. Proportionality therefore serves multiple objectives simultaneously: it preserves the minimum harmonisation architecture of the Directive, supports effective and predictable risk-based supervision, protects well-functioning national governance models, including those rooted in social dialogue, and safeguards the long-term investment capacity of IORPs.

The EC proposal amends Article 5 and removes explicit reference to “size” as a criterion in the application of proportionality. While a risk-based approach is appropriate in principle, as small size does not automatically equate to low risk, eliminating size entirely risks weakening the operational effectiveness of the proportionality principle. Size remains an objective and measurable indicator. It serves as a practical proxy for organisational complexity, governance capacity and operational resources. In supervisory practice, size is also relevant for the allocation of supervisory intensity and reporting requirements.

At the same time, proportionality measures should primarily be driven by the risk profile of the institution and the risks borne by members and beneficiaries. Quantitative thresholds should not operate as arbitrary exemptions from sound governance and risk management requirements. Rather, they may function as transparent and predictable reference points, provided they are embedded within a broader risk- and scale-based framework. Market consolidation should not be

an implicit objective of a supervisory directive. A balanced approach that respects diversity and promotes competition will better serve members and maintain a healthy pension landscape.

In its 2023 technical advice, EIOPA proposed identifying small IORPs as those with fewer than 1,000 members and beneficiaries and less than €25 million in assets under management. Such thresholds would not dilute governance standards nor exempt smaller institutions from sound risk management. Rather, they would provide clarity and predictability in tailoring requirements where overly complex or burdensome processes would otherwise create disproportionate pressure.

Where quantitative thresholds are used, they should explicitly take into account both members and beneficiaries. Institutions in run-off may have limited or no active membership while managing substantial assets and long-term liabilities towards beneficiaries. In such cases, the scale of financial commitments and risk exposure may remain significant and should therefore be appropriately reflected in the application of proportionality and supervisory oversight.

Experiences at national level underline the importance of meaningful proportionality. In Portugal, for example, IORPs with more than 100 members are required to establish monitoring committees composed of representatives of sponsors and participants, including elected members and trade unions. These bodies oversee compliance with plan rules, fund management and disclosure obligations. Many relatively small schemes are therefore already subject to robust oversight structures. In such contexts, layering additional EU-level governance requirements may create duplication rather than enhanced protection.

Proportionality must be concrete, measurable and applicable in practice. Removing size as a criterion risk rendering the principle abstract and is difficult to operationalise.

While the aim of ensuring that smaller IORPs are not disproportionately burdened is key, it is essential that proportionality measures do not create *de facto* segmentation or a new level playing field within the IORP market. Proportionality should avoid resulting in harmonised thresholds, size-based categories, or rigid classifications that could unintentionally reshape national pension landscapes or favour certain business models over others.

OPSG advice:

- Proportionality should be strengthened, not weakened
- Size should be kept as one of the criteria NCAs can take into account when applying proportionality
- The thresholds in article 5 could be reconsidered following EIOPA's advice

- Proportionality should reinforce flexibility rather than impose new harmonised parameters

5. ACTIVITIES OF AN IORP (ARTICLE 7)

The proposal introduces requirements to ring-fence assets and liabilities corresponding to an IORP's "personal pension provision business".

In DC schemes with individual accounts, assets are already segregated at member level and investment risk is borne individually. In such contexts, additional ring-fencing requirements would be redundant and operationally burdensome.

Moreover, these provisions must be assessed in light of broader policy objectives that promote consolidation, asset pooling and economies of scale to strengthen long-term investment capacity. Excessively rigid ring-fencing requirements may create fragmentation within institutions and limit efficient pooling arrangements.

Prudential safeguards must be coherent with the objective of enabling IORPs to act as long-term institutional investors. Safeguards that duplicate existing segregation mechanisms or constrain efficient structuring may impose costs without enhancing member protection.

OPSG advice: Requirements related to ring-fencing should be applied proportionately and calibrated so as not to duplicate segregation mechanisms already present in DC schemes with individual accounts or in certain DB schemes, nor unduly constrain pooling and consolidation arrangements.

6. MULTI-SPONSOR IORPS (ARTICLE 9A)

The proposed Article 9a provides that IORPs should be allowed to operate different pension schemes, including schemes with diversified investment policies, and that they may accept sponsorship from multiple sponsoring undertakings within the same pension scheme.

In principle, greater flexibility in organisational structure may facilitate consolidation, support economies of scale and allow for more efficient investment management. In particular, enabling IORPs to manage multiple schemes with differentiated investment strategies may respond to the evolving needs of sponsors and members.

However, the introduction of this flexibility should not inadvertently disrupt existing sponsorship arrangements that are rooted in collective agreements or established under national labour and social law frameworks. In several Member States, occupational pension schemes operate on a single-sponsor basis, at sector-wide level or for specific professions, reflecting negotiated

arrangements between employers and employees. In addition, consolidation vehicles have been established that host multiple ring-fenced schemes for different sponsors, while maintaining distinct governance and funding structures within a common institutional framework.

A regulatory provision that promotes or presumes multi-sponsor arrangements should therefore be carefully calibrated to ensure that it does not undermine or indirectly pressure established single-sponsor or collectively agreed structures. The Directive should make clear that flexibility regarding sponsorship arrangements operates without prejudice to national labour and social law, including collective bargaining agreements.

Safeguarding institutional diversity in sponsorship models is essential to preserving the stability and legitimacy of occupational pension systems. Flexibility should expand options, not alter the balance of existing governance arrangements that function effectively within national contexts.

OPSG advice: the new provision should include adequate safeguards to protect collective bargaining and social and labour law, i.e. it should be amended by adding the sentence: "without prejudice to collective bargaining and social and labour law".

7. CROSS-BORDER PROCEDURES AND TRANSFERS (ARTICLES 11–12)

The proposal simplifies cross-border procedures and introduces streamlined approval mechanisms for transfers of pension schemes.

The OPSG welcomes the clearer distinction introduced by the proposal between cross-border transfers under Article 12 and domestic transfers under Article 12a, as this can enhance legal certainty and better reflect the diversity of national pension frameworks. For cross-border transfers, the introduction of a clearer approval mechanism based on a simple majority of members and beneficiaries concerned, or where applicable their representatives, as well as the possibility for Member States to set a participation threshold of up to 25%, can contribute to greater clarity and legal certainty.

At the same time, the OPSG supports regulating domestic transfers separately and in accordance with national law. In this respect, the provision in Article 12a that domestic approval procedures should not be more stringent than those set out in Article 12(3) should be assessed carefully, so as not to unduly limit Member States' flexibility to organise domestic procedures in line with their legal and institutional arrangements, while ensuring adequate protection of members and beneficiaries.

Where quantitative participation thresholds are used in the context of scheme transfers, it is important that both members and beneficiaries are appropriately taken into account. Transferring schemes may include portfolios in run-off, with limited active membership but substantial assets and long-term benefit obligations. In such cases, the scale of financial commitments and risk

exposure remains significant and should be adequately reflected in the assessment and approval process. Ensuring that beneficiaries are properly considered contributes to maintaining an appropriate and equivalent level of protection in cross-border situations.

OPSG advice: The OPSG welcomes the clearer distinction between cross-border and domestic transfers, as this strengthens legal certainty and better reflects national diversity. It supports a simpler and clearer approval framework for cross-border transfers. At the same time, domestic transfers should remain regulated in accordance with national law, without unduly constraining Member States' flexibility.

8. TECHNICAL PROVISIONS (ARTICLE 13)

Sound valuation of technical provisions is central to the prudential framework. From an actuarial and risk-management perspective, the calculation of projected liability cashflows is an essential input for effective Asset–Liability Management (ALM) and, where relevant, Liability-Driven Investment (LDI) strategies. Explicitly recognising the role of liability cashflow projections under Article 13 would support risk-based decision-making and supervisory assessments, while remaining subject to the proportionality principle and without prescribing a uniform methodology.

