

OPSG Statement on Information for members of occupational pension plans

Introduction

Proper information for members and beneficiaries of a pension scheme is crucial. This is of particular relevance for requests for information concerning the financial soundness of the institution, the contractual rules, the benefits and the actual financing of accrued pension entitlements, the investment policy and the management of risks and costs.. # #1

The key words in this consideration from the Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision, IORP Directive, are "proper information".

Each Member State has, according to Article 11 in the Directive, set up rules about the information that Institutions shall give to or make available to members. It should be recognised that Member States are best suited to create the precise format for information for members, and this should also relate to the other retirement and preretirement issues such as State coverage. However it should be noticed that standard information differs substantially among Member States, and some Member States are reluctant in providing requirements of adequate information.

The public demand for information has developed since the Directive was approved. A new IORP II Directive is under preparation. At the same time are reviews and changes under way in other or related areas: Investment products and markets (the MiFID), Insurance (the IMD and the Solvency II), Prospectus Directive, UCITS Directive, the Pensions White Paper ,The Single Market Act I and II.

In 2012 the Commission proposed new rules that shall apply to the manufacturing and selling of investment products.² The Regulation lays down uniform rules on the format and content of the key information document to be drawn up by investment product manufacturers and uniform rules on the provision of this document to retail investors.

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, consideration no 23.

² Proposal for a Regulation of the European Parliament and of the Council on key information documents for investment products, COM(2012) 352 final

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The purpose of the proposal is to:

- Improve comprehensibility of disclosures
- Improve comparability of products using disclosures
- Ensure disclosures are provided at the right time in sales processes
- Improve regulatory consistency

A key information document, the so-called KID, is already known for UCITS. The Regulation introduces a KID also for other investment products. Occupational pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC are not covered by the Regulation.

But this is an additional contribution to the considerations about what “proper information” is in relation to occupational pensions. Assuming that KID is a benchmark for retail investors, one desires that within revision of IORP directive it should be examined how information for members of occupational pension plan ought to differ from information for UCITS products’ in order to provide the members of pension schemes with better information on the impact of all charges and costs on the value of the pension scheme.

Citizens in modern society are expected to be able to make decisions about their economic situation as informed judgements. The necessary precondition is that citizens are informed about their rights and obligations, and the rights and obligations of other parties, and they understand the information and the implications for themselves and their families.

Pension savings in occupational pensions and other private pensions are for many people the biggest amounts they have saved. Information for members of occupational pension schemes must be at least as good as information about investment products.

A real challenge is that many citizens neither read the information they receive nor do they search for information. Therefore, an enhanced interest of the members and beneficiaries would be both necessary and desirable.

Notwithstanding that it must be the case that information is useful as an aid to the exercise of the role and responsibility of the individual. It should be recognised that there are limitations to that and this should inform how information is both provided and designed.

Finally it should be underlined, that there is a dilemma how far one could go when it comes to information for members. Is there a trade-off between quality and cost of information? If yes what is the limit and what is the optimum point.

Principles of information

The aim of information for members of occupational pension plan is to increase awareness when a decision making is required (especially in case of no default portfolio) or status of pension plan should be taken into account. The latter aim is to provide information that helps in decision making process.

There are some principles that could be recognised regarding provision of information to members of a pension plan:

- Information must be transparent - plain and simple and covering key points in a manner that is accessible.
- Information should be fair and not misleading - how does information guarantee that a true and accurate picture and what possible conflicts of interest might have had an impact on the information provided.

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- Information should disclose value for money - all costs and charges should be shown individually together with the impact of the charges – it should be possible to compare costs and charges between different schemes.
- Information should disclose a governance - where is the governance of the scheme and who oversees the governance e.g. the regulatory environment.
- Information should disclose a representation - reporting how the member interest is protected, and who represents that interest.
- Information should disclose clearly when there is a choice - what is the choice for the member and how is that reflected.
- Information should disclose risk - that should be explained simply and fairly.

Key aspects of information for members of occupational plans

The IORP Directive provides information to the supervisor and to the members about the solvency, the functioning and the economic situation of the institution.

It is important to the members, that the institution is solvent and able to deliver pensions in the future. But in relation to considerations on the economic situation of the family is the future retirement benefits to most members the most important information. This question is important in all types of occupational pension schemes: Defined benefit (DB) schemes, defined contribution (DC) schemes and in DC schemes with guarantees.

