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European Trade Union Confederation (ETUC)
Confédération Européenne des Syndicats (CES)

BUSINESSEUROPE

Mr José Manuel Barroso
President
European Commission
B-1049 Brussels

14 February 2012

Dear President,

The European Insurance and Occupational Pensions Authority (EIOPA) will shortly provide its advice to the European Commission on Review of the Directive on Institutions for Occupational Retirement Provision (IORP). This will be an important contribution to the forthcoming review of the directive. In addition, the European Commission will shortly publish its White Paper on Pensions.

BUSINESSEUROPE and ETUC have actively contributed to the work of EIOPA, as the provision of occupational pensions remains a crucial issue for both companies and workers. We feel that this is an appropriate moment to repeat our growing concerns regarding possible plans of the European Commission to propose a new solvency regime for occupational pensions, and particular concerns regarding a reproduction of Solvency II. This would have a significant impact on long-term economic growth and job creation as well as force companies to stop offering such schemes and close them to new entrants. This would undermine retirement provision for many employees across the EU.

The EIOPA consultation document of 25 October 2011 clearly recognises the negative implications of introducing Solvency II type capital requirements for pension funds. It is reassuring that the Commission has underlined that it is not its intention to propose an automatic application of the Solvency II rules for IORPs. However, the Commission's call for advice to EIOPA is clearly based on the premise of applying a number of elements of the Solvency II directive to IORPs, as part of ensuring a more risk-based supervision.

The threat to long-term economic growth would arise fundamentally from two consequences of the proposals. Firstly, the increase in funding requirements would substantially raise the cost to employers of providing occupational pensions, forcing them to divert money away from investment in growth, job creation and R+D. Secondly, the proposals would significantly change schemes' investment patterns, restricting capital flows to businesses, at a time when access to credit is already difficult.

Applying a Solvency II–type regime to pension funds would not take due account of the specificity of occupational retirement provision. An occupational pension is part of the benefit package provided by an employer to his employees. They often have a collective character, e.g. being supported by a collective agreement, being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products. Therefore, there is no need to establish a level playing field regarding competition between IORPs and insurance schemes offering retirement benefits.

Furthermore, whilst we agree that safeguards are needed to ensure that pension funds are robust enough to provide adequate retirement benefits, this does not require additional solvency rules. In fact, such mechanisms already exist, e.g. the employer covenant, pension guarantee funds and the possibility for social partners to agree to change the pension deal. Also, applying higher funding requirements is not necessary, as pension funds have the possibility to spread their risks between different generations over long time spans and long periods for recovering deficits. It is precisely these mechanisms, as well as those already provided by the IORP Directive, which makes applying a Solvency II type regime unnecessary.

Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a thorough and high quality impact assessment should be carried out. This should assess the impact on cost-effectiveness of providing occupational pensions, on retirement provision for employees, and macro-economic effects. In addition, European Social Partners wish to be involved in any discussions before a decision is taken.

We hope that the concerns we have expressed are taken into account in any revision of the EU rules for occupational pensions, to ensure that adequate retirement provision can be provided for current and future pensioners in a cost-effective way.

Please note that a copy of this letter has been sent to Commissioner for Internal Market and Services, Michel Barnier, Commissioner for Economic and Financial Affairs, Vice President Olli Rehn, and Commissioner for Employment and Social Affairs, László Andor.

Sincerely yours,

Bernadette Ségol
General Secretary
ETUC

Philippe de Buck
Director General
BUSINESSEUROPE