June 2011

Annual Report 2010

Contents

Introductory words

The Green Paper: "Towards adequate, sustainable and safe European pension systems" commanded the major work streams of EFRP in 2010. Not only did it absorb a large amount of our resources, it also helped us to re-focus, if ever necessary, our opinions on the variety of aspects touched upon in the Green Paper. Looking back at the consultation process, we can be satisfied. EFRP has marked the European debate on pensions and showed its capacity to pool expertise from different Member States to come up with constructive ideas to build adequate, sustainable, secure and affordable pension systems.

We are happy that the consultation has shown that there exists universal support for the holistic approach set forward in the Green Paper. Including the interlinkages between the economic, social and financial policy issues of pensions is indeed important to shape an environment across Europe that foster the development of workplace pensions. This is the key priority. Today 60 % of the European citizens do not have access to a work-related pension.

The Green Paper process also illustrated that there is widespread support for the development of a common European terminology to describe pension systems. This is a longstanding call of the EFRP. We are hopeful that as the European Parliament has also voiced this call, the Commission will pick up a task that will by itself facilitate the pension debate at EU level.

Apart from the Green Paper process, the EFRP participated in the debate on supervisory reform in Europe. We are satisfied that the legislator has established two separate stakeholders groups in the European Insurance and Occupational Pensions Authority (EIOPA), one for insurance and reinsurance and one for occupational pensions. In our opinion, the decision reflects that insurance and pensions are two separate policy areas. European decision makers have acknowledged that the supervisory practices and regimes for insurance and pensions cannot be the same.

In 2010 institutional investors faced the consequences of the sovereign debt crisis, which illustrated that further structural reforms such as pension reform are essential in Europe. We also learnt that government bonds can no longer be considered risk-free. Therefore, pre-crisis supervisory models – such as Solvency

II – need to be rethought. The financial crisis has confirmed once again that diversification remains the key investment principle for long-term investors and that current capital rules for pension institutions are not inadequate nor in need of urgent reform. Additional capital buffers are likely to prevent pension institutions from financing future growth, innovation and infrastructure. This would be detrimental for Europe if it wants to recover from the recent financial and economic crisis.

The sovereign debt crisis has also led some governments to reconsider and scale back their pension reform of the last decade in order to reduce their budget deficit. This is highly unfortunate. Such short-sighted measures should be strongly dismissed at European level, as they expose European citizens in those Member States to a higher risk of old-age poverty risk.

2010 also marked the successful launch of EFRP's first survey on DC pensions. The DC survey – how can it be otherwise – illustrates the huge diversity of the European DC pension schemes and marks EFRP's determination to include in its work all kinds of workplace pension provision: from final salary DB to collective DC to pure individual DC. Since more and more citizens are enrolling in a DC type of pension scheme, we expect policy attention to shift from capital rules for pension institutions running DB schemes to governance, information and disclosure practices of pension institutions administering DC schemes. We would recommend the Commission to acknowledge this shift when it starts working on the announced review of the IORP Directive.

On a final note, and on behalf of all the EFRP Members and Supporters we would like to thank Mr. Angel MARTINEZ-ALDAMA for chairing the EFRP for the last 3 years (November 2007 – 2010). During his term, Mr. Angel MARTINEZ-ALDAMA has put DC pension provision on the agenda of the EFRP and has brought the private pension sector in the CEE region closer to the EFRP. We are happy that the Board of Directors will continue to benefit from his expertise and experience.

Patrick BURKE	Chris VERHAEGEN
Chairman	Secretary General

1

Looking ahead
to 2011

Commissioner Michel BARNIER meets an EFRP delegation in Brussels on 20 April 2011 to discuss the upcoming review of the IORP Directive.

Most of our attention and resources will go to the **Call for Advice to EIOPA** and the announced **White Paper on European pension systems**. We hope to see that many of the recommendations set out in our response to the Green Paper have been taken on board. Yet, the White Paper should continue to fuel the European debate on pension systems started by the Green Paper. This debate has hardly begun. It deserves attention, and full scale information within an open and transparent process. If these process requirements are met, one can hope for good quality policy decisions.

The EFRP will carefully examine the **Call for Advice to EIOPA** on the revision of the IORP Directive. Our task will be to avoid rushed decisions on the prudential rules of IORPs. Instead, we would favour an open debate on how the Directive can be adjusted to today's challenges in workplace pension provision. A reviewed IORP Directive should remain principle-based in order to accommodate the existing national diversity in work-related pension provision. In this respect, we are happy that the European Parliament has asked the Commission to conduct proper and full impact studies before tabling any proposal in the area of occupational pension provision.

We will also closely follow the ongoing discussions on the proposal for a Regulation on **Derivatives**. Mandatory participation in a central clearing counterparty (CCP) will unnecessarily increase costs of the pension delivery. Therefore, EFRP is advocating that pension institutions have the option to participate or not in a central clearing counterparty.

Most relevant will be EFRP's work in **EIOPA and its two stakeholder groups**. We are happy that our Federation is represented in both the Occupational Pension Stakeholders Group and in the Insurance and Reinsurance Stakeholders Group where pension funds represent the buy-side of insurance products.

To follow up our DC survey of 2010, we will present a study setting out how Member States have organised the **payout phase.**

2

Green Paper on the future of pensions

Commissioner László ANDOR meets an EFRP delegation in Brussels on 1 July 2010 to discuss the Green Paper on pensions.

Following the Call of President BARROSO in his political guidelines[1], the European Commission presented on 7 July 2010 its Green Paper "Towards adequate, sustainable and safe European pension systems"[2]. With the Green Paper, the Commission kicked off a European debate about the key challenges facing pension systems and how the EU can support Member States to deliver adequate and sustainable pensions. With the establishment of a Commissioners' Working Group on pensions, the President has put pensions at the top of the EU political agenda.

2.1 Main issues

The Green Paper sought input from stakeholders on three major challenges for European pension systems: i.e. ageing, pension reforms, and the impact of the financial and economic crisis. Core policy questions addressed in the consultation included:

- how to achieve higher effective retirement ages in Europe;
- how to improve the cross-border activities of IORPs;
- how to secure pension assets for future pensions;
- how to improve pension mobility; and,
- what disclosure and information requirements for pension products could look like;

The EFRP welcomed the broad range of policy questions raised in the Green Paper, yet it would have appreciated if the Commission had paid more attention to the sustainability issue of the public pay-as-you-go pension systems, especially in a post crisis period. The (potential) impact of the public debt crisis on State pension systems is largely ignored in the Green Paper. It was also regrettable that the Green Paper did not include an assessment of the contribution of funded pensions and their vehicles to the wider economy and society. Pension institutions are financing the European economy. They provide non-banking capital to European companies to grow, to innovate and to create jobs. Also the reformed pension systems of the CEE region could have been better addressed in the Green Paper. The Green Paper was in fact an opportunity to explain governments in the CEE that:

- a consistent flow of contributions is essential to accrue an adequate level of pension benefits, or

1 BARROSO, Political Guidelines for the next Commission, September 2009

2 COM(2010) 365/3

- pension institutions make an important contribution to the development of financial infrastructure as well as to macroeconomic stability.

