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Memo on cross-border IORPs located in Belgium

If a group of companies has a company in Belgium, next to a number of companies in several jurisdictions in Europe, would regrouping the management of the occupational pension plans of these foreign companies under a pan-European pension fund or cross-border IORP located in Belgium be a possibility (i.e. transformation of the current Belgian pension fund in a cross-border IORP)?

What would be the impact on the existing structure and organisation, the asset management, the accounts,… of the Belgian pension fund, if it would also manage these foreign pension plans?

1 Applicable legal framework

1.1 Cross-border Activity ?

The first question to be asked is whether the management of the pension plans of foreign branches by a Belgian pension fund has to be considered as a "cross-border activity".

The EU Directive 2003/41/EC of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (hereafter "the IORP Directive") created a legal framework for cross-border pension funds. In Belgium the Act of 27 October 2006 on the supervision of IORPs (hereafter "the IORP Act") implemented the IORP Directive.

Definition of "cross-border activity" in the IORP Directive

The IORP Directive does not neatly define "cross-border activities" and therefore left room for interpretation in the implementing legislation of the member states.

Article 20 of the Directive, which is entitled “Cross-border activities”, reads as follows:

> “1. Without prejudice to national social and labour legislation on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall allow undertakings located within their territories to sponsor institutions for occupational retirement provision authorised in other Member States. They shall also allow institutions for occupational retirement provision authorised in their territories to accept sponsorship by undertakings located within the territories of other Member States.
>
> 2. **An institution wishing to accept sponsorship from a sponsoring undertaking located within the territory of another Member State shall be subject to a prior authorisation** by the competent authorities of its home Member State, as referred to in Article 9(5). It shall notify its intention to accept sponsorship from a sponsoring undertaking located within the territory of another Member State to the competent authorities of the home Member State where it is authorised.
>
> 3. Member States shall require **institutions located within their territories and proposing to be sponsored by an undertaking located in the territory of another Member State** to provide the following information when effecting a notification under paragraph 2: (a) the host Member State(s);
>
> (b) the name of the sponsoring undertaking;
>
> (c) the main characteristics of the pension scheme to be operated for the sponsoring

undertaking.

[…] (emphasis added)"

The trigger for cross-border activities under the IORP Directive, specifically Articles 20.2 and 20.3 quoted above, is the fact that the IORP "accepts sponsorship from an undertaking located in the territory of another member state". In this way, the IORP Directive ties the concept of cross-border activities to the definition "sponsoring undertaking", rather than that of "host member state".

"Sponsoring undertaking" is defined in Article 6(c) of the IORP Directive as "any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which acts as an employer or in a self-employed capacity or any combination thereof and which pays contributions into an institution for occupational retirement provision"

Therefore, under the IORP Directive, for an institution for occupational retirement provision (hereafter "IORP") to be considered to operate cross-border, it is both necessary and sufficient that an undertaking located in the territory of a Member State other than the IORP's home Member State pays contributions into the IORP.

Definition of "cross-border activity" in the Belgian implementing legislation

Article 2, 6° of the IORP Act defines "cross-border activity" as follows:

> "cross-border activity: the activity which, for an institution for occupational retirement provision authorised in a Member State, consists in **managing occupational pension schemes which, in respect of the provisions applicable to the relationship between the sponsoring undertaking and members, are subject to the social and labour legislation of another Member State**; (emphasis added)"

The trigger for cross-border activities under the IORP Act is the "the social and labour legislation of another member state, applicable to the relationship between the sponsoring undertaking and the plan members". This means, that the IORP Act adopts a different approach and ties the concept of cross-border activities to the definition of the "host member state" and not to the definition "sponsoring undertaking". Therefore in our understanding, the Belgian definition in the IORP Act is not in conformity with the IORP Directive.

These rules have been further interpreted in a circular letter of the Belgian supervisory authority (FSMA)[1]. The interpretation given by the FSMA is more in line with the text of the IORP Directive. The circular letter focuses indeed on the sponsoring undertaking. It reiterates the definition of sponsoring undertaking as set out in the IORP Act and is identical to that of the IORP Directive. However, the circular letter adds that the undertaking which "pays contributions" should be interpreted as the undertaking which is responsible for the pension plan or, in other words, which supports the pension plan. One should therefore identify **the company that is ultimately responsible for the pension plan** (in particular in case of cross-border employment). Again the question is whether this is in accordance with the IORP Directive, because the reading of the FSMA stretches the terms of the IORP Directive. The definition of the sponsoring undertaking in the IORP directive reads "pays" contributions to the IORP, not "supports or bears the contributions paid" to the IORP.