When citizens have to make decisions in relation to their occupational schemes is it imperative that they are well informed. But the need for information is not confined to decisions related to the pension scheme. Citizens need information on their occupational pension schemes when they make other important decisions like buying a home, marrying, changing job, making an additional private pension plan. Proper information is also important for the overall acceptance of a scheme.

Occupational pensions are structured very differently in the Member States. But the need to know is the same.

The information provided should, where appropriate, have regard to the way that information is provided in the broader retail market. Basic information documents will not necessarily follow the precise format of the KID in the retail market but will inevitably have some similarities to it.

Investment products and among them private pension products not regarded as occupational pensions (pillar 3) will in the future be covered by the Regulation on KID. Although if they are not covered by PRIIPS that raises questions about the coverage of information as discussed in this submission. EIOPA issued in 2011 three reports³ on information to members. These reports are part of the basis for this opinion. The EIOPA report *Good practices on information provision for DC schemes*⁴ was made available for OPSG after the meeting ending the work with this statement.

³ *Risks related to DC Pension Plan Members*, CEIOPS-BOS-11/024 (final), 8 July 2011, *Risk Mitigation Mechanisms for DC Related Risks*, EIOPA-BoS/025 (final), 15 July 2011 and *Report on Pre-Enrolment Information to Pension Plan Members*, EIOPA BOS-11/039, July 2011.

⁴ *Good practices on information provision for DC schemes. Enabling occupational DC scheme members to plan for retirement*. EIOPA-BoS-13/010, 24 January 2013. The report was published 22 February 2013.

Identification of aims for information to members of occupational pension plans

The aim of information to members of occupational pension plans is double. The major aim is to make certain that members get or have access to the proper information. Another aim is for pension institutions to fulfil their disclosure responsibilities in relation to the members. The information pension institutions are obliged to give to supervisor can neither in content nor in form serve as the information to members. Proper consideration should be given to the behavioural traits that consumers display in their decision making in financial services. Information should be consistent with that.

The pension institutions have a fiduciary responsibility. The institutions know how the pension schemes work, they make decisions concerning the pension schemes, they are masters of a lot of details important for the pension schemes, and they are in charge of many of the costs. They are the ones who have access to all information about the pension schemes and they have a responsibility to give the members the information they need in a way and format that the members can understand and use or make the information available. It is the one who issues information who has to make certain that the information is made available in an understandable manner as intended.

Demand for information

The demand for information depends on who is demanding. Consumers are ill equipped because of inherent financial complexity and poor personal financial capability to determine many of the choices that could theoretically exist. Therefore information should attempt to create a balance which allows the reasonable exercise of choice. Over time this may increase but at this time proper analysis is required of what information is really helpful.

Trade unions, organisations and associations defending consumers and pensioners demand more information. They are in a better position to interrogate and advise than individuals might be.

Usefulness of information

It is important that information is made available in such a way that members can understand and use it. Members are becoming more experienced as computer users. For these members it will be an advantage if they get information that they can use in a spread sheet.

It will be necessary to produce information in traditional formats for a long period and provide help to members trying to use the information technology. And members should have the right to get information on paper.

The usefulness of information is not necessarily increasing with the amount of information. And it is obvious that old (outdated) information is not useful.

Information shall be accurate, fair, clear and not misleading, written in a clear language with use of everyday words whenever possible.

Multilayer information approach

A multilayer approach can help members better understand and use the information. Information could be divided in four parts:

- Information common to all members, like the annual accounts, the investment policy, the governance, the rules of the scheme, supervisory authority, board of appeal,
- Information on the running of the scheme, contributions, taxation etc.,
- Information on the future: expected retirement benefits for the individual member, basic information on taxation on the future retirement benefits, circumstances when rules of the scheme could change
- Information on procedures and costs in relation to job change, on top of amount of vested rights.

The layers could be:

- Basic information as a basic information document (BID)
- General information about the scheme, the governance etc. Parts of it send directly to members. All of it also available at the internet.
- Individual information. Updated individual information should be sent directly to the members once a year. All individual information should also be available at the internet. Remark: for small IORPs, this represents an important cost, linked to the fact that the confidentiality of the data has to be preserved.
- Combined pension information. It should be possible at the internet to get combined information about all types of pensions, pillars 1, 2 and 3 with information about defined, guaranteed and expected retirement benefits and the tax regimes.⁵

Liability of the information provider

It will normally be the IORP that will be obliged to provide the information.