Yet, despite these shortcomings, the EFRP welcomed such a comprehensive consultation on European pension systems and its challenges.

COMMISSIONERS' GROUP ON THE PENSIONS

In May 2010, President BARROSO established a Commissioner's Group on pensions. The Group is set up until Summer 2012.

Members of the Group are:

- Mr. László ANDOR, Commissioner for Employment, Social Affairs and Inclusion
- Mr. Olli REHN, Commissioner for Economic and Monetary Affairs
- Mr. Michel BARNIER, Commissioner for Internal Market & Services
- Ms. Viviane REDING, Vice-President, Commissioner for Justice, Fundamental Rights and Citizenship
- Mr. Antonio TAJANI, Vice-President, Commissioner for Industry and Entrepreneurship

"The purpose of this Commissioner's Group is to develop, outline and communicate an EU approach for adequate, sustainable and safe European pension systems, building on the political guidelines of the President. The initiative needs to be placed in the context of Europe 2020 and the need for fiscal consolidation taking account of the specific challenge of an ageing population, the need for social inclusion, ensuring financial sustainability and stable macro-economic conditions, and the functioning of the single market (e.g. facilitating mobility). The group should also look at developments in third countries."

2.2 EFRP response

The consultation period (7 July 2010 – 15 November 2010) was a period of intense consultation activity within EFRP. We had to take up a number of speaking engagements to spread knowledge and disseminate our views on the Green Paper. EFRP representatives spoke at Hearings in the European Parliament, had meetings with social partner representatives and took the floor at many pension conferences. The EFRP and its Members also actively participated in the Commission's conference on the Green Paper on pensions in Brussels on 29 October 2010.

To disseminate as much information as possible on the green Paper process and to involve European citizens, the EFRP established a web portal: www.eupensiondebate.eu. The platform is also present on social network sites such as Facebook and Twitter. The result of this initiative is more than satisfactory, since many young European citizens joined the debate. This is a positive development because the decisions on pension systems that are taken today will affect them most.

www.eupensiondebate.eu

A dedicated website which brings the European pension debate closer to European citizens. It provides information on the European Commission's Green Paper as well as all relevant information in order to understand what Europe is doing on pensions. Even if the Green Paper consultation process has come to an end, the debate continues, so join the debate.

During the Green Paper consultation process the EFRP together with BusinessEurope and ETUC called upon the Commission not to start an initiative to review the IORP Directive before the European Parliament had delivered its response to the Green Paper. Our initiative was successful and the European Parliament was given the time it needed to formulate its response to the Green Paper.

2

KEY MESSAGES IN EFRP GREEN PAPER RESPONSE[1]

- EFRP support the holistic approach – pensions are the combined result of policy choices in labour markets, financial markets as well as choices in social expenditures;
- With over 60 % of Europe's citizens without a workplace pension, the need to increase the coverage of funded work-related pension systems in the EU is high;
- In many Member States pension institutions are considered part of the social protection system as the design of the scheme is steered by plan sponsors, social partners or the government;
- Pension institutions are large buyers on the financial markets. Moreover, they are long-term investors contributing to financial stability and economic growth;
- The EU could bring tremendous added value by proposing a set of criteria to bring the different multi-pillar pension models together into an EU matrix on pension systems;
- The revision of the IORP Directive is a complex process. Europe needs an open debate on how the IORP Directive can be adjusted to deal with today's work-related pension;
- Key to sustainability is affordability. Any legislative change must keep the balance between affordability and security;
- There is no urgent need for an update of the capital rules of IORPs.
- Work-related pensions are not a barrier to labour mobility. Labour mobility can be improved by making domestic and cross-border transfers of work-related pension capital unproblematic;
- Enhancing economic governance in the EU involves acknowledging that pension reform has a positive long-term effect on the sustainability of Member States pay-as-you-go systems as well as on their budgets and debt.

[1] The EFRP full response to the Green Paper is available at: www.efrp.eu

2.3 Input from the European Parliament

The Green Paper attracted a lot of interest in the European Parliament, which delivered its final Report on 16 February 2011. The Committee leading was the Employment and Social Affairs Committee with as Rapporteur Ms. Ria OOMEN-RUIJTEN (NL – EPP/CDA).

The holistic approach taken by the Green Paper triggered the “Associated Committee” procedure in the Parliament to allow a strong input from the Economic and Monetary Affairs Committee (Rapporteur: Mr. George Sabin CUTAŞ, RO – S&D). The Committees for Internal Market and Consumer Protection (Rapporteur Mr. Cornelis DE JONG, NL – EPP) and for Women’s Rights and Gender Equality (Rapporteur Ms. Barbara MATERA, IT – EPP) also delivered an opinion to the OOMEN-RUIJTEN report.

Ms. Ria OOMEN-RUIJTEN managed to deliver a clear and comprehensive report which received large political support from the plenary. The Report contained a number of important resolutions and we are hopeful that they will find their way in the Commission’s announced White Paper and other legislative initiatives that might follow in the area of pensions. We are particularly satisfied that the European Parliament has asked the Commission to conduct rigorous impact assessments on all initiatives that could affect occupational pension provision in the Member States and to come up with a typology of pension systems in Member States as well as with a common set of definitions in order to make pension systems comparable.

On 8 December 2010, the **European People’s Party** (EPP) organised a Hearing in the European Parliament on the Green Paper: “Pensions: a case for Europe?” At this meeting EFRP stressed that the key priority for Europe is to improve coverage of workplace pensions and that the existing pension diversity calls for a large amount of subsidiarity. We reminded the MEPs that diversity exists due to historical, economic and social policy choices in the Member States. Our presentation ended with a plea that workplace pensions fit in a social market economy since they allow for high coverage, low costs, involvement of social partners and limit or guide scheme members when taking investment decisions.

The **Alliance of Liberals and Democrats for Europe** (ALDE) hosted a seminar “Pension reform: make or break” on 10 February

2011. The EFRP was invited to speak in the session on mobility and solvency rules for pension funds. We voiced opposition to the idea to borrow concepts of the insurance legislation when reviewing the IORP Directive. Such principles seek to provide short-term security, hence they are less relevant for long-term oriented pension institutions. What matters for pension vehicles is their ability to deliver when their liabilities fall due, i.e. when pensions have to be paid out. We also explained MEPs the need for an EU typology of pension systems to allow individuals to identify to which pension institutions they can transfer their pension capital.

