Association Européenne des Institutions Paritaires
European Association of Paritarian Institutions

Communication on Rationalisation of Reporting requirements

AEIP Position Paper

November 2023

European Association of Paritarian Institutions (AEIP)

Transparency Register: 69133399372-91

AEIP welcomes the rationalization of the reporting requirements

The European Association of Paritarian Institutions (AEIP) welcomes the European Commission's initiative to ease burdensome reporting requirements. AEIP further supports the alignment of reporting requirements for pension funds, promotes transparency and underlines the importance of data quality.

Administrative burden or regulatory obstacles are among the biggest issues for most of small and medium sized Institutions for Occupational Retirement Provision (IORPs). More than 50 percent of the IORPs in EUR have less than 100 million EUR AUM and this number excludes the 70.000 small IORPs in Ireland (see EIOPA's Technical Advice on the IORP II review, Annex 1, Figure 1). In the past years, the regulatory burden on IORPs has increased significantly due to the 2016 review of the IORP Directive and applicable horizontal legislation such as sustainable finance legislation and Digital Operational Resilience Act (DORA). This has detrimental effects resulting in additional financial burdens on their members and beneficiaries, ultimately diminishing pension benefits.

AEIP underlines that striking the right balance between regulatory oversight and the operational needs of pension funds is essential to ensure the long-term financial well-being of pension funds and pension beneficiaries. Furthermore, AEIP advocates for the stabilisation of regulations. The continual evolution of reporting requirements necessitates the adjustment of national systems and procedures, leading to unwarranted and counterproductive complexity.

Policymakers should recognize the unique nature of paritarian institutions

Paritarian institutions are inherently different from pure financial institutions and should not be treated as such

Wrongfully, European policymakers frequently perceive paritarian institutions merely as financial service providers catering to customers. It is crucial to recognize the inherent distinctions between paritarian institutions, such as occupational pension and healthcare funds, and pure financial market entities. Belonging to the welfare state and offering social protection, paritarian institutions exhibit distinct qualities compared to other participants in the financial market.

The majority of paritarian institutions operate on a 'not-for-profit' basis, serving a vital societal role in ensuring social protection adequacy. Unlike typical financial entities, they lack shareholders and, notably, refrain from product sales. Likewise, rather than customers, paritarian institutions have members and beneficiaries. This distinction is underscored by the mandatory affiliation of employees to pension, healthcare, or unemployment schemes based on their employment relationships. Moreover, paritarian institutions often originate from collective agreements and are subject to national social and labour laws. Their unique governance structure, frequently managed by social partners, fosters a collaborative decision-making process. This not only enhances transparency but also ensures inclusiveness and democratic legitimacy. The emphasis on joint management contributes to an environment that prioritizes the well-being of beneficiaries over profit motives.

In addition, the legal and regulatory structures of pension funds in Europe vary significantly, reflecting their distinct roles within the social protection systems of individual Member States. As a result, the schemes and pension plans they provide display a wide range of characteristics and inherent risks.

Key observations on reporting requirements

Reporting requirements need to be kept to a minimum

AEIP suggests that current and any new reporting requirements for second pillar pension funds need to be kept to a minimum. Overall, the heterogenous nature of IORPs requires proportionality to be read in the context of the minimum harmonisation principle that governs the IORP II Directive. For instance, the principle-based approach in the IORP II Directive enables Member States to consider the national frameworks and the different structures of IORPs. Notably, the adoption of a one-size-fits-all approach does not work for the IORP sector, as it generates unnecessary costs especially for small and medium sized IORPs. Under the pretext of pursuing supervisory convergence, there has been a significant surge in reporting requirements. In the view of most of our Members (especially small and medium sized occupational pension and healthcare funds) this has led to a complete erosion of the delicate balance between supervisory convergence and minimum harmonization. A pertinent example of this imbalance is evident in the recent technical advice provided by EIOPA on the on the IORP II review.

Additionally, we wish to point out that it is imperative to ensure that the principle of proportionality is adequately and coherently considered not only in the next review of the IORP Directive but also in other applicable legislation, such as Sustainable Finance Disclosure Regulation and DORA. Presently there is no common and adequate definition for the application of proportionality across the EU legislation (in horizontal legislation) that affects IORPs. This entails that reporting requirements vary across horizontal legislation.

A simpler and more unified approach regarding reporting requirements should be based on the principle of minimum harmonisation and proportionality as described in the IORP II Directive (yet a challenge remains to ensure the right application of the principle of proportionality in practice for IORPs). Consequently, it is recommended that reporting and disclosure requirements for IORPs be primarily outlined in the IORP II Directive. As a minimum harmonization directive, the IORP II Directive allows ample flexibility for Member States to adopt reasonable provisions within their national contexts. This approach ensures a balance between regulatory consistency and the ability of Member States to tailor requirements to their specific circumstances. Legislation should also acknowledge that IORPs should not be treated as purely financial service providers as highlighted in recital 32 of the IORP II directive.