Information must be reliable it may not be misleading. That means that the information provider shall restrict the core of the information to the information the provider actually knows something about. On other items should the information provider clearly state that the information cannot be used for economic decisions and direct the member to better information. Furthermore, it should also be made clear that such tentative information is not legally binding.

⁵ While mentioning “expected” benefits, the assumptions for their calculation have to be clearly indicated. The idea to have all this information available on the internet is very attractive, but at least some Member States do not provide that information on Pillar 1. Moreover, if the information on Pillar 2 has to be provided by IORPs (or the pension provider) and at their charges, this could be significant costs for small IORPs.

Members at different stages

Members of a pension scheme pass through different stages of relations to the scheme: “precontractual”, contributing or active member, deferred or passive member, receiving member. Information should be adapted to the different stages.

“Precontractual” information

Many occupational pension schemes are mandatory or quasi-mandatory. A person being employed in a certain company has no choice. She or he has to join the pension scheme. Some schemes leave no choice for the new member. Other schemes give the new member the possibility to choose between different investment strategies or types of retirement benefit.

It is obvious that members who shall make a choice need information so that they can make an informed decision. But members, who have no choice to make, need information too. In this century a new employee must have full information about the pension scheme even when the scheme does not leave room for choice. This information should reflect the needs of the individual.

Information for members

The information should encompass:

“Precontractual”[if the scheme is not mandatory]

- The scheme
- The governance of the scheme
- The latest annual report of the scheme
- The investment policy
- The supervisory authority
- Choices open to the member
- Contributions to be paid in the future by the member (or the principles for calculation of the contributions)
- Future contributions from other sources (tax allowances / additional payments)
- Fees and other costs related to the product
- The tax regime during the membership
- Duration of the contract
- The defined, guaranteed or expected retirement benefit and how these can be changed
- The tax regime for the retirement benefit
- Rules, including fees, costs and tax regime related to job change
- Risks linked to the scheme and the members expected retirement benefit (qualitative as well as quantitative, including risks on investments, regardless of their nature)
- Other rights and obligations for the member

During membership

- The scheme
- The governance of the scheme
- The latest annual report of the scheme
- The investment policy
- The supervisory authority
- Board of appeal

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- Choices that the member must make (no default solution)
- Choices that the member can make
- Contributions paid by the member
- Contributions to be paid in the future by the member (or the principles for calculation of the contributions)
- Contributions paid by the employer
- Contributions to be paid in the future by the employer (or the principles for calculation of the contributions)
- Contributions from other sources
- Future contributions from other sources
- Fees and other costs related to the product
- The tax regime during the membership
- Duration of the contract
- The defined, guaranteed or expected retirement benefit
- The tax regime for the retirement benefit
- Rules, including fees, costs and tax regime related to job change
- Risks linked to the scheme and the members expected retirement benefit (qualitative as well as quantitative, including risks on investments, regardless of their nature)
- Other rights and obligations for the member

Basic information

There are more than 140 000 IORPs across Europe. A lot of these institutions have to be considered as small IORPs with few members and beneficiaries. That is the reason why a trade-off between effectiveness and efficiency is crucial. But still the core, basic information should be provided to every single member of an occupational pension scheme. Further information is subject to a proportionality rule.

The basic information could consist of:

- Description of how the scheme is governed
- What is the investment policy
- What are the rules of the scheme
- What is the level of fees and costs
- General rules regarding fees, costs and taxation, especially if there is a range of choice between different available schemes
- What is the value of individual accounts for the member
- The annual accounts of the scheme

Information about the supervisory authority and the responsible board of appeal could also be helpful together with the rights and obligations of the members.

The risks related to the scheme and the defined, guaranteed or expected retirement benefit as long as such information does not influence the cost-efficiency of the IORP in a negative manner. However basic information about qualitative as well as quantitative risks, including risks on investments, annuity pricing, inflation, and changes to scheme rules regardless of their nature should be provided to every single member.

Some of the risks are related to the individual.

- What happens if the member leaves the company before the retirement age?
- What happens if the member doesn't contribute to the scheme as expected?

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- What happens if the member has to make choices and doesn't make the choices? Will default solutions be activated?