MAIN POLICY MESSAGES IN THE OOMEN-RUIJTEN REPORT

- Par. 7 "…notes that **systemic** pension reforms entail substantial **transformation costs**, which must be taken into account for the purpose of calculating government debt and budget deficits".
- Par. 9 "stresses that pensions and pension systems are the responsibility of the Member States, recognises that Member States' economies are interdependent, and therefore calls on the EU and the Member States to properly **coordinate their different pension policies**…"
- Par. 10 "… the EU lacks a set of common criteria, definitions and an in-depth analysis which would thoroughly explain the various pension systems… is of the opinion that the Commission needs to make the necessary efforts to come up with a **typology of pension systems** in Member States as well as with a **common set of definitions** in order to make systems comparable".
- Par. 17 "…diversification of pension income from a **mix of public** (first pillar) and **work-related** (in most cases second pillar) schemes, can provide a guarantee of adequate pension provision."
- Par. 32 "…calls upon the Commission to carry out an **impact assessment** before revising the IORP Directive and to take account of the trend towards **more defined-contribution** schemes and fewer defined-benefit schemes".

- Par. 39 "... welcomes the establishment of **national tracing systems** for pension rights from different sources in all Member States, and calls upon the Commission to submit proposals for a European tracing system".
- Par. 40 "…underlines as a principle that all proposals on occupational pension systems must be fully impact assessed in particular with a view to **quantifying the additional costs and administrative burden**".
- Par. 42 "calls on the Commission to encourage Member States to investigate how employees' rights to participate in the **second pillar** can be facilitated through **enhanced social dialogue** and to make proposals for **promoting** such a pillar where it does not exist…"
- Par. 62 "calls on the Commission to consider setting up a special **task force** on pensions involving all relevant DGs with competences relating to pension issues".

2.4 Follow-up

The 1673 responses to the Green Paper provide valuable input for the Commission. Also for EFRP the responses were an interesting read. They taught us that social partners and pension providers do not support the idea to re-open the debate on capital rules for IORPs. Once again the consultation has illustrated that this issue is and remains an insurance industry driven debate, and therefore it does not require any priority follow-up by the Commission.

We have also noted the growing support for the development of a European typology of pension systems. The European Parliament is also asking for "common terminology" of pension systems, which in EFRP's view, is the first step to take. Europe needs a "pension language" in order to identify and map the different pension systems across the EU.

The EFRP recommends the Commission to come up with a strategy in its White Paper that would help Member States to enhance coverage of supplementary workplace pension systems. Such a strategy could implement the call of the Commission in its 2010 Annual Growth Survey that "*Member States should support the development of complementary private savings to enhance retirement incomes".*

3

Supervisory reform

Karel VAN HULLE, Head of Unit Insurance and Pensions of the European Commission (DG MARKT) delivering a keynote speech at the European Pension Funds Congress in Frankfurt on 16 November 2010.

3.1 From CEIOPS to EIOPA

On 24 November 2010, the European Parliament and the Council adopted Regulation 1094/2010 establishing the European Insurance and Occupational Pensions Authority (EIOPA). This regulation establishes EIOPA as an EU institution and empowers it accordingly as from 1 January 2011. The EIOPA Secretariat is based in Frankfurt am Main. EIOPA emerges from the pre-existing CEIOPS but is no longer merely a network of national supervisors.

EIOPA shall:

- draft common regulatory and supervisory standards, to be submitted to the Commission for adoption;
- ensure consistent application of legally binding Union acts;
- supervise, mediate and settle disagreements between competent national authorities;
- monitor and assess market developments;
- provide up-to-date and easily accessible information in its field of activity.

In emergency situations, when a Council decision acknowledges that adverse developments may seriously jeopardise the orderly functioning, integrity or stability of financial markets in the European Union, EIOPA may adopt compulsory decisions, requiring competent authorities to take the necessary action to address such developments and to ensure application of the requirements laid down in EU legislation.

In a first phase the direct effect of EIOPA on IORPs will be limited. However, it is bound to expand its impact considerably once the IORP Directive will be reviewed. As developments demonstrate, EIOPA will already put its footprint on the review process of the IORP Directive by providing advice to the Commission[1].

[1] European Commission, Call for Advice from the European Insurance and Occupational Pension Authority (EIOPA) for the review of Directive 2003/41/EC (IORP II), response to be delivered no later than 16 December 2011.

3.2 EIOPA – Stakeholder Groups

Institutions for Occupational Retirement Provision are represented within EIOPA through the newly established Occupational Pensions Stakeholder Group. This twins the Insurance and Reinsurance Stakeholder Group. Both groups shall meet at least four times a year. They are established to facilitate EIOPA's consultation with stakeholders in Europe on issues such as regulatory and implementing technical standards as well as guidelines and recommendations that apply to the insurance and occupational pensions industry. Members of the stakeholder groups can submit opinions and advice to EIOPA on any issue related to its task. Additionally, the stakeholder groups are expected to notify EIOPA of inconsistent application of European Union law as well as inconsistent supervisory practices in the different European Member States.

The Occupational Pensions Stakeholder Group is composed of 30 members: ten industry representatives, three beneficiaries and consumers, five professional users, seven employee/employer representatives and five academics.

The EFRP Secretary General, Chris VERHAEGEN, sits in both stakeholders groups; Stakeholders Groups convened for the first time on 24 March 2011.

3.3 Omnibus Directive

On 24 November 2010, the European Parliament and the Council adopted Directive 2010/78/EU, also known as Omnibus Directive, which amends the IORP Directive. The text of the IORP Directive has been modified to acknowledge the role of EIOPA. Two paragraphs have been added to the IORP Directive, to allow EIOPA to draft technical standards about information to be provided to competent authorities and to set out the obligation of Member States to report to the newly established agency their prudential provision not covered by social and labour law. Also, according to the Omnibus Directive, EIOPA shall develop draft technical standards, specifying procedures and templates to be used by Member States to report to the agency.

ARTICLE 4 OF THE OMNIBUS DIRECTIVE 2010/78/EU MAKES SOME CHANGES TO THE IORP DIRECTIVE.

- EIOPA shall receive adequate information on cross-border activity of IORPs from concerned Member States;
- EIOPA may draft technical standards in relation to the IORP Directive, these standards shall be adopted by the European Commission;
- EIOPA shall be informed of any decision to prohibit the activities of an institution;
- Drawing on advice from EIOPA, the Commission shall issue a report on development of cross-border activities every two years;
- The scope of standards drafted by EIOPA is limited to listing for each Member State provisions of prudential nature relevant to the field of occupational pension schemes;
- Cooperation between national supervisors and EIOPA is shaped;
- EIOPA is recognised as having a major role in analysing difficulties arising from the application of the IORP directive and exploring possible solutions;
- References to CEIOPS are replaced by references to EIOPA.