[1] The Financial Services and Markets Authority.

1.2 Applicable legal framework for a cross-border IORP

What is the applicable legal and regulatory framework that an IORP has to comply with when it engages in cross-border activities[2]?

In this respect, a distinction has to be made between the prudential framework on the one hand and social and labour law on the other hand.

The prudential rules are determined by the legal framework of the state where the IORP is located (the home state). With regard to the occupational pension plans managed by the IORP for employees (plan members) working in other countries belonging to the (EEA), the social and labour laws of the concerned EEA country (the host state(s)) will need to be complied with.

Legal and regulatory prudential framework

Even if the Belgian pension fund - which is located in Belgium (home state) - would manage the occupational pension plans of the foreign branches (hereafter "foreign pension plans"), it would solely be subject to the Belgian legal and regulatory prudential framework (legal form of the IORP, the structure and organisation of the IORP, required funding level, investment rules, governance rules,…).

The same applies if the Belgian pension fund would also manage pension plans of branches outside the EEA.

Social and labour law

With regard to the abovementioned foreign pension plans managed by the Belgian pension fund and the employees who are affiliated to these foreign plans the relevant legal provisions of the social and labour laws of the host state concerned apply. More in particular, this is the social and labour law which applies to the relationship between the foreign branches and its employees/plan members (vested rights, minimum guaranteed return (if applicable), portability of pension rights, procedure to modify pension plan rules, anti-discrimination legislation,…).

[2] A cross-border activity means the activity which, for an IORP authorised in a European Economic Area (EEA) member state, consists in managing occupational pension plans which, in respect of the provisions applicable to the relationship between the sponsoring undertaking and plan members, are subject to the social and labour law of another EEA member state.

2 Structure and organisation of a cross-border IORP

As mentioned above, a pan-European pension fund is subject to the legal and regulatory prudential framework of the home state. For the Belgian pension fund, this is the Belgian prudential framework. This means that the Act of 27 October 2006 on the supervision of IORPs (hereafter "the IORP Act") and the Royal Decree of 12 January 2007 on the prudential supervision of IORPs (hereafter the "Prudential Royal Decree") would continue to be applicable, as is currently the case.

According to the IORP Act an IORP must have at least the basic double structure consisting of two mandatory bodies: the General Assembly and the Board of Director. Furthermore, the IORP has the freedom to set up other operational bodies and/or social committees according to its own needs and wishes other (see below).

2.1 General Assembly

The General Assembly of the IORP mainly has a supervision and oversight responsibility[3]. According to the IORP Act only (i) sponsoring undertakings and (ii) plan members or beneficiaries of the occupational pension plans managed by the IORP or their representatives, can be members. Moreover, all sponsoring undertakings whose occupational pension plans are managed by the IORP must be members for as long as the IORP is entrusted with the management of their occupational pension plan(s).

In practice this means that the foreign (EEA) branches, … which decide to entrust the management of their occupational pension plan(s) to the Belgian pension fund must become members.

Often when a Belgian pension fund transforms into a cross-border IORP the concrete composition of the General Assembly is reconsidered, especially when next too sponsoring undertakings also a number of plan members have a seat in the General Assembly. If it is decided to maintain the rule that not only the sponsoring undertakings but also the plan members/beneficiaries or their representatives can be members, it is logical that such members are representatives of all plan members and not only of the Belgian ones.

However, in our view, detailed reflection on the question whether to maintain plan members in the General Assembly is required. Indeed, this might impede an efficient operation of a pan-European pension fund. Not only will this in all likelihood lead to a larger body, also organising the meetings will become more complex and time consuming given the fact that the plan members live/work in different countries. Hence, it might be more efficient to determine that only sponsoring undertakings can be members in order to lower the number of members on the one hand, and to make the organisation of meetings in a cross-border context more manageable on the other hand.

If organisation is a key issue, it is possible to go even further. Indeed, the IORP Act makes a distinction between "ordinary members" and "extraordinary members". As a rule, extraordinary members have no voting right unless this is otherwise determined in the by-laws of the IORP. It can, for example, be considered to determine in the by-laws that only the founding members of the cross-border pension fund (e.g. the Belgian company and the Belgian branch) will be ordinary members with voting rights and that the foreign (EEA) branches who joined the cross-border IORP at a later stage will be extraordinary members

[3] Modification of by-laws, designation/discharge of directors, approval of annual accounts, ratification of financing plan/management agreement/statement of investment policy (SIP), …

without voting rights. In that case, the latter would still have the right to attend the meetings and have inspection in all relevant documents (transparency), but without having voting rights.