OPSG advice**:** Consider explicitly recognising liability cashflow projections as an element supporting the assessment of technical provisions and ALM, applied proportionately and in a principles-based manner.

9. UNDERFUNDING AND LONG-TERM INVESTMENT (ARTICLE 14)

The OPSG supports the proposed article 14 allowing NCAs to permit underfunding for a limited period, as determined by national law and not exceeding ten years. This measure provides greater flexibility for IORPs, enabling them to diversify their investment strategies (and take higher risks) without being required to remain fully funded at all times. The proposal also aligns with developments in some Member States, e.g. under the German law, IORPs may experience a temporary period of underfunding, that must not exceed ten years.

OPSG advice: The OPSG supports the proposed flexibility under Article 14, provided it remains embedded in national funding frameworks and applied proportionately to safeguard members' and beneficiaries' interests.

10. ARTICLE 15 – REGULATORY OWN FUNDS

Where IORPs underwrite financial or biometric guarantees and bear the full risk themselves, prudential safeguards should adequately reflect the nature and scale of such risks assumed. In such cases, the assessment of own funds should be proportionate to the profile of the liabilities and the guaranteed benefits, taking due account of the specific risk exposure arising from those guarantees.

Any further development in this area should remain consistent with the minimum harmonisation character of the Directive and the diversity of national systems and should not lead to the automatic transposition of insurance-based solvency frameworks to occupational pension institutions.

11. INTERNAL STRESS TESTING AND SOLVENCY CALIBRATION (ARTICLES 17, 18A AND RELATED PROVISIONS)

The Commission proposes that IORPs underwriting biometric risks or providing guarantees conduct an internal stress test at least every three years in order to assess their capacity to meet obligations under adverse market and demographic scenarios. Where assets are found to be insufficient under such scenarios, IORPs would be required to submit a convergence plan setting out measures to restore financial balance.

The OPSG considers that the underlying principle of forward-looking stress testing is generally appropriate. Institutions that underwrite guarantees or biometric risks should assess their resilience under adverse conditions. Forward-looking risk assessment is consistent with sound governance and prudent supervision and is in many jurisdictions already done today.

However, the design, calibration and execution of such stress tests must reflect the structural diversity of occupational pension systems across the Union, as they differ substantially in:

- Funding methodologies,
- Discount rate approaches,
- Biometric assumptions,
- Role of sponsor support and/or sponsor's liability,
- Liability duration profiles,
- Social and labour market structures.

In several Member States, risk-based procedures to assess exposures to market, longevity and other risks have already been implemented, tested and well-established. These frameworks are embedded in national supervisory methodologies and tailored to domestic market conditions.

Introducing a uniform EU-wide stress testing framework risks:

- Undermining established national processes,
- Neglecting country-specific actuarial and funding characteristics,
- Creating duplication of supervisory exercises,
- Imposing additional regulatory effort without clear added value.

Such an approach would sit uneasily with the minimum harmonisation principle underpinning the IORP II Directive. Flexibility and proportionality would support innovation and allow adaptation to local market conditions. For instance, mandating the application of specific scenarios may not fully align with the Directive's minimally harmonising nature. A more flexible approach, allowing companies to tailor scenarios within clear principle-based guidelines to their risk profile and prevailing market conditions, could achieve the same objectives while avoiding unnecessary rigidity

The OPSG therefore considers that stress testing requirements should be designed and calibrated at national level. EIOPA may facilitate supervisory convergence through principle-based guidance and exchange of best practices, but detailed scenario calibration should remain adaptable to national realities.

Stress testing should cover the material risks relevant to the institution's specific risk profile, taking into account its funding structure, guarantees, investment strategy and liability profile. The identification of such risks should remain within the competence of national competent authorities, rather than being defined through a uniform EU-level catalogue.

The regulatory impact of stress testing also differs significantly between scheme types. For defined benefit institutions, stress testing is primarily linked to the assessment of institutional solvency and the capacity to meet promised benefits under adverse scenarios.

For defined contribution schemes, where members bear investment risk, stress testing of institutional solvency may have limited practical implications. In such cases, supervisory stress testing may instead focus on the potential impact of adverse scenarios on member benefits, applied proportionately and reflecting the specific design of the scheme.

The proposed requirement to provide projections of assets and liabilities over a ten-year horizon under a range of diverse scenarios may entail significant administrative and actuarial burdens. For large defined benefit institutions with in-house actuarial capacity, such exercises may be manageable. However, for smaller IORPs, particularly those operating in stable funding environments, the requirement could generate disproportionate costs.

Where an IORP does not have sufficient assets to cover its liabilities or fulfil its solvency requirements, it is appropriate that recovery measures be prepared. However, requiring the

submission of a convergence plan solely on the basis of severe and hypothetical stress scenarios would be disproportionate. Stress scenarios represent extreme and theoretical conditions, and supervisory responses should therefore remain proportionate and rely on supervisory judgement.

The proposal also refers to specific stress parameters, including a 40% decrease in interest rates under an adverse scenario. Due to the diversity of IORPs in the different member states no such stress parameters should be defined on a pen-European level. This would also contradict the minimum harmonization principle. Instead, stress tests should be calibrated (this includes the setting of stress parameters) By NCAs who know the operative nature of the supervised IORPs in their country best and are best positioned to take domestic market conditions adequately into account. Having said that, it is essential that such assumptions are clearly specified in order to avoid divergent interpretations across different IORPs. In particular, it should be clarified:

- whether a decrease in income represents a one-off shock applied at the outset of the scenario or a recurring annual reduction over the projection horizon;
- how such parameter would apply to existing assets in the portfolio compared to newly acquired assets.

Having said that, the OPSG reiterates that any setting of stress parameters should be left to the relevant NCAs due to the heterogeneity of IORPs and their boundary conditions according to national law.

The proposal also empowers the Commission, under Article 17, to adopt delegated acts to amend numerical values and percentages for required solvency margins.

The OPSG notes that frequent recalibration of solvency parameters through delegated acts may create:

- Regulatory unpredictability,
- Challenges for NCAs in interpreting forward-looking projections,
- Uncertainty in capital planning,
- disruptions in long-term investment strategies
- Unnecessary restructuring costs for established investment portfolios

Occupational pension institutions must reserve financial capital to address potential losses. An increase in required solvency margins, particularly if introduced with limited transition time, may reduce available risk capital and oblige IORPs to adjust their investment risk profiles.

This could have unintended consequences, including:

- Reduced allocation to higher-yielding long-term assets,
- Increased de-risking behaviour,
- Lower expected long-term returns for members.

The possibility of year-to-year changes in solvency calibration is therefore particularly sensitive and very problematic in a sector characterised by long investment horizons and gradual funding dynamics.

The OPSG considers that introducing delegated acts to modify solvency margins is not appropriate. Stability and predictability of prudential parameters are central to the functioning of occupational pension institutions.

OPSG advice: Stress testing and related projection requirements should be designed and calibrated at national level, applied proportionately and tailored to the specific risk profile of institutions. Stress tests should cover material risks identified by national competent authorities, while reflecting the differences between defined benefit and defined contribution schemes. Fixed scenario parameters that constrain national supervisory flexibility should be avoided, and delegated acts to modify solvency margins should not be introduced.

12. PRUDENT PERSON PRINCIPLE (ARTICLE 19)

The proposed amendments to article 19 on the prudent person principle allow IORPs to invest in any type of assets, provided that they are able to properly identify, measure, monitor, manage and report the associated risks. In their investment strategy, IORPs should appropriately take into account their overall funding needs and assess the potential risks to members and beneficiaries regarding the paying out of their pension benefits.