4

Rebuilding trust in financial markets

From left to right: Amparo ROCA ZAMORA, Financial market analyst and Jung-Duk LICHTENBERGER, Economic and Policy Desk Officer (solvency and pensions) of the European Commission (DG MARKT) with Brendan KENNEDY, Chair of the Occupational Pensions Committee of EIOPA at the EFRP DC seminar in Brussels on 15 March 2010.

4.1 Accounting

EFRP responded to the IASB exposure draft containing amendments to IAS 19 with regard to the accounting for defined benefit plans.[1] The exposure draft[2] was released on 29 April 2010 following the public consultation on the IASB discussion paper "Preliminary Views on Amendments to IAS 19" of March 2008. Amendments to IAS 19 are expected to be published in May 2011.

An important element of the exposure draft is the abolishment of the multiple options to recognize actuarial gains and losses. All changes in the defined benefit obligation – due to variations in interest rates and asset returns – should be recognized immediately. The views of our member associations are divided on immediate recognition, and the extent to which companies make use of the corridor option differs between countries and between industries. In some countries – notably the UK, Germany and Ireland – limited use is made of the corridor option, while in other countries – including France, the Netherlands, Sweden and Portugal – it is used extensively.

The abolishment of the deferral options may, in countries where its use is prevalent, contribute to the ever growing pressure on DB plans to close by introducing capital market volatility in companies' financial statements. In that respect, EFRP is disappointed that the impact assessment of the IASB ignored the wider social and economic costs. The response also expressed concerns about the proposed expansion of disclosures, which will increase administrative costs of companies as well as of multi-employer pension schemes.

1 EFRP, Response to IASB Exposure Draft on Defined Benefit Plans – Proposed amendments to IAS 19, 6 September 2010, Brussels.

2 IASB, Defined Benefit Plans – Proposed amendments to IAS 19, Exposure Draft ED/2010/3, 29 April 2010, London.

4

4.2 Corporate governance in financial institutions

EFRP responded to the Green Paper on Corporate Governance in Financial Institutions and Remuneration Policies.[1] It was issued by the European Commission to examine corporate governance rules and practices within financial institutions in the light of the financial crisis.[2] The Green Paper looks into the internal functioning of banks, but also into the role of external stakeholders like auditors, supervisors and shareholders.

The EFRP response focuses on the role of IORPs as shareholders of financial institutions. It emphasizes that pension funds take active ownership policies very seriously by incorporating ESG issues in the investment decision-making process, having active voting policies in place and engaging in companies with regard to corporate governance.

The response supports the Commission's aim to encourage shareholder engagement, but opposes any form of compulsion. Instead, it advocates an 'EU Stewardship Code' – analogous to the UK Stewardship Code – containing a limited number of high-level principles on engagement, voting and disclosure. This would prevent a proliferation of codes around Europe and ease the administrative burden on institutional investors.

The Commission will further pursue the issue of shareholder engagement through the Green Paper on corporate governance for all listed companies, which was released on 5 April 2011.[3]

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1 EFRP, Response to EC Green Paper on Corporate Governance in Financial Institutions and Remuneration Policies, 1 September 2010, Brussels.

2 European Commission, Green Paper on Corporate governance in financial institutions and remuneration policies, COM(2010) 284, 2 June 2010, Brussels.

3 European Commission, Green Paper on the EU corporate governance framework, COM(2011) 164, 5 April 2011, Brussels.

4.3 PRIPs

On 26 November 2010 the European Commission issued the consultation on legislative steps for the Packaged Retail Investment Products (PRIPs) initiative.[1] The consultation follows the Communication on PRIPs published in April 2009.[2] The PRIPS initiative is part of the Commission's Programme for Financial Market Reform put forward in response to the financial crisis.[3]

The PRIPs initiative aims to enhance protection of retail investors by developing horizontal regulation in the areas of 1) pre-contractual disclosures and 2) sales rules for packaged investment products manufactured/distributed by different providers. At the moment, investment products like investment funds, unit-linked insurance policies and structured banking products are subject to different transparency and sales regulations.

The objective of last year's consultation is to gather input on the scope, legislative approach and details of a new pre-contractual product disclosure instrument - based on the Key Investor Information Document (KIID) as developed for UCITS - that may figure in future legislative proposals. The Commission intends to harmonize sales rules through the review of the Markets in Financial Instruments Directive (MiFiD) and the Insurance Mediation Directive (IMD).

Our response restricted itself to the questions regarding the scope of the PRIPs initiative.[4] The Commission already indicated that it is considering excluding pensions at this time. EFRP supports that stance as workplace pensions are not marketed to retail investors, but are provided through employers or social partners. Individual pension products should also be exempted as a clear demarcation between second and third pillar pensions is still lacking.

1 European Commission, Consultation on legislative steps for the Packaged Retail Investment Products initiative, 26 November 2010, Brussels.

2 European Commission, Communication on Packaged Retail Investment Products, COM(2009) 204, 30 April 2009, Brussels.

3 European Commission, Driving European Recovery – Communication for the Spring European Council, COM(2009) 114, 4 March 2009, Brussels.

4 EFRP, Response to the EC Consultation on legislative steps for the Packaged Retail Investment Products initiative, 31 January 2011, Brussels.

4.4 Derivatives

On 15 September 2010, the Commission came forward with a proposal for a regulation on OTC derivatives, central counterparties and trade repositories.[1] The proposal intends to increase transparency introducing mandatory reporting of trades in OTC derivatives to central data centres – commonly referred to as trade repositories. Moreover, it aims to reduce counterparty risk in the financial system by imposing mandatory clearing for standardised OTC derivatives through a central counterparty (CCP). The legislative proposal follows the Commission's consultation from July 2009 and the Commission's consultation on derivatives and market infrastructure from June 2010.

EFRP feels that the Commission's proposal constitutes an important step to enhance transparency of derivatives markets and diminish systemic risk. However, we are very concerned that elements of the proposal will increase risk and costs of pension funds.[2][3] IORPs make frequent use of OTC derivative instruments to mitigate financial risks, such as interest rate risk, foreign exchange risk and inflation risk.

- Mandatory participation in a CCP is likely to increase counterparty risk. Pension funds - or their asset managers - manage derivative positions by carefully selecting a wide range of counterparties with outstanding ratings in order to diversify risk. CCPs will only have limited numbers of clearing members with possibly suboptimal credit ratings resulting in higher risk concentration.
- Mandatory clearing through a CCP is likely to increase costs. The Commission's proposal would impose uniform margin requirements, which would be very disadvantageous for pension funds. The probability of them defaulting is negligible, since IORPs are only allowed to use derivatives for hedging and efficiency purposes and not for speculative purposes.

Therefore, EFRP is advocating that the non-financial counterparty exemption be extended to IORPs. This will allow pension funds to select a solution that is best suited for their plan members without affecting the proposal's objective of reducing systemic risk.