Any new reporting requirements should benefit the pension and healthcare funds and their members and beneficiaries

Excessive reporting requirements can impose a significant cost and administrative burden on pension and healthcare funds. Some of our small and medium sized members mentioned that the resources required for compliance can divert funds away from their primary mission; which is to provide secure occupational social protection benefits to their members. AEIP highlights that a cost impact analysis needs to be applied before the introduction of any new reporting requirements. A cost impact analysis can analyse the cost impact of different reporting requirements for pension and healthcare funds and assess the extent to which this will have an impact on the pension and healthcare fund and its members and beneficiaries. The cost impact assessment should not only look at the impact of each individual requirement but on to the aggregate cost of all reporting requirements.

Additionally, the ever-changing European regulations on sustainable finance and Corporate Sustainability Reporting constitute to excessive complexity for some of the stakeholders (especially for small and medium sized stakeholders). Navigating through the various reports becomes challenging, exposing institutions to the risks of non-compliance, despite deploying disproportionate resources relative to their size for implementation.

Heterogeneity of IORPs and comparison of data

It is often the case that European Supervisory Authorities (ESAs), EU institutions and other organisations such as the OECD collect data with the aim to carry out comparisons. We appreciate and promote their work on pension fund reporting and we understand that good data regarding pension funds across Europe offer valuable insights into their performance, encompassing aspects such as costs. Such information proves beneficial in discussions about the IORP sector's value. Additionally, these data serve as an incentive for pension funds to engage in mutual learning, fostering opportunities for performance enhancement through shared insights.

Nevertheless, it is always crucial to point out that Europe's pension funds exhibit significant diversity concerning their legal and regulatory structures, aligning with their respective functions within the social protection systems of individual Member States. Most Member States have IORPs, which are subject to the IORP II Directive, as well as other pension funds and pension providers (including asset managers, insurers and banks), which are often regulated at national level. Consequently, the schemes and pension plans offered are equally diverse in terms of their features, characteristics and inherent risks. As such, some industry experts posit that the heterogeneity in Europe, not only between different countries but also within Member States poses a challenge to making meaningful comparisons. Understanding heterogeneity of the pension funds helps to ensure that calculations, estimates and (additional) reporting requirements, for the various countries and IORPs, are as relevant and appropriate as possible.

Overlaps of data needs to be avoided

We believe that ESAs should make use of information that is already collected by the European institutions and where relevant by the national authorities. In this way it could reduce and avoid data overlaps. Leveraging existing data sources at both the European and national levels can help to streamline the reporting frameworks. Also, it promotes efficiency by obviating the need for duplicate data collection efforts, can make the reporting process less burdensome for reporting entities, reducing administrative overhead and minimizing the associated costs. Additionally, in our view this approach aligns with the principles of good governance and regulatory effectiveness. It underscores a prudent use of resources and promotes cooperation between European and national authorities. Collaboration in data sharing and utilization can improve the effectiveness of regulatory oversight, thereby benefiting both regulatory bodies and the pension funds they oversee. As such we encourage the ECB, EIOPA, Eurostat and the OECD to achieve more synergies together with the National Competent Authorities (NCAs).

We suggest where possible to align the scope, content, frequency, and timing of reporting. This alignment holds several benefits, such as enhancing efficiency, reducing complexity, and promoting consistency.

It is questionable how this initiative will work in practice

The practical effectiveness of this initiative is questionable, particularly when considering the impending introduction of the ESRS and DORA which are set to bring about a substantial upsurge in reporting requirements. Moreover, there are additional EU regulations, like the Corporate Sustainability Due Diligence Directive (CSDDD), currently undergoing trilogue negotiations, that incorporate proposals from the European Commission that could further intensify reporting obligations. We wish to underline that several of our smaller pension and healthcare funds are very concerned as they lack the necessary financial and personnel resources to adequately meet the growing challenges posed by increasing complex reporting requirements.

AEIP fully supports that transparency and accountability are crucial in managing pension and healthcare funds, still overly excessive reporting requirements can have detrimental effects on these funds' efficiency. AEIP believes that the way forward is to make reporting simple and relevant (proportional) and always consider a cost-effective approach for pension and healtchare funds and their members and beneficiaries.