The OPSG supports a framework that encourages IORPs to increasingly diversify their portfolios, and further invest in higher-risk, higher-return assets, provided that they can appropriately and effectively manage the related risks, through robust risk-management frameworks, including in the case of DC schemes life-cycle investment strategies that adjust risk over time. The OPSG considers that the new prudent person principle and the European Commission's clarification of its application in the context of the fiduciary duty owed by IORPs to their members and beneficiaries is likely to provide pension funds with greater flexibility in the diversification of their investment portfolios. Clarifying at the EU level that exposure to growth assets can be consistent with prudent investment provides important legal and supervisory certainty.

The application of this new principle could improve investment performance returns for IORPs' members and beneficiaries, and contribute to deepening the Savings and Investments Union by

channelling EU citizens' savings into productive investments, while allowing IORPs to continue to act in the best interest of their members and beneficiaries. By explaining that IORPs' investment decisions should be assessed on the basis of the fund' overall risk profile, the proposed text could facilitate increased investments in alternative assets, including private equity and infrastructure. These investments are consistent with the long-term perspectives typical of occupational pension funds.

In this context, it would be appropriate to ensure that the definition of 'regulated markets' is sufficiently broad to reflect market realities, including equivalent third-country markets where appropriate, and to ensure consistent treatment of Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs), in line with supervisory guidance.

While the prudent person principle should apply consistently across different types of IORPs, its practical implementation will naturally reflect the different allocation of risks between defined benefit and defined contribution schemes. In defined benefit schemes, the institution typically bears the responsibility for meeting promised benefits and investment decisions are closely linked to asset–liability management considerations. In defined contribution schemes, by contrast, members generally bear the investment risk, and the application of the prudent person principle therefore focuses more strongly on the appropriate design of investment strategies, risk management and life-cycle approaches that support adequate retirement outcomes for members.

For this reason, maintaining a consistent prudent person principle across IORPs remains appropriate, while supervisory guidance and national safeguards may reflect differences in scheme design and risk allocation. Introducing fundamentally different prudential principles for DB and DC schemes would risk fragmenting the regulatory framework without providing clear supervisory benefits. Member States and NCAs should nevertheless remain able to provide guidance on asset allocations that may be considered prudent in particular circumstances. Such guidance could be particularly helpful for smaller IORPs and would support the effective application of proportionality.

In addition, several Member States currently apply quantitative investment limits at national level, which have very effectively worked until now and which successfully prevented IORPs against taking inadequate risk. Such national limits should remain possible in the future, since they did not hinder IORPs to pursue a sustainable, well diversified, long-term oriented and ALM-based investment strategy in the best interests of their members and beneficiaries.

OPSG advice: The OPSG supports the clarified prudent person approach and the flexibility it provides for diversification, while emphasising that Member States should maintain additional proportionate safeguards to prevent excessive risks, provided that such measures do not unduly restrict diversification.

13. SUSTAINABILITY-RELATED AMENDMENTS

The proposal introduces several sustainability-related amendments to IORP II. These include:

- A modification of Article 19 (Prudent Person Principle) requiring IORPs to take into account the potential long-term impact of investment decisions on sustainability factors, by reference to Article 2(24) of Regulation (EU) 2019/2088 (SFDR);
- Amendments to Article 21 (System of Governance) requiring integration of sustainability risks into remuneration policies;
- Provisions requiring IORPs to collect and consider sustainability preferences of members and beneficiaries;
- Enhanced disclosure and communication obligations relating to sustainability considerations (including amendments linked to Article 41 and related information requirements).

The OPSG recognises that sustainability risks are financially material and that long-term investors such as IORPs are naturally exposed to environmental, social and governance (ESG) factors. Many institutions already integrate sustainability risks into their investment decision-making processes in line with the existing wording of Article 19.

However, the proposed amendments raise important issues of legislative coherence, proportionality and institutional suitability.

13.1 Legislative coherence and interaction with the SFDR Review

The proposal explicitly refers to the definition of "sustainable investments" contained in Article 2(24) of Regulation (EU) 2019/2088 (SFDR). It also refers to "sustainability factors" and "sustainability risks" in a manner that directly links IORP II to the SFDR framework.

However, the SFDR is currently under review. The Commission has publicly indicated a possible simplification of the framework, including:

- A reconsideration or substantial revision of the current definition of "sustainable investments" under Article 2(24) SFDR;
- A move away from certain entity-level disclosure requirements;
- A broader simplification aimed at improving usability and reducing legal complexity.

If IORP II embeds specific SFDR definitions that are subsequently modified or phased out, the Directive risks becoming misaligned shortly after adoption. This would undermine legal certainty and potentially require further legislative amendments.

In particular, the amendment to Article 19, requiring IORPs to consider the long-term impact of their investment decisions on sustainability factors by reference to SFDR terminology, may become outdated if the SFDR definitions are materially revised. Such cross-referencing creates structural dependency between two evolving legislative frameworks.

The OPSG therefore considers that sustainability provisions in IORP II should remain principle-based and avoid overly detailed reliance on definitions currently subject to legislative revision. Moreover, assessments of sustainability may evolve over time as scientific knowledge, objective sustainability criteria and societal expectations develop. and societal expectations develop. Also, the decision, which economic activities are to be seen as sustainable often depends on individual and subjective ethical and moral convictions. That is, why we sometimes find contradicting ESG-ratings from different providers for the same company. Maintaining a flexible, principle-based framework within IORP II would therefore allow the Directive to remain adaptable while avoiding the risk of embedding definitions that may quickly become outdated.

13.2 Sustainability risks and remuneration policies (Article 21)

The proposal amends Article 21 (System of Governance) to require that remuneration policies include information on how sustainability risks are integrated.

While integrating sustainability considerations into governance processes may be appropriate in certain contexts, the OPSG notes several concerns.

First, the SFDR review is expected to reduce or simplify entity-level disclosures, including those related to remuneration. Introducing additional remuneration-related sustainability obligations in IORP II may therefore run counter to the simplification approach pursued at horizontal financial services level.

Second, occupational pension institutions differ structurally from retail financial market participants. In many IORPs:

- remuneration policies are defined within collective bargaining frameworks;
- equal pay principles are embedded in labour law;
- governance structures differ significantly from those of asset management companies;
- incentive structures are not linked to product distribution or sales;

- the staff working for the IORP is paid by a sponsor company and hence subject to the remuneration policy of such sponsor company, which itself usually is not an entity under any insurance or occupational pensions related supervision.

Importing remuneration governance concepts developed for retail financial markets into collective occupational pension institutions risks imposing disproportionate compliance burdens without demonstrable prudential benefit.

The OPSG therefore considers that sustainability-related remuneration provisions should remain proportionate, flexible and consistent with national labour law frameworks.

13.3 Sustainability preferences of members and beneficiaries

The proposal also introduces a requirement for IORPs to collect and consider sustainability preferences of members and beneficiaries.

While enhancing member engagement is a legitimate objective, the OPSG identifies practical and conceptual challenges.

First, sustainability preferences rely on complex legal and technical concepts, including:

- Taxonomy-aligned investments;
- Principal Adverse Impacts (PAIs);
- "Sustainable investments" as defined under SFDR.

Translating these technical definitions into accessible and meaningful survey questions is inherently challenging. Survey-based approaches are subject to behavioural biases, framing effects and inconsistent interpretation.

Second, in many occupational pension schemes, particularly collective schemes, members do not select underlying assets. Investment strategies are determined collectively at institutional level. Members may choose between investment options, but they do not control portfolio composition directly.

In governance models where employee representatives sit on administrative, management or supervisory bodies, sustainability considerations may already be integrated through institutional representation. In such contexts, mandatory individual preference collection may have limited operational impact while generating unnecessary and inadequate administrative burden.