1 European Commission, Proposal for a Regulation on OTC derivatives, central counterparties and trade repositories, COM(2010) 484, 15 September 2010, Brussels.

2 EFRP, Response to the EC Public Consultation on Derivatives and Market Infrastructures, 15 July 2010, Brussels.

3 EFRP, Position on the Proposal on OTC derivatives, central counterparties and trade repositories, 21 February 2011, Brussels.

4.5 AIFM Directive

In November 2010, the European Parliament and the Council finally reached a political agreement on the Alternative Investment Fund Managers (AIFM) Directive, more than a year and a half after the original proposal was tabled by the Commission. The official version of AIFMD is expected to be published in June 2011, after the draft text has been scrutinized by legal and linguistic experts.

The AIFM Directive does not have a direct impact on IORPs as they are excluded from the scope. However, it affects IORPs as professional investors in alternative investment classes like hedge funds, private equity, commodities, infrastructure and real estate. IORPs have made substantial allocations to these asset classes to improve the diversification of the investment portfolio or to hedge inflation risk.

EFRP was very concerned about proposals of the European Parliament to restrict access to foreign alternative investment funds – even through so-called passive marketing. In that respect, we welcome that the compromise does not interfere with passive marketing, which would have seriously undermined the international free movement of capital.

The AIFM Directive will maintain the status quo by leaving it up to the Member States to allow the (active) marketing of non-EU alternative investments. Two years after the implementation of the AIFM Directive – probably in 2015 – foreign funds/managers may obtain an EU passport, based on advice of the European Securities and Markets Authority. The country-by-country private placement regimes may be abolished three years later, in 2018.

The next stage in the legislative process is the development of level II implementing measures. To that end, the Commission issued a request for technical advice to ESMA to be delivered mid November 2011.

5

CEEC Forum

Georg FISCHER, Director Analysis, Evaluations, External Relations of the European Commission (DG EMPL) and Christian BÖHM, Vice-Chairman EFRP at the European Pension Funds Congress in Frankfurt on 16 November 2010.

The CEEC Forum brings together pension fund managers from the CEEC region. It acts as a platform to discuss common issues and exchange information and best practices on the pension systems in the CEEC. The CEEC Forum is chaired by Mr. Csaba NAGY, Managing Director of the OTP Private Pension Fund.

The focus of CEEC Forum work in 2010 was the treatment of systemic pension reform under the Stability and Growth Pact.

The mandatory private pension systems were subject to a lot of changes in 2010. In Hungary citizens had to return their pension assets, built up in the mandatory 2nd pillar since 1997, to the State pension system. The reasons for such unorthodox reform of the systems are:

- the huge budget deficits following the financial and economic crisis and governments considering the pension capital as an easy instrument to quickly reduce their government debt, as well as
- the expiring of a 2004 exemption which allowed governments to take into account the impact of mandatory funded defined contribution schemes on the government deficit in the excessive deficit procedure.

The CEEC Forum wrote to the European Commission, the President of the European Council, Mr. Herman VAN ROMPUY, and to the Belgian Presidency. It expressed concern about the danger of using pension capital to finance current consumption and suggested investigating whether the Stability and Growth rules are incentivising Member States to implement the necessary structural reforms in their pension system.

In August 2010 8 CEEC Member States[1] as well as Sweden formally asked the European Commission and the Council to reconsider the way the costs of systemic pension reforms were taken into account for the purposes of the excessive deficit procedure.

We are happy to report that the issue was picked up in the report on economic governance of the President of the European Council, Mr. Herman VAN ROMPUY. His report stated that

[1] Bulgaria, Czech Republic, Lithuania, Latvia, Hungary ,Poland ,Slovakia, Romania

5

“specific attention should be paid to the impact of pension reform in the implementation of the SGP, such as setting up a mandatory second pillar, on debt and the deficit.”

In its economic governance package, and more precisely in its proposal for amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure, the Commission proposed a period of 5 years to consider the net cost of such reform in the deficit and debt developments, starting from the date of entry into force of a pension reform introducing a mandatory funded pillar.

The general approach of the European Council of 18 March 2011 deleted the 5 years period and agreed that due consideration should be given to the implementation of pension reform when assessing compliance with the deficit and debt criterion of the excessive deficit procedure.

Members and Observers/attendants of the CEEC Forum Meetings:

- Bulgarian Association of Supplementary Pension Security Companies
- Association of Pension Funds of the Czech Republic
- Estonian Association of Fund Managers
- Hungarian Association of Pension Funds – Stabilitas
- Private Pension Funds Committee of the Banking Association of Latvia
- Investment Management Companies’ Association of Lithuania
- Romanian Pension Funds Association
- Association of Pension Funds Management Companies of Slovakia
- IGTE – Polish Chamber of Pension Funds
- Association of Croatian Pension Funds Management Companies and Pension Insurance Companies.

5.1 Implementation of the IORP Directive – Czech Republic

On 14 January 2010, the European Court of Justice (ECJ) handed down its judgment in case C-343/08 (European Commission v Czech Republic), declaring that the Czech Republic had failed to fully implement the IORP Directive.

The Czech Republic currently operates a first pillar (social security) system and a non work-related third pillar system. Czech law expressly prohibits the creation of occupational pension provision (second-pillar). The Czech Republic argued that it was justified in not implementing the IORP directive, firstly because there were no IORPs and, secondly, as doing so would effectively oblige the government to set up a second pillar system, contrary to the principle of the IORP directive, which says that Member States retain full responsibility for organising their pension systems.

The ECJ rejected both arguments. The principles of legal certainty and useful effect require that the Directive be transposed in its entirety, including the sections that envisage the setting-up of registration and authorisation procedures for IORPs. The Czech Republic retains the power to organise its national retirement pension system, but must adopt legislation for registration and authorisation procedures of IORPs to allow IORPs to establish themselves in its territory. Finally, the Court reiterated that Member States cannot invoke the social security scheme exception for not implementing internal market rules.

In effect, the ECJ required the Czech Republic to set up a complete legal framework for IORPs, even though this does not imply any obligation to actually establish a second – work-based – pillar in its pension system or to create Czech-based IORPs. The Court's reasoning appears to impose an "empty shell" solution, as it makes a distinction between the adoption of a national legislative framework (required under the IORP directive) and its actual implementation (not required). The Court seems to anticipate that the Czech pension may be reformed.

6

Tax
Developments

From left to right: the Dutch delegation at the EFRP General Assembly: Sibylle REICHERT, Gerard RIEMEN and Loek SIBBING together with Rolf SKOMSVOLD from Norway.

6.1 Dividends and interests paid to foreign pension institutions

EFRP is glad to see progress in the abolishment of discriminatory taxation of dividends and interests paid to foreign pension institutions. Following complaints lodged by EFRP and PWC in December 2005, the infringement procedures opened by the European Commission have brought fruits in 2010.