Of course, this comes down to a fundamental decision on the structure of the cross-border IORP for which different considerations have to be taken into account, more in particular the decision-making power of the sponsoring undertakings on the one hand and an efficient operation of the IORP on the other hand (without heavy administrative procedures).

2.2 Board of Directors

The second compulsory body of an IORP is the Board of Directions. The Board of Directors is the managing body of the IORP, which is responsible for the operational activities[4].

According to the IORP Act the Board of Directors must consist of at least two natural or legal persons. According to the Prudential Royal Decree the sponsoring undertakings and the members of the occupational pension plans managed by the IORP (or their representatives) must constitute the majority of the Board of Directors.

Often the composition of the Board of Directors also has to be reconsidered when a Belgian pension fund transforms into a cross-border IORP, because before the composition rules were specifically written in light of the Belgian situation (Belgian IORP which is not performing cross-border activities) e.g. taking into account joint management. One is the question will be what representation (if any) the foreign (EEA) branches (and/or their employees) will get on the Board.

More particularly, employee representation (due to joint management) could hinder the efficient operation of the Board. In our view, this would even be more the case than in regard with the General Assembly, as the Board must meet more regularly and on shorter notice. Moreover, in a cross-border context, this may mean that employee representatives become involved in the management of occupational pension plans of the foreign (EEA) branches to which they are not affiliated.

In this respect, there are several alternatives to still involve employees (plan members) in the management of their occupational pension plan(s).

For example, an "other operational body" can be set up for each foreign (EEA) branch (e.g. administrative committee, governing committee) to which the Board of Directors delegates some of the operational tasks related to the specific occupational pension plan(s) of the particular branch. Such other operational bodies can be managed by the sponsoring undertaking, as well as by employer and employee representatives. The rules regarding the composition of these other operational bodies are to be laid down in the by-laws or in a resolution of the Board of Directors (e.g. internal rules).

2.3 Social committees

Another alternative to involve employees (plan members) in the management of their occupational pension plan is to set up one or more social committees.

[4] Collecting contributions in the occupational pension plans and payment of retirement benefits, investment policy, management of assets and liabilities, providing information to the authorities/sponsoring undertakings/plan members/beneficiaries, internal control procedure, executions of the resolutions of the General Assembly, outsourcing policy, conflicts of interest,…

The IORP Act gives an IORP the possibility to set up social committees (e.g. per host country - country committees) to allow the IORP to meet the requirements of the host's country's social and labour legislation applicable to foreign pension plans it manages. A social committee is not a body of the IORP and has, in principle, no decision-making power unless this is expressly otherwise determined in the by-laws (as well as a conflict resolution process).

Social committees can also be used to involve employees (plan members) in the management of their occupational pension plan. For example, if the applicable social or labour laws require joint management of the IORP, it might be possible to execute this obligation through the social committee (as the case may be, with the approval of the competent consultative or employee representation body). Even when there is no legal obligation for joint management, but employee representatives are (priorly) involved in the management of the occupational pension plans, a social committee can be used to continue this employee involvement (see above - subsection 2.2).

3 Asset management

According to the IORP Act and the Prudential Royal Decree, there is no obligation for a pan-European pension fund to segregate assets by country or to set up separate funds.

3.1 Global asset management

The assets of the pan-European pension fund can be managed globally. In that case compensation between the different occupational pension plans (offset of surplus and deficit of the managed pension plans or "netting") is possible, if this is laid down in the management agreement of the IORP (cf. degree of solidarity amongst the sponsoring undertakings) and to the extent that it is not contrary to the relevant applicable social and labour legislation and provided the minimum vested rights of the plan members and beneficiaries are safeguarded.

3.2 Legal or Administrative Ring-fencing

Legal Ring-fencing

The IORP Act only regulates so-called “separate funds” (“*afgescheiden vermogens/patrimoines distincts*”). It concerns legally ring-fenced funds (i.e. the most strict form of ring-fencing). A separate fund is defined as “the liabilities and assets (or the undivided part of the globally managed assets), which are related (on the basis of a separate accounting) to one or more pension schemes in order to grant the members and beneficiaries of these pension schemes a privilege on these assets[5]”.