Third, the proportionality dimension must be considered. For smaller IORPs, designing, administering and interpreting sustainability preference surveys may represent a disproportionate cost relative to the practical impact on investment strategy.

The OPSG therefore considers that a flexible approach is preferable, allowing Member States and IORPs to determine how sustainability considerations are integrated in light of their governance structures and scheme design. Sustainability-related provisions in the IORP II Directive should remain principle-based and avoid rigid reliance on definitions that are currently subject to legislative revision. Once the SFDR framework has been finalised, the Commission may consider ensuring appropriate coherence between the two frameworks, while preserving the autonomy and stability of the IORP II framework.

OPSG advice: Sustainability provisions should remain principle-based, proportionate and coherent with the SFDR review, avoiding rigid cross-references to definitions subject to revision and ensuring flexibility in how IORPs reflect sustainability preferences within collective schemes.

14. GOVERNANCE REQUIREMENTS AND INTERNAL ORGANISATION (ARTICLE 21)

14.1 Internal Control System and Compliance Function (Article 21)

The revised Article 21 would require Member States to ensure that IORPs establish and apply written policies on internal control and remuneration. It further provides that IORPs must have in place an effective internal control system including a compliance function.

The OPSG recognises the importance of internal control mechanisms in ensuring sound governance and regulatory compliance. In several Member States, compliance functions are already standard practice, particularly among larger and more complex IORPs.

However, introducing an EU-wide obligation for all IORPs to establish a formal compliance function — irrespective of size, structure or risk profile — may impose disproportionate administrative costs and organisational burdens. For smaller IORPs, in particular, such a requirement may necessitate:

- additional staffing or outsourcing;
- formalisation of processes that are already effectively managed through existing governance arrangements;
- increased reporting and documentation obligations.

In systems where governance structures already provide robust oversight, including through board-level checks and social partner representation, a mandatory compliance function may duplicate existing safeguards rather than materially enhance member protection.

The OPSG therefore considers that Member States should retain discretion in determining whether a standalone compliance function is necessary, taking into account the size, nature, scale and complexity of the institution, in line with Article 5 on proportionality.

14.2 Diversity and Inclusion Policies (Article 21)

The proposal requires IORPs and their nomination committees to adopt policies promoting diversity and inclusion within the management or supervisory body.

The OPSG acknowledges that diversity and inclusion are important elements of sound governance and that many large IORPs already apply such policies as a matter of best practice. The proposal appropriately applies the proportionality principle and exempts institutions with very small governing bodies from quantitative gender-balance targets. Nonetheless, implementing a D&I policy would be challenging where the appointment of members of the administrative, management or supervisory bodies lies with the social partners rather than with the IORP.

However, clarification is required regarding the scope of application. In particular, the meaning of "administrative body" should be clearly defined to ensure alignment with the existing definitions in Article 6 of IORP II, including the concept of "key functions." It must be clear whether the proposed fit-and-proper requirements extend beyond current governance roles or introduce additional layers of oversight. Additionally, it must be clear, that gender-balance targets should not overrule qualification aspects with regard to the candidates for management or supervisory board mandates.

Legal clarity is essential to avoid divergent interpretations across Member States.

OPSG advice: governance requirements under Article 21 should be applied proportionately, with Member States retaining discretion on the need for a standalone compliance function; and key definitions (including "administrative body") should be clarified to ensure legal certainty and consistent application.

14.3 Actuarial function

Some members believe that an actuarial function could be considered on a voluntary basis by certain DC schemes where such a function would add value in understanding the design of the scheme pertaining to contribution levels and investment strategy and the resulting impact on target retirement benefits may not be sufficient to meet members' retirement income benefits. The actuarial function can provide valuable forward-looking analysis in this context, supporting the duty of care and fiduciary responsibilities of IORPs. This extension should be applied proportionately and does not require all DC IORPs to maintain an in-house actuarial function. However, some members would prefer the actuarial function remaining applicable only where IORPs provide cover against biometric risks or guarantees either an investment performance or a given level of benefits. The

different nature between DC and DB IORPs in terms of guarantees and coverage of biometric risks should be reflected in the governance and risk management of the institutions. Even in DC IORPs, risk management identifies the adequacy of benefits (not guaranteed) as building block; the risk management function already provides effective oversight of this risk. While the actuarial function would add limited contribution in terms of effectiveness of the risk management, it would trigger overlaps and additional costs. Nonetheless, assessing the adequacy of expected retirement income — including the interplay with first-pillar benefits and the likely replacement ratio at retirement — requires actuarial projection techniques. The actuarial function could support the risk management function with this forward-looking analysis, supporting understanding of whether their DC scheme is on track to deliver a sufficient standard of living in retirement.

OPSG advice: the OPSG considers that the actuarial function should remain mandatory only for IORPs covering biometric risks or providing guarantees. In DC IORPs, actuarial expertise may nevertheless be used on a voluntary and proportionate basis where it adds value to the forward-looking assessment of expected retirement outcomes, without creating overlaps or unnecessary costs.

15. OWN-RISK ASSESSMENT AND ECONOMIES OF SCALE (ARTICLE 28)

The revised Article 28 requires IORPs, as part of their Own-Risk Assessment (ORA), to consider aspects such as economies of scale and efficiency options.

The OPSG considers that the ORA should remain focused on material financial, actuarial, operational and governance risks. Decisions relating to consolidation, scale and market restructuring are often driven by sponsoring undertakings and broader labour market considerations. They are not always within the unilateral control of the IORP.

Requiring IORPs to assess theoretical upscaling or consolidation options as part of their regular risk assessment risks transforming the ORA into a strategic market analysis exercise rather than a prudential risk tool.

Economies of scale are typically market-driven developments. Supervisory frameworks should not implicitly pressure institutions to restructure absent prudential necessity. Consolidation must remain driven by the long-term interests of members and beneficiaries, not solely by cost considerations, and should remain proportionate and risk-based.

OPSG advice: ORA requirements should remain focused on material prudential risks; assessments of economies of scale and consolidation options should not become a mandatory theoretical exercise absent concrete initiatives and should be applied proportionately.

16. STATEMENT OF INVESTMENT POLICY PRINCIPLES (ARTICLE 30)

The proposed revision of Article 30 significantly expands the requirements for the Statement of Investment Policy Principles (SIPP). IORPs would be required to:

- identify clear investment objectives consistent with each scheme's retirement income goals;
- specify overall performance objectives and monitoring mechanisms;
- indicate under what conditions deviations from asset allocation strategies and performance objectives may be tolerated.

While transparency of investment strategy is important, the OPSG cautions against overly detailed and prescriptive obligations.

First, requiring a separate statement of investment policy for each pension scheme may represent an unnecessary administrative burden. Many IORPs apply similar or closely aligned investment strategies across schemes. In some Member States, such statements must be approved by sponsoring undertakings. Multiplying approval procedures would increase administrative costs without clear added value.

Second, performance returns and tactical market developments cannot be reliably forecasted. Requiring detailed *ex ante* articulation of permissible deviations may encourage mechanistic responses to short-term market volatility.

In particular, the obligation to specify when and to what extent deviations from asset allocation strategies can be tolerated may create incentives for immediate portfolio adjustments during periods of market stress. Such pro-cyclical behaviour could:

- undermine long-term investment strategies;
- reduce exposure to illiquid or alternative assets;
- disrupt capital markets;
- ultimately negatively affect member outcomes.

IORPs should retain sufficient discretion to define and adapt their investment objectives in line with the prudent person principle and long-term retirement income goals.