On 5 May 2010, the European Commission referred Finland to the European Court of Justice over failure to comply with a reasoned opinion on discrimination over dividends paid to foreign pension funds. Dividends paid to a non-resident pension fund by a foreign company based in Finland for tax purposes are subject to a withholding tax on gross income at a rate of 19,5%. Finnish pension funds are subject to a special tax regime, according to which they pay a tax of 19,5% of their net income (after deduction of costs and current pension liabilities). Therefore, they are subject to a lower tax rate than non-Finland based pension funds.

On 3 June 2010, the European Commission referred Portugal to the European Court of Justice over its rules on taxation of dividends paid to foreign pension funds. These dividends are subject to a withholding tax of up to 21,5%, while dividends paid to Portugal-based pension funds are exempt from this withholding tax.

On 3 June 2010, the European Commission referred Germany to the European Court of Justice over its legislation on taxation of outbound dividends and interests. In Germany, dividends paid by German companies to German *Pensionskassen* are either subject to a reduced withholding tax rate or the *Pensionkasse* can benefit from a refund of the withholding tax paid. Similar institutions not based in Germany cannot benefit from the same tax treatment.

Yet, dividends received by the German *Pensionsfonds* are taken into account in the annual tax assessment procedure; therefore, they are taxed on net basis at the general corporate tax rate of 15%. Dividends paid from Germany to similar pension institutions are subject to a withholding tax of 25% of the gross dividend, without the possibility of deducting any cost. The same rule applies to interest paid to *Pensionkassen* and *Pensionsfond*s; therefore, rules on taxation of interests paid to similar foreign pension institutions are also subject to the referral to the Court.

On 30 September 2010, the infringement procedure opened against the Netherlands in 2007, for discriminatory tax treatment of dividends paid to foreign companies, was closed. The Netherlands adopted legislation that brought their rules on taxation of outbound dividends in line with EU law on 1 January 2010.

On 3 June 2010, Norway reimbursed almost € 3 million to the Dutch pension fund ABP, as a refund for unduly paid withholding tax on dividends in the year 2007. The total ABP claim amounted to almost € 60 million and affected Norway, Sweden, Denmark, Germany, Austria, France, Italy, Spain and Portugal.

6.2 VAT

Discussions are ongoing within the Working Party of the Council of the European Union on the Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of insurance and financial services. The Spanish Presidency of the European Union (first half of 2010) had established an exemption from VAT for pension funds (art.135); that exemption was cancelled in the compromise text presented by the Belgian Presidency.

On 17 December 2010, the incoming Hungarian Presidency presented a new compromise text. No VAT exemption for pension funds is foreseen in this text.

6.3 Savings Directive

Discussions continue on the second review of Council Directive 2003/48/EC on taxation of income from savings, through regular meetings of the Expert Group, which EFRP participates. In fact, the European Commission has finalised its Proposal for the First Review, but there is still no agreement between Member States. However, the Commission will table a Proposal for a second Review as soon as agreement on its proposal for the First Review is reached. Within the First Review, exclusion of pension funds from the scope of the Directive was consolidated and the EFRP hopes that this will be maintained.

Under the Hungarian Presidency, the discussion focused in particular on the definition of exempt financial and insurance services. A tentative agreement was reached on a number of issues, including the definition of insurance and reinsurance services (with some specific exceptions), currency exchange and transfer of cash. No VAT exemption for pension funds is foreseen so far.

7

Supporters' Circle

Klaus STIEFERMANN, Geschäftsführer aba and Chris VERHAEGEN at the EFRP DC seminar in Brussels on 15 March 2010.

Since 1997 the EFRP Supporters' Circle is open to companies providing professional services to private pension institutions or schemes, which:

- Want certainty that a representative organization is campaigning in Brussels for an environment that speeds up the development and coverage of workplace pension provision in Europe;
- Want to be updated on key issues affecting private pension provision in Europe;
- Want to support EFRP in accomplishing its mission "to promote good pension systems across Europe".

By joining the EFRP Supporters' Circle, our privileged partners receive the bimonthly EFRP Newsletter and our half-yearly updates on Member State developments. Supporters are also invited to an exclusive annual "members only" event in Brussels providing a compact, yet full, update on European pension issues (asset management, taxation, social protection, supervision, etc.)

Membership – Supporters' Circle[1]

- Fidelity Institutional Asset Management
- Goldman Sachs International
- Ius Laboris
- JP Morgan Asset Management, Frankfurt Branch
- Linklaters
- Loyens & Loeff
- Maleki Group
- Mercer
- Northern Trust Management Services Ltd
- OYAK (Turkish Armed Forces Pension Fund)
- PricewaterhouseCoopers Accountants N.V.
- Slaughter & May
- Standard Life Investments
- State Street Bank GmbH
- Towers Watson
- Wellington Management International Ltd.

[1] Situation on 1/6/2011

8

Statistics

Barthold KUIPERS, Economic Adviser at EFRP presenting the DC pay-out survey in Brussels on 19 April 2011.

8.1. Methodology

The EFRP statistical survey is structured to reflect the diversity of the European landscape for workplace pensions. To reflect reality, a distinction is made between mandatory and voluntary privately managed pension arrangements which are accessed through paid work (2nd pillar in EFRP terminology).

- "**Mandatory**" schemes linked to paid work are defined as private pension arrangements for which the "product characteristics" are set in national law.
- "**Voluntary**" schemes linked to paid work are defined as private pension arrangements for which the "product characteristics" are negotiated by social partners or at company level within a legally defined framework.

Work-related pension provision – mandatory schemes

Mandatory schemes are found in some EU-15 Member States[1] but these types of schemes are mostly found in the **CEE region**.

Assets under management (in million €)

	2007	2008	2009	2010
Bulgaria	841,14	930,41	1.351,09	
Croatia	2.867,00	3.127,60	3.987,20	
Hungary	7.870,00	7.060,00	9.148,00	1.100,13
Poland	37.000,00	33.137,00	43.480,00	55.867,23
Slovakia	1.518,63	2.231,22	2.899,53	
Romania		208,70	563,90	1.000,00

Also in Iceland[2] there is a well established mandatory privately organised pension system while there is a voluntary private pension system with approximately € 8,8 trillion under management in the Czech Republic.

Work-related pension provision – voluntary schemes

In accordance with how the 2nd pillar pension market is organised and structured in the member States, several vehicles are used: pension funds, book reserves[3] and insurance companies.

[1] The Finish mandatory system had € 124,9 bn. under management in 2009. In 2010 assets increased to € 138,8 billion in this system. Pension funds held € 6,6 bn. in 2009 and € 6 bn. in 2010.
In Portugal the banking sector contributes to a privately organised fully-funded scheme instead of the State PAYG systems. Assets in this funded system are estimated at € 15,7 bn. (2009) and € 14,2 bn. (2010).
In Norway pension funds managed € 24 bn. (2009) and € 27 bn. (2010).

