

# BETTER FINANCE responds to European Commission's call for feedback on its legislative proposal on IORPs

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## Executive Summary

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BETTER FINANCE welcomes the European Commission's proposals amending the IORP II Directive. Occupational pension schemes can play a key role in enhancing pension adequacy for EU citizens, provided these schemes generate positive real net returns on the long term.

We believe the Commission's proposals regarding the legal framework on IORPs can significantly enhance IORP's capacity to do that in a way that is sustainable and ensures that participants' interests are at the heart of how occupational pension plans operate.

Nevertheless, the Commission's proposal rests on a delicate balance between greater flexibility in the management of pension funds and greater accountability of fund managers to plan participants. The explicit "duty of care" and the information and good governance requirements that come with it are the necessary counterpart of the introduction of a "prudent person principle".

*Keywords : IORPs, occupational pensions, duty of care, prudent person principle, pension benefit statement*

## About BETTER FINANCE

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BETTER FINANCE — the European Federation of Investors and Financial Services Users — is the voice of European citizens as savers, investors, and financial users at the EU level. Working independently from the industry, BETTER FINANCE serves as an independent hub of financial expertise for the direct benefit of individual shareholders, investors, savers, life insurance policyholders, pension fund participants, and mortgage borrowers across Europe. Their work aims to promote research, information, and training on investments, savings, and personal finances to lawmakers and the public. BETTER FINANCE counts 40 independent, national, and international member organisations, sharing similar objectives from the EU Member States as well as Iceland, Norway, Turkey, Lebanon, and Cameroon.

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## BETTER FINANCE remarks

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BETTER FINANCE welcomes the Commission's proposed amendments to the IORP II framework. Occupational pension schemes hold great potential to improve European citizens' retirement income as well as to deepen the EU's capital markets, which we believe the proposed amendments will contribute to realise.

### Scope of the IORP framework

We welcome the Commission's proposal to enable Member States to extend selected elements of the EU's framework for IORPs to other categories of pension funds, as well as to the provision of personal pensions by IORPs.

It is our conviction that the diversity of the supplementary pensions landscape across the EU must be respected, as it allows catering for the specific needs of a varied population in a way that a single model could not. Nevertheless, the IORP framework offers pension savers a high level of investor protection that could benefit participants to non-IORP schemes as well. Rules on information to members, prospective members and beneficiaries and rules on good governance are examples of parts of the IORP framework that, as a general rule, should apply to all providers of pension schemes, with Member States being allowed to tailor these requirements where necessary.

### Duty of care and prudent person principle

We welcome the introduction of an explicit **duty of care** principle: a clear, legally binding statement that the primary mission of an IORP is to "provid[e] adequate, risk-adjusted and cost-efficient returns over the long term". We believe this not only reinforces supervisors' mandate to enforce crucial investor protection, it also provides a stronger legal basis for pension savers who believe their interests have been neglected to challenge scheme managers.

That and the proposed enhancements to IORP II rules on supervision and systems of governance, we believe, are the necessary counterpart to the increased flexibility that the replacement of the prudent person rule with a **prudent person principle** grants IORP managers. The added flexibility is key to enable pension fund managers to determine the investment strategy best suited to serve the participants' interest, including greater exposure to equity markets, but this greater flexibility must come with greater accountability. In that regard, we must note that situations of conflicts of interests in the management of pension schemes should not merely be managed but forbidden, to the extent possible.

### Information to members and beneficiaries

The proposals regarding information to be provided to members, prospective members and beneficiaries constitute much welcome improvements compared to the current text of the IORP II Directive. Information on costs, performance and

risks, as well as on investment and pay-out options, provided on a regular basis in a standardised format, would greatly contribute not only to raise pension awareness, but to empower pension savers.

Indeed, even though in many cases, individual participants have little to no say on investment decisions made by occupational pension managers, information on performance, costs and features of the plans they are affiliated with is crucial for one's ability to plan their retirement finance. Furthermore, better information for participants enhances their ability to better express their preferences regarding the investment strategy and risk tolerance.

BETTER FINANCE particularly welcomes the proposal to provide members of defined-contribution IORPs with past performance figures for the past 10 years. Indeed, while past performance is no guarantee of future performance, it provides crucial information about a pension managers' ability to generate positive return for participants.