Where IORPs use performance benchmarks as part of their investment strategy, transparency regarding such benchmarks may support the monitoring of investment outcomes against the institution's stated objectives. In such cases, it may be appropriate for the SIPP to identify the benchmarks used for internal performance assessment. This consideration is particularly relevant

in schemes where members bear investment risk and performance evaluation plays a role in assessing investment outcomes. However, where investment strategies are primarily designed around liability-matching objectives — such as in many defined benefit schemes — market benchmarks may have limited relevance. Any reference to benchmarks in the SIPP should therefore remain conditional on their actual use within the investment strategy and should not constitute a mandatory requirement for all IORPs.

OPSG advice - overall governance impact: taken together, the amendments to Articles 21, 28 and 30 represent a substantial expansion of governance formalisation and documentation requirements. While governance quality is essential, the cumulative impact of:

- mandatory compliance functions,
- expanded remuneration documentation,
- diversity policies,
- ORA extensions,
- detailed investment policy statements,

must be assessed against the proportionality principle and the minimum harmonisation character of the Directive. Regulatory strengthening should enhance resilience without creating administrative complexity that ultimately reduces net returns for members and beneficiaries. The OPSG therefore emphasises that governance requirements must remain proportionate, adaptable to national institutional frameworks and coherent with the long-term social protection function of occupational pension institutions.

17. DEPOSITARY REQUIREMENTS (ARTICLE 33; AND RELATED AMENDMENTS ON SAFEKEEPING AND OVERSIGHT)

The proposal introduces a requirement that IORPs, where members and beneficiaries fully bear the investment risk, appoint only one depositary per pension scheme for the safekeeping of assets and oversight duties. It further provides that the IORP, or the authorised entity operating it, must not act as depositary.

The OPSG recognises the importance of safeguarding assets and preventing conflicts of interest. However, it questions whether a mandatory single-depositary model is necessary or proportionate in the occupational pension context.

The proposed approach appears inspired by the UCITS framework, which applies to retail investment products characterised by daily liquidity, frequent NAV calculations and short-term flows. Occupational pension institutions operate under fundamentally different conditions, with long-term liabilities, stable contribution patterns and limited redemption pressures. Transposing depositary requirements developed for retail funds into the IORP framework may therefore not be appropriate.

In many Member States, existing custodial arrangements already ensure asset segregation and oversight consistent with Articles 19 and 35 of IORP II. There is limited evidence that current models fail to provide adequate protection. Therefore, in accordance with recital 31, Article 33 should expressly state that Member States should be able to maintain existing safe-keeping arrangements that provide a level of protection comparable with depositaries, instead of applying the proposed mandatory arrangements. Imposing a single-depositary requirement risks disrupting established national frameworks without demonstrable added value.

Moreover, large and diversified IORPs frequently rely on multiple custodians to benefit from risk diversification and specialised expertise across asset classes. A rigid single-depositary rule may increase operational concentration risk, require renegotiation of existing contractual arrangements and generate significant implementation costs ultimately borne by members and beneficiaries.

The OPSG therefore considers that IORPs should retain the flexibility to appoint one or more depositaries, depending on the nature, scale and complexity of their investment activities. Safeguards against conflicts of interest and asset misappropriation can be ensured within a proportionate and principle-based framework consistent with the minimum harmonisation character of the Directive.

OPSG advice: depositary requirements should remain proportionate and avoid rigid single-depositary constraints; IORPs should retain flexibility to use one or more depositaries where justified by diversification and operational needs, without compromising asset protection and conflict-of-interest safeguards. It should be possible for the Member States to maintain existing safe-keeping measures providing a level of protection comparable with depositaries.

18. ARTICLE 37A – PENSION TRACKING SYSTEMS (PTS)

The OPSG supports initiatives aimed at encouraging the establishment and further development of national Pension Tracking Systems (PTS). Well-functioning PTSs can provide individuals with tools to support informed retirement planning and enhance financial literacy. The OPSG also recognises the importance of facilitating connectivity between national PTSs and the European Tracking Service on Pensions (ETS), and the value of legal clarity for cross-border data exchange between national systems.

The OPSG is broadly aligned on several key points. Members agree that the European Union should not legally require Member States to establish PTSs where they do not yet exist. Members also agree that Article 37a should not introduce EU-level harmonisation of data formats, transmission structures or technical modalities for the sharing of pension data from providers to national PTSs. In this respect, the design, governance and technical architecture of PTSs should reflect the characteristics of national pension systems and remain primarily within national competence.

A point of discussion concerns whether, once a national PTS has already been established at Member State level, the Directive should require IORPs to provide data to that system.

A broad majority of members considers that Article 37a should not introduce such an EU-level legal obligation on IORPs. In their view, the establishment and extension of PTS coverage often require a gradual and pragmatic approach. Even where a national PTS exists, its operational maturity, technical readiness, governance arrangements, data quality and degree of coverage may still be evolving. For that reason, Member States should retain flexibility in deciding when and how IORPs are integrated into national PTSs, including implementation timelines and the definition of concepts such as "up-to-date" information, in line with national reporting cycles and legal frameworks. The majority also underlines that improvements in transparency and pension tracking tools should not result in disproportionate administrative or operational burdens for IORPs. A rigid EU-level obligation could prove counterproductive in practice, including by discouraging some Member States without an existing PTS from establishing one if this is perceived as automatically triggering immediate and complex obligations for IORPs from day one.

On the contrary, some members consider that, where a national PTS is already in place, a requirement for IORPs to provide data to that system could be justified, provided that sufficient flexibility, proportionality and adequate transition periods are ensured. In their view, such an obligation would not concern the establishment of PTS as such, which should remain optional for Member States, but would help avoid undue delays in making existing systems more complete and effective for members and beneficiaries.

OPSG advice: the OPSG supports the development of national PTSs and their interconnection through the ETS. Members agree that PTS should remain optional as systems, that the Union should not require Member States to establish them, and that Article 37a should not harmonise data formats, technical structures or modalities for pension data sharing. A broad majority of members considers that Article 37a should not impose an EU-level obligation on IORPs to provide data to national PTSs, as Member States should retain flexibility regarding implementation timelines, definitions and technical architecture. Some members consider that, where a national PTS is already established, a proportionate obligation for IORPs to provide data could be envisaged, provided that adequate flexibility and transition periods are ensured.

19. PENSION BENEFIT STATEMENT AND COMMUNICATION REQUIREMENTS (ARTICLES 38–40)

The proposal introduces significant amendments to the communication framework applicable to IORPs during both the accumulation and decumulation phases. In particular, it envisages a Union-standardised format for the Pension Benefit Statement (PBS) under Article 38, to be further specified through Regulatory Technical Standards (RTS) developed by EIOPA. It also expands the scope and frequency of information to be provided to members and beneficiaries, including detailed pre-retirement and pay-out phase disclosures under Article 42.

The OPSG recognises the importance of transparency and high-quality communication in fostering trust and informed decision-making. However, the proposed approach raises substantial concerns regarding feasibility, proportionality and institutional coherence.

19.1 Structural Diversity of Pension Schemes

Occupational pension systems across the Union diverge significantly on elements that are central to the design of communication tools. These include:

- the type of pension promise: defined benefit versus defined contribution, guaranteed versus non-guaranteed, as well as numerous hybrid configurations;
- the presence of additional insurance components such as disability or survivor pensions, which are often integral to occupational schemes but are shaped by national labour and social law;
- tax treatment, which can materially affect the net value of pension accruals and may interact with third-pillar arrangements;
- the type of decumulation (lump sum, fixed or variable annuities, drawdown arrangements);
- the existence of solidarity or collective risk-sharing components;
- the role of social partners in many Member States.

Given this diversity, it is highly questionable whether a single Union-standardised PBS template can adequately reflect all relevant scheme characteristics without oversimplification.

A rigid format risks producing information that is formally harmonised but substantively less relevant and having a lower quality to members and beneficiaries. Rather than enhancing clarity, standardisation may reduce the communicative value of the PBS by omitting nationally significant features or by forcing complex scheme characteristics into an ill-suited template. Several Member States, including Belgium, Germany, Italy, the Netherlands, France, Spain, and Sweden, have already

developed well-established PBS frameworks based on extensive consumer research and/or national consultation.