In specific situations, the IORP Act imposes legal ring-fencing (i.e. when the IORP manages both pension schemes for employees/self-employed directors and pension schemes for self-employed persons; when specific funding exemptions apply; when the FSMA imposes legal ring-fencing as so-called recovery measure in case of underfunding).

[5] Article 2, 15° of the Belgian IORP Act

Each IORP may establish one or more separate funds (legal ring-fencing) for one or more pension schemes on a voluntary basis. For example, some cross-border IORP's establish legally ring-fenced per country, in particular when the host member state would impose different investment rules, but also for other reasons such as the privilege rules in stress-scenario's (insolvency of the sponsoring country, liquidation of the cross-border IORP).

If an IORP opts for legal ring-fencing the strict rules of the IORP Act apply. The legally ring-fenced funds must be provided for in the by-laws (as such they will be opposable to third parties). Next, separate accounting (annual accounts) must be organised for the ring-fenced assets, in addition to an overall accounting (see below). From a funding perspective, the assets within a legally ring-fenced fund are allocated to the technical provisions and liabilities related to that separate fund. Clearly, an important characteristic are the privilege or priority rules linked to legal ring-fencing: the plan members and beneficiaries have a privilege on "their" ring-fenced assets, even in the event of winding-up of IORP.

Administrative ring-fencing

Contrary to legal ring-fencing, administrative ring-fencing is not governed by the IORP Act. It concerns contractual arrangements concluded between the IORP and the sponsoring undertakings. Hence, it must not be laid down in the by-laws and is not opposable to third parties. Separate accounting is not required. On the other hand, the plan members and beneficiaries do not have a privilege on the ring-fenced assets.

Parties are free to determine the degree of ring-fencing in the management agreement and the financing plan. This means, that parties can agree that assets (e.g. surplus) will not be transferred from one section to another. However, in case of stress-situations the legal provisions will prevail on these contractual arrangements. Indeed, administrative ring-fencing only separates the assets and liabilities of the different sections administratively and will no longer apply in the event of stress-scenario's.

As a consequence, when the IORP operates as a going concern, administrative ring-fencing can reach similar results as legal-ring-fencing (notwithstanding that some differences remain), although it remains a purely internal measure. However, in stress scenarios, such as insolvency of a sponsoring undertaking or the winding-up of the IORP, both forms of ring-fencing differ substantially.

4 Accounting

There are no specific rules regarding the accounts for pan-European pension funds. If the assets of the pan-European pension fund are managed globally or when administrative ring-fencing is organised, no separate accounts must be kept. In case of separate funds, separate annual accounts have to be made for each separate fund, as well as one global annual account for the IORP.

5 Notification procedure

A Belgian pension fund which envisages engaging in cross-border activities within the EEA has to comply with a specific notification procedure. The IORP has to notify this intention to manage an occupational pension plan subject to the social and labour laws of another EEA member state (host state) to the Belgian regulator (FSMA) and introduce a notification file per host state.

The FSMA will contact its counterparts in the host state, who will have supervisory authority over continue compliance with social and labour laws.

6 Fully funded at all times

There are no other prudential requirements resulting from this filing. However, the IORP Directive provides that IORPs with cross-border activities must be fully funded at all times.

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EUROPE Border crossing

Pan-European pension plans: an ideal or a reality? Peter Docking and Georgina Beechinor, Sacker & Partners, An Van Damme, Claeys & Engels, Marthe Van der Broek and Corine Hoekstra, Bergamin Pensioenrechtadvies

In a nutshell

- the EU pensions Directive laid the foundations for cross-border pension plans but, more than seven years on, take up remains limited
- common reasons for preferring national pension plans over cross-border arrangements include the stringent funding requirements for DB plans and the need to apply the often complex social and labour law requirements of another member state or states in addition to those which apply in the home state
- with the pensions Directive under review, changes in the pipeline have the potential to simplify governance and administration for cross-border pension plans.

The idea of one pension arrangement for a multinational company's entire EU staff is an attractive prospect, with economies of scale achievable on investment and adviser fees, governance under one roof and simpler administration when employees move between countries.

The cross-border provisions of the "IORP" (Institutions for occupational provision) or pensions Directive[1] paved the way for pan-European pension plans to become a reality. But over seven years since the Directive came into force, there has been very little take up. In 2011 fewer than 80[2] of the estimated 140,000 pension plans in the EU operated cross-border – no more than 1 in 1750.