Targeted observations on reporting requirements

We welcome the development of an integrated sustainability reporting system

Currently the EU is developing an integrated sustainability reporting system through the Sustainable Finance Disclosure Regulation (SFDR) and Corporate Sustainability Reporting Directive (CSRD), linked together through the European Single Access Point (ESAP) (expected to be available from 2027). Under the SFDR IORPs are required to report on a number of different Environmental, Social, and Governance (ESG) issues, such as their policies on ESG risks, the environmental and social characteristics of the pension scheme, Taxonomy exposure and Principal Adverse Impact (PAIs) indicators. To rationalise and reduce reporting requirements, we suggest that there is no further need for ESG data to be integrated in EIOPA's reporting regime according to Article 35 of Regulation (EU) No 1094/2010 about

EIOPA's regular information requests towards NCAs regarding IORPs. Information about ESG issues reported under SFDR and published through ESAP should suffice, thus we recommend avoiding the development of a parallel reporting regime through statistical reporting.

Additionally, pension funds are obligated to disclose their remuneration policy in accordance with SFDR, IORP II, and ESAP. It is essential for national authorities and the ESAs to collaborate in harmonizing these reporting requirements. The aim is to streamline the reporting process for pension funds, enabling them to submit a single, unified report in a standardized format. This consolidation effort extends to the annual statement, which is currently reported under both IORP II and ESAP, with the goal of minimizing duplication and simplifying reporting procedures for pension funds.

The SFDR's cross-sectoral approach poses challenges for pension funds. Both Level 1 and Level 2 were developed with mainly retail investment funds in mind. Pension funds are different, because choice is limited and many types of assets are in a single product. Employees typically face limited choice when it comes to their pension arrangements. Signing the employment contract often translates to enrolment in a pension fund, where a single investment policy, lacking multiple options, is commonly the norm. Consequently, participants in a pension fund SFDR information differently. The information may not be as actionable for them, as there is no precontractual phase where they can actively verify sustainability promises, given the predetermined nature of their pension fund participation.

There are also challenges in preparing PAI disclosure. It is hard to add up PAI disclosures provided for investment mandates by external managers. KPIs are often unclear, unreliable and do not provide pension funds with actionable information for their responsible investment decisions.

The disclosure requirements of the SFDR, the CSRD, and the CSDDD will likely introduce additional reporting obligations at the company (entity) level for many affected entities. To avoid undue burdens and streamline reporting efforts, a general principle should be upheld: entities already reporting under the SFDR should not be subjected to additional reporting requirements under the CSRD and CSDDD. The goal should be to establish a unified and cohesive framework for sustainability reporting, minimizing fragmentation and ensuring consistency across reporting obligations. This approach would not only enhance efficiency but also facilitate a more comprehensive understanding of sustainability practices across various entities.

The recently finalized ESRS is set to furnish pension funds with crucial data, enabling them to make responsible investment decisions and meet their SFDR reporting obligations. In response to the ESRS, the European Commission has expressed the necessity of adjusting the SFDR to align with the choices made within the ESRS. It is imperative that these adjustments are promptly incorporated into the SFDR to ensure harmony between these legislative components. As a result, pension funds should be afforded the capability to rely on CSRD reporting for their SFDR PAI reporting, facilitating a more integrated and streamlined reporting process.

IORP II

EIOPA's technical advice on the review of the IORP II Directive proposes that IORPs should publish their engagement policy in the Statement on Investment Principles. However, it is noted that this could be redundant since IORPs already publish their engagement policy in adherence to transparency requirements outlined in the Shareholders Rights Directive (SRD2). In light of this, we plea to the European Commission to prevent double reporting and abstain from introducing this additional reporting requirement during the IORP II review. The aim is to streamline reporting obligations and avoid unnecessary duplication of efforts for IORPs.

Digital Operational Resilience Act (DORA)

We anticipate a significant increase in reporting requirements from DORA, it is evident that the regulations and their Regulatory Technical Standards (RTSs) were primarily designed with banks in mind. Given the considerable differences between banking operations and those of pension funds, where operational risks are comparatively smaller, many of the controls outlined seem irrelevant to pension funds. The current rules-based nature of the RTSs necessitates that pension funds allocate resources to every single control, regardless of its relevance. From our perspective, adopting a risk-based approach would be more effective, enabling resources to be directed towards addressing the most significant risks. At present, there seems to be a lack of consideration for proportionality in the RTS, resulting in small pension funds being treated similarly to globally systemic banks.

DORA mandates that pension funds must gather extensive information from organizations to which they outsource various functions. Given that pension funds commonly outsource nearly all functions, these requirements pose a particularly heavy burden on them. It is crucial to assess whether maintaining an information register for subcontractors beyond a certain level in the value chain is both purposeful and proportionate. Additionally, concerning critical third-party Information and Communication Technology (ICT) service providers subjected to an Oversight Regime, financial entities should be spared the necessity of conducting independent testing at these entities, as supervisory oversight should suffice.