Under the minimum harmonisation architecture of IORP II, Member States should retain flexibility to tailor communication formats to their system characteristics and match consumer expectations, particularly where high levels of transparency are already achieved.

19.2 EU-Standardised PBS and EIOPA RTS (Article 38)

Article 38 empowers EIOPA to develop RTS specifying the content and presentation of the PBS. While supervisory convergence may enhance comparability, the OPSG considers that detailed prescription at Union level risks excessive rigidity.

In several Member States, supervisory authorities have already standardised the PBS and related information documents. For example, national authorities have developed synthetic cost indicators, public return comparisons and detailed cost reporting frameworks that are well understood by members and adapted to domestic tax and scheme structures.

Imposing an additional Union template would require costly system redesign and parallel compliance adjustments without evidence of additional protection.

Furthermore, the proposal requires that the PBS be presented using a layered approach and follow principles of good design. While layered disclosure can be an effective communication technique, the decision on how to structure layered information should remain with the IORP, taking into account the communication channel used (digital portal, email, physical letter, pension tracking system). A prescriptive layered approach appears difficult to reconcile with the requirement that the PBS be delivered as a single standardised document.

19.3 Digital Delivery and Member Preferences

The proposal requires IORPs to make the PBS available free of charge, either on paper or electronically, in accordance with members' preferences.

The OPSG supports the objective of accessibility. However, in light of digitalisation and sustainability objectives, it would be appropriate to allow electronic communication as the default option, particularly where members have previously received the PBS electronically and have not expressly requested a paper version.

Requiring IORPs to actively collect and record individual format preferences may generate unnecessary administrative costs. A system of tacit consent for electronic delivery, subject to the possibility of requesting paper copies, would strike a more proportionate balance.

19.4 Level of Detail and Risk of Over-Disclosure

The proposal significantly expands the content requirements of the PBS, including:

- detailed disclosure of all costs and charges;
- past performance over specified time horizons;
- estimation of the impact of costs on accumulated capital;
- inclusion of favourable scenarios in addition to baseline projections.

While transparency is essential, excessive detail may undermine intelligibility. Experience across Member States indicates that average pension scheme participants benefit most from clear, high-level information rather than extensive technical breakdowns.

Allocating costs at individual level may also be technically complex or simply not doable in schemes where costs are borne collectively. Requiring granular cost allocation may increase operational burdens without improving member understanding, and risks running counter to the broader European objectives related to efficiency, affordability, and delivering good value for money.

Disclosing costs in collective pension arrangements is inherently complex, particularly where significant risk-sharing exists. Asset management costs are incurred and deducted at the collective level before net returns are allocated to individual pension capitals according to predefined rules. Presenting such costs at the individual level as a percentage of paid premiums would therefore not accurately reflect economic reality and would require artificial allocation assumptions. Additionally, such hypothetical and granular cost breakdowns offer no additional value to beneficiaries (and hence should be avoided) in cases where they cannot choose "their" IORP (i.e. in cases of mandatory membership according to existing employment-contracts) and/or where they have no choices regarding investment options.

In addition, cost disclosure without sufficient context—such as long-term investment horizons, collective risk-sharing and investment strategy—may lead participants to perceive justified costs as excessive.

In this context, transparency frameworks should focus on assessing the overall value for money delivered by the pension arrangement rather than presenting costs in isolation. A narrow emphasis on cost comparison risks discouraging long-term investment strategies and reducing allocations to asset classes that may involve higher upfront costs but potentially deliver higher net long-term returns, such as infrastructure or private equity. Disclosure frameworks should therefore reflect net long-term outcomes and risk-adjusted performance, consistent with the long-term social protection function of occupational pension institutions. While supervisory convergence may contribute to greater consistency, detailed technical standardisation at Union level would risk oversimplification.

EIOPA may facilitate convergence through guidance and the exchange of best practices, without imposing uniform methodologies. Where widely accepted standards for performance measurement already exist in the market, these may provide an appropriate reference for the presentation of performance information.

Moreover, the inclusion of favourable scenarios may risk creating unrealistic expectations or encouraging performance-based comparisons detached from long-term retirement income objectives.

The OPSG therefore emphasises that communication must prioritise clarity and usability over comprehensiveness.

OPSG advice - overall assessment – communication: taken together, the proposed communication requirements represent a significant shift toward prescriptive and detailed harmonisation. The OPSG considers that:

- communication rules should remain principle-based;
- national flexibility should be preserved;
- EU-standardisation risks reducing relevance and clarity; therefore, no level-2 should be introduced;
- administrative costs must be carefully assessed;
- digital default delivery should be facilitated.

20. BENCHMARKING AND UNDERPERFORMANCE (ARTICLE 41A)

The proposal introduces a framework requiring IORPs to inform members and beneficiaries in the event of underperformance. Where underperformance persists for more than three consecutive years, IORPs would be required to explain the reasons, justify costs and charges as proportionate, and take actions to improve results. Performance would be assessed against benchmarks established by national competent authorities, following EIOPA guidelines.

The OPSG considers that this represents a significant shift toward performance-based supervision that requires careful calibration. Designing benchmarks that accurately reflect the diversity of IORPs - different products, investment strategies, and management models would be extremely complex, and would depend on a customer's risk profile.

In general, the OPSG considers that performance disclosure should be the norm for all outcomes, not only underperformance. Solely highlighting negative deviations offers only a partial view of long-term performance and can mislead investors.

Many IORPs manage liabilities, provide guarantees, operate with solidarity components and deliver retirement income through annuitisation or long-term decumulation. Performance must therefore be assessed in light of long-term retirement objectives and liability structures, not solely against market-return comparisons. This would combat the risk of benchmarks becoming de facto performance targets, influencing management decisions in ways that may not align with members' best interests.

The proposal does not clearly define what constitutes a benchmark. Benchmarking against market indices, peer groups or actuarial targets would lead to materially different outcomes, each with methodological challenges. IORPs differ in liability duration, sponsor support, membership risk profiles, structure and nature of liabilities, sustainability preferences, demographic structure, and scheme design, structure and nature of liabilities making uniform benchmarks inherently difficult to construct. Hence, deviations from a uniform benchmark do not necessarily indicate weak performance or poor decision-making. In addition, poorly calibrated benchmarks risk encouraging alignment with average market behaviour rather than strategy-consistent investment leading to wrong decisions.

The three-year reference period is too short in the context of pension investment horizons that span decades. Such a trigger may disincentivise allocations to asset classes whose performance materialises over longer horizons, including infrastructure or private equity, thereby undermining long-term diversification and potentially conflicting with broader EU objectives to strengthen long-term investment.

Furthermore, costs and performance are not readily comparable across IORPs. Cost structures often depend on the level of sponsor support and institutional arrangements. Linking cost justification directly to benchmarked performance risks conflating prudential supervision with price comparability.

The OPSG therefore considers that, if benchmarking is maintained, they should be purely used for informational purposes. IORPs should be allowed to determine their own strategy-consistent benchmarks aligned with their investment objectives and liability profile, subject to supervisory oversight. Supervisory action should be triggered by material deficiencies in governance, risk management or solvency — not by short-term deviations from externally defined performance averages. Furthermore, the assessment horizon should be extended, and the trigger for underperformance alerts calibrated to reflect persistent, significant underperformance over a longer-term period, rather than short-term fluctuations that may generate unnecessary uncertainty.

Any communication to members should be framed in appropriate terms, emphasizing the long-term nature of pension investing.