So, why is this and what particularly puts employers off? Here we look at the UK, Dutch and Belgian experiences and ask whether recent EU measures designed to make it easier to set up cross-border plans are likely to have much impact.

The Directive allows a pension plan operating in one EU member state – the "home" state – to have a section to provide pension benefits for employees in another EU state – the "host" state. For example, a UK plan could have a Belgian section. The host section (Belgium in this example) would need to be administered in accordance with the social and labour laws of the relevant member state (ie Belgium), insofar as they apply to occupational pension plans[3].

There are also stringent funding requirements for defined benefit (DB) plans operating cross-border – such plans need to be "fully funded"[4] at all times.

The UK experience

The requirements for full funding and the need for compliance with local social and labour laws are the main factors that dissuade UK employers from operating pension plans cross-border. For the vast majority of UK plans, the funding requirement would have an immediate financial cost. And the complexity of another layer of legislation and regulation brings the risk that, due to a lack of familiarity with the other system, something important may be missed. The social and labour law requirements were identified as a significant obstacle by stakeholders in their response to two consultations by the European Insurance and Occupational Pensions Authority (EIOPA)[5]. Other factors contributing to cross-border plans' lack of popularity in the UK include:

- the relatively complex approval process (requiring the blessing of both home and host country regulators)
- the fact that the economies of scale for investment manager fees can be achieved by pooling assets outside the pan-European pension plan structure using another vehicle – often a simpler process for a multinational pension plan sponsor
- a recent abundance of domestic legislation and regulatory requirements which has given pensions managers little time to consider more global options and
- the differences in the tax treatment – for example, of contributions to pension plans – the income from returns on pension plan investments and the gains received on realising investments, as well as when benefits become payable.

There may also be concerns about member reaction to pensions built up and provided outside the UK, particularly following the Icesave incident, which saw Britain step in to guarantee £5.3bn of UK deposits with the online bank account. The potential gain in lower investment charges may be seen as not "worth the candle" by employers.

The Belgian experience

Take up of cross-border pensions has also been slow in Belgium. Out of approximately 220 authorised plans, ten currently operate cross-border – fewer than 5%. However, others are in the pipeline and the figure has been rising steadily. Belgium has managed to get itself on the map as a potential home state for cross-border pensions, due in part to its flexible legislative framework and favourable tax regime.

The potential benefits of economies of scale are undoubtedly a driving force. But other factors, such as governance, play a role. Governance requirements have become stricter over the years in various member states (due in part to implementation of the pensions Directive), making it difficult for a company to find sufficiently skilled members of staff willing to take on a role in the management of the pension plan. And as ongoing training is required, running the pension plan may take up a significant part of their working time. A centralisation of pension plans can help meet this difficulty.

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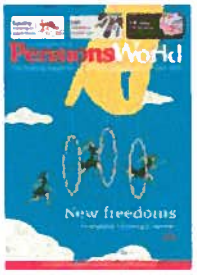

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Moreover, cross-border plans have added value where corporate restructurings make it difficult for a multinational to run different pension plans in different countries, for example where company closure has left a pension plan with no active members, only deferred members and pensioners. A cross-border plan also may provide a neat solution for mobile employees.

But things could be improved. Changes to the legal framework are needed to ensure member states apply a consistent definition of "cross-border activities" and a more straightforward approach to the application of the social and labour law requirements, to avoid conflicting provisions in the home and host states. Changes at a national level could also facilitate cross-border pensions, for example, less stringent local language requirements, meaningful information on the content of the social and labour law provisions and more flexible administrative procedures.

The Dutch experience

IORPs where the Netherlands is the "home" state are non-existent, as the legislative framework for Dutch pension plans has proved to be too stringent to operate cross-border. For example, Dutch pension plans may only operate for a particular company group or specific industry; ringfencing of assets is not permitted, and there are strict funding rules, requiring a confidence level of 97.5%.

It took some years for the Dutch government to acknowledge the fact that its "top notch" pensions landscape might need some adjustments to be able to provide cross-border pensions. The main wake-up call came when Belgium began promoting a new type of pension plan, capable of operating cross-border. This led to the introduction of the PremiePensioenInstelling (PPI) in January 2011.