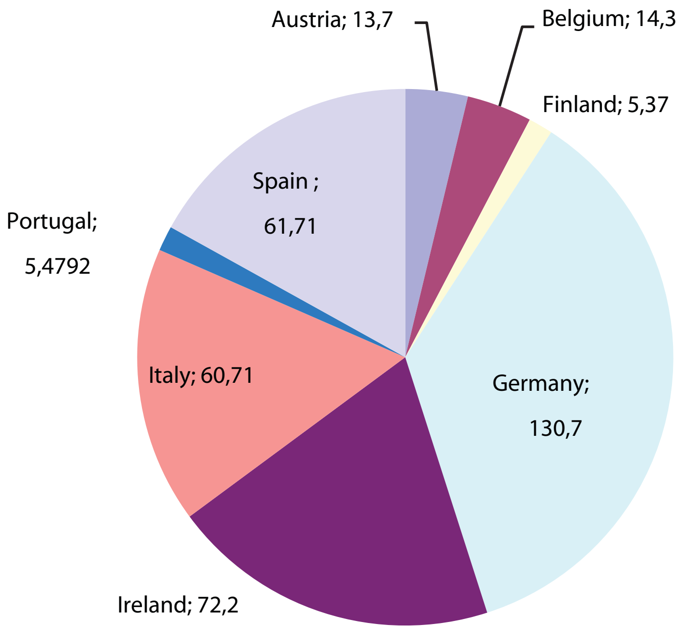
[2] Assets under management of € 8,938 bn. (2009) operated by 37 pension fund covering 191.577 active members and paying pensions to 79.141 persons.

[3] Austria: € 20,33 bn. ; Germany: € 249,2 bn. ; Italy: € 3,279 bn.

8

84 % of the 2nd pillar **pension funds** assets in Europe are concentrated in the Netherlands: € 743 bn. (2009); € 840 bn. (2010) and in the United Kingdom: € 1236 bn.

The distribution of the other 16 % 2nd pillar **pension funds** assets (in € bn.) is as follows:



Some EFRP Members also reported on the 2nd pillar pension assets held by **life-insurers** (in € bn.) in their country:

Austria	2,90
Belgium	42,00
Finland	7,23
Italy	8,97
Germany	51,50

In addition to these figures it is important to note that life-insurers are important 2nd pillar pension providers in Denmark, France, Spain, Sweden and the United Kingdom.

8

Statistics on 2nd pillar pension provision

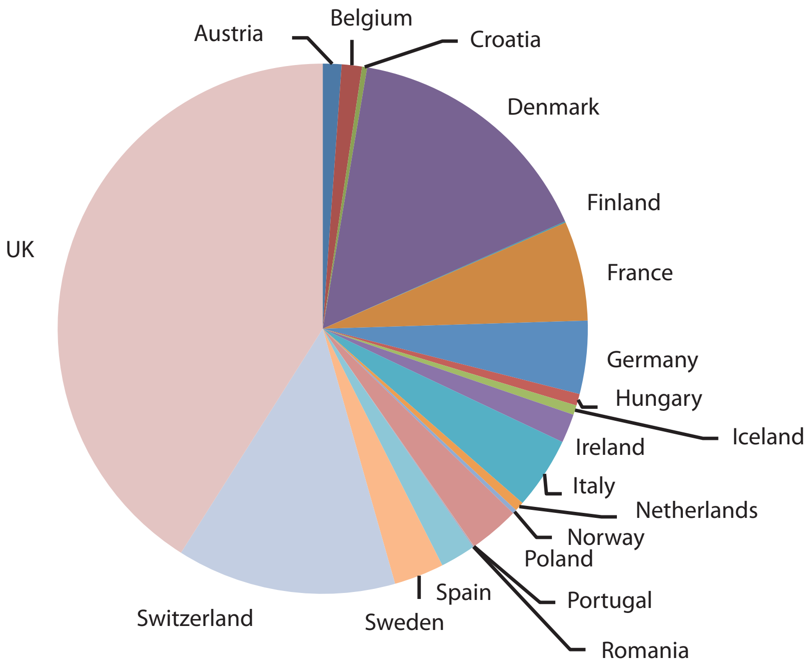
In March 2010 EFRP presented the results of its survey on defined contribution workplace pensions.

The survey was updated in April 2011 with the publication of the EFRP survey on the payout phase of DC pensions.

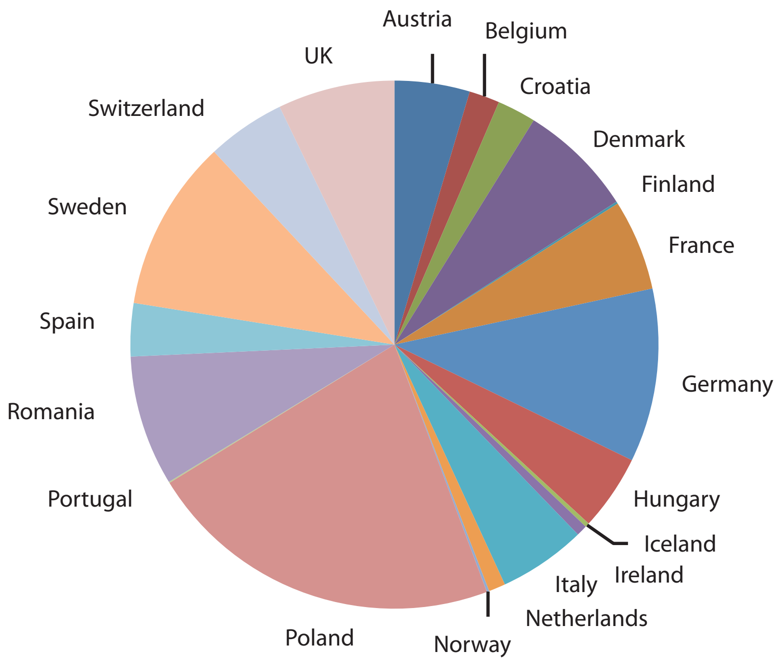
The distribution of assets and active members of DC plans covers 2nd pillar DC pension irrespective of the vehicle that provides them.

The survey is available – upon request – at www.efrp.eu

Distribution by country of the 1,457 € bn pension assets covered in the survey



Distribution by country of the active members of DC plans covered in the survey



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9

Institutional presence and public platforms

From left to right: Peter LINDBLAD of Pensionsgaranti, Crinu ANDANUT of the Romanian Pension Funds' Association, Joanne SEGARS of the NAPF, Christian BÖHM, Vice Chair EFRP, Peter BORGDORFF of Pensioenfonds Zorg en Welzijn and Withold GALINAT of BASF debating the green paper on pensions.