Occupational pension institutions provide long-term social protection mechanisms and are not short-term investment vehicles. A benchmarking framework that indirectly incentivises herding behaviour or pro-cyclical portfolio adjustments would weaken, rather than strengthen, the resilience of the sector. Regulatory intervention must preserve the capacity of IORPs to pursue diversified, long-horizon investment strategies that ultimately serve members' retirement adequacy and support broader European capital market objectives.

OPSG advice: if benchmarking is retained, benchmarks should be strategy-consistent, proportionate, and used for informational purposes only; the framework should avoid short-termism and unintended incentives (herding and pro-cyclicality), and supervisory intervention should focus on material governance/risk deficiencies rather than mechanistic performance comparisons. In case of DB schemes, the return which is necessary to finance the guaranteed benefit level is the only relevant "benchmark".

21. PRE-RETIREMENT AND PAY-OUT PHASE INFORMATION (ARTICLE 42)

The proposed amendments to Article 42 require IORPs to provide detailed information before retirement age (or upon request) on pay-out options, associated costs and applicable tax treatment. Annual information during both pre-retirement and pay-out phases is also envisaged.

While preparing members for decumulation is important, the proposed level of detail may impose disproportionate administrative effort. Assessing the suitability of different pay-out options depends on highly individual circumstances (household composition, tax situation, health status, other income sources) that the IORP may not know.

At the same time, providing members with forward-looking information on expected retirement outcomes play an important role in supporting retirement planning. In many Member States, such projections are already provided through national pension communication tools, pension tracking systems or periodic benefit statements. The Directive should therefore ensure that members receive meaningful forward-looking information while preserving flexibility for Member States to determine the most appropriate format and frequency of such projections.

Providing highly detailed explanations risks confusing members while increasing costs for the collective scheme. Moreover, simply increasing the volume of information does not always translate into greater clarity for savers. What matters most is ensuring that essential, relevant details are presented clearly and accessibly.

Similarly, the obligation to provide annual information during the retirement phase, even where no material changes have occurred, appears overly prescriptive and unlikely to deliver additional value.

A principle-based approach would better reflect the diversity of national systems. Member States should retain flexibility to determine the appropriate frequency and depth of communication in pre-retirement and pay-out phases.

Effective communication should not be achieved through uniformity. It requires adaptation to scheme design, national legal context and member characteristics. The Directive should therefore preserve flexibility consistent with its minimum harmonisation character, in line with the EU's simplification agenda and the broader goals of the Savings and Investment Union.

OPSG advice: Information requirements under Article 42 should remain principle-based and proportionate, allowing Member States flexibility in determining the appropriate format, timing and level of detail of pre-retirement and pay-out phase communication. Members should receive meaningful forward-looking information to support retirement planning, while avoiding overly prescriptive EU-level communication schedules. Annual pay-out phase disclosures should not be mandatory absent material changes.

22. EXPLICIT DUTY OF CARE (ARTICLES 44A AND 44B)

The proposed Article 44a introduces an explicit duty of care requiring IORPs to act honestly, fairly and professionally, and in the best interests of members and beneficiaries. It further requires that returns be adequate, risk-adjusted and cost-effective over the long term.

The OPSG recognises the importance of safeguarding members' interests. At the same time, it notes that the core elements of such a duty are already embedded in the existing IORP II framework. The prudent person principle (Article 19), governance requirements (Article 21), information obligations (Articles 38–42) and risk-management provisions collectively establish a comprehensive obligation for IORPs to act in the best interests of members and beneficiaries.

Introducing an additional overarching "catch-all" provision risks creating duplication rather than substantive enhancement of protection.

Moreover, the proposed wording blurs the distinction between prudential supervision and conduct supervision. IORPs are prudentially supervised institutions whose primary regulatory focus is solvency, governance and long-term risk management. A broadly formulated duty of care — particularly one referring to adequacy of returns — may invite supervisory intervention into investment outcomes rather than risk processes. This could result in overlapping supervisory scrutiny, contradicting supervisory interests, legal uncertainty for governing bodies and increased reporting obligations. This could also lead pension funds to become overly cautious to avoid

allegations of breach, reducing risk appetite and discouraging investments that are aligned with members' long-term interests.

There is also a conceptual concern. Occupational pension institutions are collective retirement arrangements, often established within employment-based frameworks and collective agreements. In many cases, participation is mandatory and members do not individually select products or investment strategies. The regulatory logic applicable to retail investment products, where individual choice and product comparison are central, does not work for collective occupational schemes.

The OPSG therefore considers that the existing IORP II framework already ensures that IORPs act in the best interests of their members and beneficiaries. Any additional duty of care provision should be carefully calibrated to avoid duplication, preserve the distinction between prudential and conduct supervision, and respect the collective and long-term nature of occupational pension institutions.

The detailed provisions set out in art. 44b(2) would risk triggering inconsistencies and overlaps with national frameworks and should be avoided.

Concerning Article 44b more broadly, the OPSG notes the introduction of a new conduct-of-business requirement concerning the appropriate structure and implementation of pension schemes. While applying this requirement at the scheme level may be conceptually appropriate, the obligations to "regularly review" appropriateness and to respond to "material changes" require further clarification. Without clearer guidance, the provision risks creating interpretative uncertainty and overlap with existing rules and may interfere with the long-term design and governance of occupational pension schemes.

The OPSG also notes that the introduction of an explicit duty of care may have implications for the legal responsibilities and potential liability exposure of key governance functions within IORPs, including actuaries and risk managers who are responsible for implementing risk-management and funding assessments in practice. The design and calibration of such provisions should therefore take into account their practical implications for these professional functions, in order to avoid creating legal uncertainty or unintended disincentives in the exercise of their responsibilities.

OPSG advice: the duty of care provision should be calibrated to avoid duplication with existing IORP II obligations and to preserve clear boundaries between prudential and conduct supervision, reflecting the collective nature of occupational pension schemes. The conduct-of-business requirement should be clearly scoped, with specific guidance on the meaning of "regular reviews" and "material changes." The implementation of any duty of care provisions should also take into account their potential implications for the legal responsibilities of key governance functions, including actuaries and risk managers.

23. SUPERVISORY DIALOGUE (ARTICLE 49A) AND SUPERVISORY POWERS / NCA PUBLICATION (ARTICLE 50)

The proposal strengthens supervisory powers and introduces, under Article 49a, a mandatory regular supervisory dialogue to be conducted at least every three years between the NCA and each IORP. The dialogue would address vulnerabilities, inefficiencies, structural challenges, and the long-term adequacy, efficiency and sustainability of the IORP.

The OPSG supports structured supervisory engagement and recognises the value of forward-looking dialogue. However, making such dialogue mandatory for all IORPs, irrespective of their risk profile, raises concerns in terms of proportionality and supervisory resource allocation.

The proposed scope of the dialogue extends beyond traditional prudential supervision — which focuses on solvency, governance and risk management — and includes broader considerations such as structural challenges and long-term adequacy. These issues are often closely linked to national labour law, social policy frameworks and sponsor decisions, rather than to prudential risk management alone. Expanding supervisory dialogue into these areas risks blurring the boundary between prudential oversight and policy assessment.

Moreover, imposing a uniform three-year cycle for all IORPs, irrespective of their risk profile, may reduce supervisory flexibility. The frequency and depth of supervisory dialogue should instead be determined by risk-based supervisory assessment, allowing NCAs to intensify engagement where vulnerabilities are identified and to apply lighter supervisory interaction where risks are limited. NCAs should retain discretion to allocate resources according to risk-based priorities. Imposing uniform dialogue requirements could divert attention from higher-risk institutions, particularly if supervisory budgets and staffing levels remain unchanged. Any expansion of supervisory obligations should therefore be accompanied by a careful assessment of cost implications.