The PPI is primarily designed to administer defined contribution (DC) plans, to which no solvency rules apply. As a result, the PPI itself is not allowed to insure against any risks, meaning that any risks under the plan (for example, those associated with administering a Belgian plan) are borne by the employer. While the PPI is popular, they are currently limited to the Dutch pensions market.

New legislation is under consultation to develop a pension arrangement that can operate cross-border, accommodating all types of workplace pensions, the Algemene Pensioen Instelling (API). The API can be used as a multi-employer plan, not just for companies within the same group, and ringfencing between the separate sections of the plan is compulsory. New Dutch governance legislation will enable pension plans to appoint a professional management board instead of a joint board (with employee and employer representatives), simplifying governance.

Works Council approval is required before moving the administration of the pension plan abroad and an employer would need very persuasive arguments to obtain the approval of the employee representatives, as sentiment against cross-border pensions is strong.

New EU measures

A review is under way by the European Commission with three broad aims:

1. simplification of the process for setting up cross-border pension plans
2. the introduction of measures that allow IORPs to benefit from risk mitigation mechanisms and
3. updating of the prudential regulation for IORPs which operate DC plans.

To kick-start its review, the Commission asked EIOPA for advice on the EU-wide legislative framework for IORPs, including the scope of the Directive, certain cross-border aspects, governance, information requirements and funding. As a key driver for this is the Commission's desire "to maintain a level playing field between insurance companies and pension plans when they supply similar and interchangeable products", it is currently considering which aspects of Solvency II[6] it can apply to workplace pensions. While the funding angle for DB plans has attracted most attention so far, due to their potential to significantly increase funding requirements for plans in the EU[7], other areas are significant to the future of cross-border pension provisions.

As the Belgian experience suggests, what exactly constitutes a cross-border plan merits clarification. There are varying interpretations of "cross-border activity" around the EU, so the Commission's intention is to confirm that cross-border plans are those where the plan and sponsor are located in two different member states, with a view to ensuring a consistent approach across the EU. In general, member states' social and labour law provisions are extensive and comprehensive, so any attempt to clarify their interpretation in a new pensions Directive could give rise to complication and expense if member states are required to make changes as a result.

The Commission is also looking to harmonise governance and disclosure requirements, with a view to encouraging cross-border pension provision and ensuring a consistent approach to member expectations, for example, in terms of pension plan communications and the general standards to which those administering pension plans should adhere.

Serious obstacles

For multinational organisations, the potential savings to be gained from the streamlined governance requirements offered by cross-border pensions merit serious consideration. They can also prove an ideal solution for those with a highly mobile workforce, whose sponsors may otherwise have to deal with a high membership turnover in their national plans.

However, serious obstacles to setting up IORPs still remain, namely funding requirements, complexity and cultural differences. Despite measures under consideration by the EU Commission to address these things, we expect the number of IORPs to rise only slowly.

Sources

[1] Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision

[2] EIOPA – OPC – 12/046 2012 Report on Market Developments, 25 July 2012

[3] Article 20(9) of the IORP Directive

[4] In the UK, such plans need to carry out annual valuations and make up any deficit on the statutory funding basis within 24 months of the effective date of the valuation

[5] Draft response to Call for Advice on the review of Directive 2003/41/EC (8 July 2011); Response to Call for Advice on the review of Directive 2003/41/EC: second consultation (25 November 2011)

[6] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking up and pursuit of the business of insurance and reinsurance

[7] According to the UK Pensions Regulator, the preliminary results from the initial Quantitative Impact Study indicate a shortfall on the proposed funding basis for UK DB plans of £450bn

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Lynn Dudley is senior vice president, global retirement and compensation policy, for the American Benefits Council. In this role, Lynn directs the Council's advocacy efforts regarding retirement and compensation policy, including defined benefit and defined contribution plans and executive and non-qualified deferred compensation. Lynn also coordinates the Council's efforts and outreach in the international arena, including the *Benefits Passport* informational series.

Lynn has held senior positions at the Council since 1991, including stints as vice president, retirement policy, vice president and senior counsel and senior vice president, policy. Prior to joining the Council, Lynn was a legal consultant for Sungard Employee Benefits Systems in Birmingham, Alabama. In addition, she was engaged in the private practice of law for several years with the law firm of Berkowitz, Lefkovitz, Isom and Kushner of Birmingham. After earning her undergraduate degree at Vanderbilt University, Lynn received a L.L.M. in taxation from the University of Florida in 1983 and a law degree from Cumberland School of Law, Samford University in 1982. Lynn is active in numerous information sharing organizations, is a fellow in the American College of Employee Benefits Counsel and a member of the Alabama and Georgia state bars. Lynn is a frequent speaker domestically and internationally on retirement and compensation policy issues.