Emphasis is needed on the reporting of ICT-related incidents, a novel aspect in DORA. The proposed classification of ICT-related incidents in the draft RTS fails to adequately consider the intimate relationship between a pension fund and its service provider(s). Consequently, there is a concern that numerous insignificant incidents may be categorized as major incidents. This scenario could result in disproportionate reporting demands on pension funds, diverting attention from both pension funds and supervisors away from the most critical incidents.

Framework for Financial Data Access (FiDA)

Recently the European Commission has published its proposal establishing a framework for response since access to individual and business customer data across a wide range of financial services, namely the Financial Data Access (FiDA) proposal. AEIP recognises that FiDA proposal is part of the initiative of the Commission to accelerate its work on digital finance. Nevertheless, AEIP is concerned that FiDA could slow down the improvement of pension tracking services or hinder the set-up of pension tracking services in countries where pension tracking tools are not yet established.

To be more precise, we are afraid that priority might be given to establish pension data sharing schemes under FiDA rather than building pension tracking services; even though pension tracking services would give a more complete information on pension entitlements by including first pillar entitlements and possibly also third pillar entitlements. Inevitably, this could lead to a detrimental impact on pension tracking services, making financially and administratively unfeasible for pension funds to manage pension data sharing through both FiDA and a pension tracking service. Significantly, in case of implementation, FiDA must build on pension tracking services.

It is essential to avoid a situation that would force pension funds to establish parallel data sharing schemes. Given that pension funds are non-profit institutions, this would result in unnecessary additional financial burdens on pension funds' members and beneficiaries, thereby lowering pension benefits.

Stress Testing

The costs associated with conducting stress tests mandated by EIOPA prove to be burdensome for IORPs.This is mainly due to EIOPA's insistence on examining the entire portfolio, and the fact that EIOPA employs asset mappings that deviate from the portfolio information readily accessible in the IORP's administration. The substantial costs arise from the analysis and acquisition of essential market data. Additionally, the adoption of the common balance sheet as a tool for the common framework further escalates expenses. This is because this tool is not utilized in practical scenarios and necessitates calibration specifically for EIOPA's stress tests.

The expenses associated with EIOPA's stress tests amount to tens of thousands of euros per IORP, with significantly greater costs for larger and more intricate IORPs (yet small and medium sized IORPs also face significant costs due to lack of resources). The financial burden escalates further when an IORP lacks in-house expertise and must engage an (often costly) consultant. For instance, a specific IORP disbursed a hefty sum of one hundred thousand euros for a stress test conducted by a consultant. EIOPA's intention to expand the inclusion of a broader spectrum of IORPs in its stress tests raises concerns, particularly for medium-sized IORPs. The relative burden and costs for these IORPs would be even more pronounced in such circumstances.

In 2015, EIOPA determined that European DB IORPs could incur expenses of up to 300 million euros to execute the 'Common Framework Balance Sheet' and implement a standardized risk assessment in accordance with the technical specifications outlined in its Quantitative Assessment. These cost projections exclusively take into account the expenses associated with computing the figures for IORPs, disregarding the additional costs incurred by National Supervisory Authorities (NSAs) and sponsors in furnishing data to the IORPs. Furthermore, the communication costs required to elucidate these figures to stakeholders are not factored into these estimates.

While we appreciate that the implementation of the 'Common Framework Balance Sheet' and standardized risk assessment did not proceed, it is important to note that the costs associated with successive stress tests have still been notably high.

For further information please contact:

Panayiotis Elia, Policy Advisor, Pension & Financial Affairs

Panayiotis.elia@aeip.net

AEIP Disclaimer

AEIP represents the European Paritarian Institutions of Social Protection in Brussels since 1997. The Association gathers 27 leading large and medium-sized social protection providers, which are managed on the basis of joint governance and equal representation by both employees and employers' organizations (the social partners) in 11 EU Member States, which manage more than 1300 billion assets for more than 80 million European citizens.

AEIP represents its members' values and interests at the level of both European and international institutions. In particular, AEIP - through its working groups - deals with EU coordinated pension schemes and pension funds, healthcare, unemployment, provident and paid-holiday schemes.

Owing to the quality of its members and to the delegation of powers conferred to its Board, AEIP aims at becoming the leading body for the promotion of balanced paritarian social protection systems in Europe. AEIP promotes and develops programs and orientations aiming at the sustainability of paritarian social protection systems at local level taking into account the national specificities aiming at ensuring social cohesion in Europe.

Based thereon, AEIP prepares recommendations, proposes local programs and influences European decisions to safeguard and promote the interests of its members. AEIP thinks ahead and anticipate modern paritarian social protection systems that take into account changing economic and societal pattern. It furthermore seeks to find a new balance between and across generations.

For more information: www.aeip.net