Article 50 further enhances supervisory powers, including direct oversight of outsourced functions and activities. While effective supervision of outsourcing arrangements is essential, it should remain clear that ultimate responsibility lies with the IORP. Supervisory intervention should be proportionate and avoid creating overlapping accountability structures between the institution and its service providers. Article 50 pushes for further supervisory harmonisation mandating second level regulation on oversight practices. The need to enhance supervisory convergence should be framed within the heterogeneity of IORPs; procedures, formats and templates for supervisory reporting should be set out at national level, reflecting the local supervisory practices as well as national features of IORPs.

Finally, the proposal requires NCAs to publish detailed and comparable information on costs, past performance and risk profiles for all pension schemes operated by IORPs. The OPSG questions whether such disclosures would deliver meaningful added value to members and beneficiaries,

particularly in collective schemes where individuals do not typically make active investment choices or cannot choose their IORP. The level of detail envisaged may also entail significant administrative and reporting costs. Where publication obligations are introduced, their frequency and scope should remain proportionate and adaptable, rather than requiring systematic annual disclosure irrespective of the relevance of the information."

Overall, the OPSG considers that supervisory strengthening must remain consistent with the minimum harmonisation character of the Directive and the principle of proportionality. Enhancing supervision should not translate into systematic expansion of regulatory scope without clear evidence of prudential necessity and careful assessment of cumulative cost impacts.

OPSG advice: Supervisory dialogue under Article 49a should remain risk-based and proportionate, allowing NCAs to prioritise higher-risk institutions; Article 50 measures on outsourcing and publication should preserve the IORP's accountability, avoid duplication and be supported by a robust assessment of administrative and supervisory cost impacts.

ADDENDUM - ADVICE OF CONSUMER REPRESENTATIVES

Occupational pension schemes hold significant potential both to enhance retirement outcomes for European citizens and to contribute to deeper and more integrated capital markets.

From a consumer perspective, the success of this reform will ultimately depend on whether it **strengthens trust, improves transparency, and delivers better long-term, real outcomes for members and beneficiaries**.

The position of consumer representatives is highlighting areas where we see **opportunities to reinforce the proposal in the interest of pension savers**.

1. Harmonisation, standardisation and Level 2 measures

From a consumer perspective:

- Greater **harmonisation and standardisation**, including a mandatory Pension Benefit Statement (PBS) template, are **key enablers of comparability and transparency (see point 6 below)**.
    - **What should be standardised:** accumulated savings, contributions, costs (in both absolute and relative terms), real net returns, the standardised presentation of estimated retirement benefits
        - **Important:** The concept of "expected retirement benefits" is already included in the IORP II Directive. However, the methodologies used to derive these figures and the way they are presented are not harmonised and, in practice, range from relatively stable estimates in defined benefit schemes to highly assumption-driven projections in defined contribution schemes.
        - This lack of methodological consistency raises important questions about the reliability and comparability of forward-looking information, as also illustrated by the experience with performance scenarios under the PRIIPs Regulation.
        - While forward-looking information is important for retirement planning, misleading projections should be avoided. Therefore, any inclusion of such information in a standardised PBS should be conditional on a robust, transparent and harmonised methodology. In particular, such figures should be clearly presented as estimates, rather than precise outcomes,

expressed as ranges rather than point estimates, accompanied by clear disclosure of underlying assumptions, and appropriately distinguish between defined benefit and defined contribution schemes, in order to avoid creating a false sense of certainty.

- This should be implemented through **a layered approach**, whereby core, factual and fully comparable information (such as accumulated savings, contributions, and costs) is presented prominently, while forward-looking estimates are provided in a separate, clearly identifiable layer with appropriate explanations and warnings, allowing consumers to distinguish between observed data and assumption-based projections.

  - **What can remain flexible:** additional scheme-specific explanations, DB-specific elements (guarantees, accrual rates), national features

- Fragmentation across but also within Member States currently makes it difficult for savers to:
  - understand their pension products,
  - compare outcomes,
  - assess value for money.

We therefore **support proportionate EU-level standardisation**, particularly where it enhances usability and comparability of information for members and beneficiaries. Without standardised disclosures, comparability remains theoretical, benchmarking remains weak, and savers cannot effectively assess value for money. The diversity of pension systems is not an argument against standardisation - it is precisely the reason why a common disclosure framework is needed.

For consumers, "same business, same rules" is not only a level playing field for providers, but a prerequisite for informed decision-making.

2. Benchmarking and value-for-money supervision

- Limiting benchmarking to a purely "informational" role risks **undermining accountability**.
- Evidence from publicly available research consistently shows that many pension products in Europe have delivered **low or even negative real returns over time**.

In this context, we strongly support:

- The introduction of **value-for-money (VfM) frameworks** that include both **costs and performance**,
- Benchmarking that compares IORPs' real net performance to that of underlying capital markets
- **Supervisory follow-up mechanisms** where persistent underperformance is identified and addressed.

Benchmarking should not be punitive, but it must be meaningful and actionable: without accountability and supervisory follow-up, underperformance risks becoming structural.

3. Stress testing and prudential consistency

We recognise the importance of proportionality and national specificities in stress testing. At the same time:

- A purely national approach risks **inconsistent levels of protection across Member States**.
- Pension savers should benefit from **equivalent safeguards regardless of jurisdiction**.

We therefore support:

- A **coordinated EU framework for stress testing methodologies**,
- While allowing national calibration to reflect specific scheme characteristics.

Consistency in risk management is essential to ensuring equal protection of pension savers across the Union.

4. Duty of care and conduct requirements

We strongly support the introduction of an explicit **duty of care** (Art. 44a), as proposed by the Commission. We emphasise that:

- The duty of care is a **cornerstone of investor protection**,
- It provides a **clear legal standard** against which conduct can be assessed,
- It enables both supervisors and stakeholders to **hold pension managers accountable**.

We do not see it as overlapping with prudential supervision but as further reinforcing prudential supervision by giving it a stronger legal basis: With the ongoing shift to DB occupational pensions, prudential supervision protects as much the interest of participants as it protects financial stability.

Any calibration of this duty should aim to:

- **Clarify and strengthen**, rather than limit, its application.

A robust duty of care is essential to align pension management with the long-term interests of members and beneficiaries.

5. Proportionality and cost sensitivity

We agree that proportionality is an important principle. However, from a consumer perspective excessive reliance on proportionality and cost considerations may lead to:

  - **reduced disclosure**,
  - **weaker supervision**,
  - **uneven levels of protection**, particularly in smaller schemes.

It is important to recognise that:

- Risks to consumers exist **regardless of scheme size**,
- Lower administrative costs should not come at the expense of **transparency or safeguards**.

We therefore support a **balanced approach**, where:

- Proportionality is applied,
- But **minimum standards of disclosure, governance and supervision are preserved across all schemes**.

6. Communication rules and disclosure

Consumers benefit significantly from **standardised, comparable, and user-friendly information**. We therefore support:

- The development of a **harmonised, standardised PBS at EU level**,
- Designed with a strong focus on **usability, clarity, and comparability**,
- Complemented by digital tools such as pension tracking systems.

7. Supervisory powers and data requirements

Effective supervision requires **adequate data, tools, and powers** and without robust supervision, even well-designed rules risk becoming ineffective.

We therefore support the Commission's efforts to:

- Strengthen supervisory capabilities,
- Ensure **risk-based, proportionate, but effective oversight**,
- Enable supervisors to monitor **costs, performance, and value for money**.

Conclusion

Consumer representatives broadly support the direction of the IORP II review and the Commission's ambition to modernise the framework.

At the same time, we emphasise that:

- **Trust, transparency, and accountability** must remain at the core of the reform,
- Simplification should focus on **reducing inefficiencies**, not weakening protections,
- The ultimate **benchmark of success** should be **improved real retirement outcomes for European citizens**.

A well-functioning occupational pension system is not only efficient for providers - it must be demonstrably fair, transparent, and effective for the individuals whose savings it manages.

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