Other risks are general:

- The solvency of the scheme
- The investment policy, annuity prices, external economic or legal factors
- Changes in the rules of the scheme

Basic information document (BID)

A basic information document (BID) should permit Member State interpretation and should not be overly prescriptive in design or format. It should rather lay down the key features that must be included. The BID shall contain the following information:

- under a section at the beginning of the document, the name of the occupational pension scheme and identity of the occupational pensions institution;
- under a section titled "What is this pension scheme?", the nature and main features of the pension scheme, including
 - the type of the pension scheme [Defined benefit, defined contribution with or without guarantees] ;
 - its objectives and the means for achieving them;
 - the type of pension to be delivered [life-long annuity, annuity for a limited number of years, lump sum];
 - an indication of whether the occupational pension institution targets specific environmental, social or governance outcomes, either in respect of its conduct of business or in respect of the pension benefits, and if so, an indication of the outcomes being sought and how these are to be achieved;
 - where the occupational pension scheme offers insurance benefits, details of these insurance benefits;
 - the term of the pension scheme, if relevant;
 - performance scenarios, if this is relevant having regard to the nature of the pension scheme;
- under a section titled "Could I lose money?", a brief indication of whether loss of capital is possible, including
 - any guarantees or capital protection provided, as well as any limitations to these;
 - whether the pension scheme is covered by a compensation or guarantee scheme;
- under a section titled "Early exit" an indication of the consequences (e.g. direct costs or fees or changes in defined or expected retirement benefits) of an early exit from the scheme in case of job change or serious illness;
- under a section titled "What are the risks and the possible retirement benefit?", the risk and reward profile of the pension scheme, including a summary indicator of this profile and

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warnings in relation to any specific risks that may not be fully reflected in the summary indicator;

- under a section titled "What are the costs?", the contributions to be paid by the member and all of the costs and charges associated with the pension scheme, comprising both direct and indirect costs to be borne by the member, including summary indicators of these costs and whether they can change;
- under a section titled "How has it done in the past?", the past performance of the pension scheme, if this is relevant having regard to the nature of the scheme and the length of its track record;
- for pension products, under a section titled "What might I get when I retire?", projections (not legally binding) of possible retirement benefits.

The occupational pension institution may only include other information where it is necessary for the (prospective) member to take an informed decision about a specific part of the scheme.

DB pension schemes

In addition to the basic information relevant for members of all types of pension schemes is it of paramount importance that members of DB pension schemes get precise information about the risks related to the fulfilment of the defined benefit promise and the exact extent of the promise including information on what is not 'guaranteed'.

The general principle should be that if the information is available it should always be disclosed on demand.

DC pension schemes

In addition to the basic information members of DC pension schemes must have very precise information about their own obligations to make choices and the risk related to the scheme. DC programmes can be with or without a guarantee. A guarantee can be full or limited. It is of the utmost importance, that members know the limitations of guarantees.

Another important question is the choices members have to make. To which degree do members have to make investment decisions? The retirement benefit from DC schemes depends on the cost related to the scheme, how the contributions are invested and the development of the investment.

A major question in relation DC schemes is how large a part of the contributions disappear in charges, commissions, fees and other costs. The governance of the scheme has a special obligation to minimize the costs if the investment decisions are left with the scheme and not with the individual member.

If the investment decisions are taken by the institution or outsourced to external fund managers is it important to get clear information about the trading pattern. Costs related to trading should be extracted from the changes in the market value of the portfolio. Members and institutions need that distinction in order to be able to judge the quality of the investment management. Frequent trading costs a lot in commissions or fees independent of the quality of the investment.

The scope of information should vary for no default portfolio, default fixed portfolio and default life-cycle portfolio. The general principle should be that if the information is available it should always be disclosed on demand.

Conclusions

The OPSG recommends that information to members of occupational pension schemes is developed as a multilayer approach in relation to the information provided and in relation to the medias used. Nevertheless, a multilayer approach always has to take into account /consider the principle of proportionality beyond indispensable information. The implementation of too comprehensive information responsibilities would overburden the infrastructure of these institutions and furthermore raise its administrative costs. Therefore, by recognizing the principle of proportionality, adequate exception rules for small IORPs should be established. However the general principle should be kept that if the information is available it should always be disclosed on demand.

The layers of the multilayer approach could be:

- Basic information. The basic information document.
- General information about the scheme, the governance etc.
- Individual information. Updated individual information.
- Combined pension information. All types of pensions, pillars 1, 2 and 3.

Member States should be responsible for the translation of these principles so as to maximise the benefit to individuals of the information. Principles should assure selection of most useful information to achieve optimal proportion between quality of information and cost of information.

The effect of the information should be evaluated after 5 years together with the costs and administrative burden for the IORPs.