9.1 Institutional presence

EFRP is represented in the following consultative/advisory bodies:

European Commission Pensions Forum

The EU Commission Pensions Forum consists of representatives of Member State governments, the social partners and other bodies active in the pension industry. The Pension Forum is a Community level platform for exchanging information on pension matters.

In 2010 EFRP was represented by:

- Mr. Angel MARTINEZ-ALDAMA, Chairman EFRP[1]
- Ms. Chris VERHAEGEN, Secretary General EFRP
- Dr. Withold GALINAT, BASF Pensionskasse – Germany.

EIOPA Stakeholders Groups

Ms. Chris VERHAEGEN, Secretary General of EFRP is the Chair of the EIOPA Occupational Pensions Stakeholder Group. She is also a Member of the EIOPA Insurance and Reinsurance Stakeholder Group.

EIOPA is part of the European System of Financial Supervision which is composed of three European Supervisory Authorities and the European Systemic Risk Board. It is an independent advisory body to the European Parliament and the Council of the European Union. The two EIOPA Stakeholder Groups were established in March 2011 to facilitate EIOPA's consultation with stakeholders in Europe on issues such as the development of regulatory and implementing technical standards, as well as the guidelines and recommendations that apply to the insurance and occupational pensions sector. Members of the Stakeholder Groups can submit opinions and advice to EIOPA on any issue related to its work. Furthermore, the Stakeholder Groups are expected to notify EIOPA on any inconsistent application of European Union law as well as inconsistent supervisory practices in the different European Member States.

[1] Until 8 November 2010.

European Parliamentary Financial Services Forum (EPFSF)

The EPFSF facilitates discussion between the European Parliament and the financial services industry. It provides briefing papers and organises round table events on topical broad-sectoral issues. EFRP is a member of the Financial Industry Committee, which is chaired by Mr. Guido RAVOET of the EBF (European Banking Federation). The Steering Committee, composed of 28 MEPs is chaired by Wolf KLINZ.

EC Expert Group on Taxation of Savings

EFRP is represented in the European Commission Expert Group on Taxation of Savings. The Expert Group is examining the operation of the “Savings Directive” and is advising the Commission on possible amendments to it.

OECD Working Party on Private Pensions

Over the years, EFRP has developed excellent relations with the OECD. Although the OECD produces mostly non-binding guidelines and recommendations, its work influences EU and Member State policy-making. EFRP has observer status in the Working Group on Private Pensions and the Taskforce on Private Pension Statistics.

IOPS (International Organisation of Pension Supervisors)

IOPS is the OECD supervisory structure. The main goal of IOPS is to identify good practice in the field of private pension supervision. IOPS has around 60 members – supervisors and observers – representing approximately 50 countries and territories worldwide. EFRP has observer status within IOPS.

9.2 Public platforms

EFRP is keen to fuel the debate on private pensions in Europe. We believe it is essential that the latest policy developments and industry solutions affecting workplace pensions be debated and well understood.

On 16 November 2010, as part of the EURO FINANCE WEEK, EFRP organized the fifth European Pension Funds Congress together with the Maleki Group. Topics for discussion included: EC Green Paper on the future of pensions in the EU, DC Pensions investments and options for scheme members, and the contribution of pension institutions to financial stability and economic growth.

FOR YOUR CALENDAR

On 15 November 2011, EFRP will host the 6th European Pension Funds Congress in Frankfurt.

More information on the conference is available at www.efrp.eu

10

EFRP
Organisation

The EFRP General Assembly of the Members - 26 April 2011 in Brussels.

10.1 Board of Directors

Mr. Patrick BURKE (IE) – Chairman
Director Investment Development Irish Life Investment Managers

Mr. Christian BÖHM (AT) – First Vice-Chairman
CEO APK-Pensionskasse AG

Mr. Angel MARTINEZ-ALDAMA (ES) – Second Vice-Chairman
Director General INVERCO

Mr. Pierre BOLLON (FR)
Director General AFG

Mr. Fabio GALLI (IT)
Director General Assogestioni

Mr. Charles MULLER (LU)
Deputy Director General ALFI

Ms. Joanne SEGARS (UK)
Chief Executive NAPF

Mr. Loek SIBBING (NL)
Managing Director Univest Company

Mr. Klaus STIEFERMANN (DE)
Managing Director aba

CEEC Forum representation
Mr. Csaba NAGY (HU)
Managing Director OTP Voluntary Pension Fund

10.2 Member Associations

European Union

AUSTRIA

Fachverband der Pensionskassen
Dr. Fritz JANDA – Managing Director
Mr. Andreas ZAKOSTELSKY – Chairman
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Tel: +43 5 90 900 4108 – Fax: +43 5 90 900 4097
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BELGIUM

Belgische Vereniging van Pensioeninstellingen – BVPI /
Association Belge des Institutions de Pension – ABIP
Mr. Karel VAN GUTTE[1] – Secretary General
Mr. Philip NEYT – Chairman
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FINLAND

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Association Française de la gestion financière – AFG
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1 As from 01.08.2011

GERMANY

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HUNGARY

Hungarian Association of Pension Funds – STABILITAS
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ITALY

Società per lo sviluppo del mercato dei Fondi Pensione – MEFOP
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[1] Dr. Boy-Jürgen ANDRESEN retired on 2 May 2011

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Mr. Claude KREMER – Chairman
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Mr. Gerard RUTTEN[2] – Chairman
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PORTUGAL

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Mr. José VEIGA SARMENTO – Chairman
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jose.veiga.sarmento@bancobpi.pt – www.apfipp.pt

[1] As from 15 November 2010
[2] As from 11 November 2010
[3] As from 15 November 2010

ROMANIA

Asociatia pentru Pensiile Administrate Privat din Romania APAPR
Mr. Mihai BOBOCEA – Secretary General
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SPAIN

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Confederación Española de Mutualidades – CNEPS
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SWEDEN

Swedish Pension Funds Association
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UNITED KINGDOM

National Association of Pension Funds – NAPF
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[1] Mr. Crinu ANDANUT was chairman until 19 May 2011.

Non-EU Member Associations

CROATIA

Association of Croatian Pension Funds Management Companies and Pension Insurance Companies
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Mr. Dubravko STIMAC – Chairman
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GUERNSEY[1]

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NORWAY

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SWITZERLAND

Association Suisse des Institutions de Prévoyance – ASIP Schweizerischer Pensionskassenverband
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[1] Observer status
[2] Observer status.
[3] As from 01.08.2011: Ms. Thorey S. Thordardottir

10.3 Secretariat

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Deputy Secretary General:	Mr. Jeroen CLICQ
Economic Adviser:	Mr. Barthold KUIPERS[1]
Legal Adviser:	Mr. Antonio FANCELLU
	Mr. Jens TINGA
Office Manager:	Mr. Bram VAN MALDEREN

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[1] On secondment from APG.