David Finn
Director, International Consulting
Towers Watson

David Finn is a director in the International Consulting Group and joined Towers Watson in 1997. David is a leader on global pension risk management at Towers Watson. In his work he assists multinational companies manage their employee benefits worldwide. This incorporates ongoing governance and monitoring, global investment policy, financing, benefit design and cash & funding strategy. David is currently involved with a number of multi-country exercises to help companies make decisions about investment deployment and possible external risk transfer. This work includes IORP and pension captive strategy and implementation advice for major multinational clients. David is a fellow of the Institute and Faculty of Actuaries, UK.

Arthur Kohn
Partner
Cleary Gottlieb Steen & Hamilton LLP

Arthur Kohn's practice focuses on compensation and benefits matters, including executive compensation, pension compliance and investment, employment law and related matters. Mr. Kohn joined the firm in 1986 and became a partner in 1995. Mr. Kohn has been co-chair of the firm’s New York office diversity committee and its corporate governance practice group, and chair of its pension and employee benefits committee. Mr. Kohn is a member of the Bar in New York.

Mr. Kohn is distinguished by Chambers USA, The Legal 500 U.S. and The Best Lawyers in America as one of the leading lawyers in the area of employee benefits and executive compensation. In 2011, he was selected for the National Association of Corporate Directors' Directorship 100, a list of the most influential people in corporate governance and in the boardroom.

Mr. Kohn is co-editor of The Executive Remuneration Review, a book discussing the global regulation of executive compensation. He is an adjunct faculty member at the New York University School of Law, at which he teaches a course on the Taxation of Executive Compensation, and a regular guest lecturer at Columbia Law School. Mr. Kohn is a member of a task force project of The Conference Board on Supplemental Pay Disclosure and is an advisor to a task force project of The Conference Board on Shareholder Engagement. Kohn regularly speaks on pension investment and compensation matters.

Mr. Kohn is former co-chair of the Columbia University Undergraduate Campaign Council and is the Co-Chair of the Columbia College Alumni Association Committee on Intellectual Experience, a member of the Columbia College Board of Visitors and a member of the Columbia College Alumni Association Board of Directors. Mr. Kohn received a J.D. degree and an undergraduate degree from Columbia University in 1986. He was elected as a Stone Scholar at the Law School and was admitted to Phi Beta Kappa.

Howard Pianko
Partner
Seyfarth Shaw LLP

Howard Pianko is a partner in the New York office of Seyfarth Shaw, LLP and co-chairs the firm's national Fiduciary Advisory Services POD. His specialization in the fiduciary law provisions of ERISA and the applications of these provisions to plan investment began when he represented the Futures Industry Association in securing the seminal advisory opinion relating to the ERISA aspects of trading by plans in financial futures contracts. His practice includes: (i) special ERISA fiduciary counsel assignments; (ii) compliance with the fiduciary and prohibited transaction provisions applicable to benefit plans and IRAs; (iii) advising on alternative investments (private equity, hedge funds, real estate, etc.), including global investment funds; (iv) the application of ERISA's fiduciary law provisions to health plans, providers and producers of medical products and devices; and (v) domestic and global plan governance and risk management. His plan governance work includes the design and drafting of local and global charters and policies, board and benefit plan committee charters, the review of investment guidelines and of investment management, trust, custodial and other related agreements. Mr. Pianko lectures extensively and each year he co-chairs a basic and an advanced conference on pension investment law for PLI. In addition to being a Charter Fellow in the American College of Employee Benefits Counsel, his professional accomplishments have been recognized by, among others, Best Lawyers in America (25 years), Chambers (Band 1), Legal 500 and Super Lawyers; with a Martindale-Hubbell Peer Review rating of "AV Preeminent.

An Van Damme
Partner
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An Van Damme is specialized in "pension law". She advises clients on different aspects of occupational pensions, such as drafting and modifying pension plans, harmonizing pension plans after a merger or an acquisition, due application of the control legislation, corporate governance of pension funds, setting up industry wide pension schemes, opting-out of industry-wide pension schemes, etc…

An also assists clients in court with respect to occupational pensions. She is a member of IPEBLA (International Pensions and Employee Benefit Lawyers Association), and frequently gives lectures and writes articles on occupational pensions.