Gabriel Bernardino
Chairman

European Commission
Michel Servoz
Director-General DG EMPL
Rue Joseph II 27/Joseph II-straat 27
1000 Bruxelles/Brussel
Belgium

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

EIOPA-15/566
7 July 2015

Call for advice on transferability of supplementary pension rights

Dear Mr Servoz,

I am pleased to submit to you today the final version of EIOPA's 'Report on Good Practices on individual transfers of occupational pension rights' in response to the Call for Advice received from the European Commission in June 2014.

As requested in the original Call for Advice, the Report by EIOPA provides acomprehensive overview of the existing arrangements for transfers of acquired supplementary pension rights in different Member States, both within the country as well as for cross-border transfers.

In essence, the analysis revealed the following key outcomes:

- Firstly, in all Member States, the same rules apply for cross-border and domestic transfers.

- Secondly, there are large differences between transfer regimes applicable in the individual Member States and between the schemes themselves across the EEA. As a result, scheme managers often face difficulties to assess the eligibility of receiving scheme(s) for cross-border transfers.

- Thirdly, there are a number of different initiatives in various Members States aiming to facilitate transfers (both legislative and voluntary).

- Finally, there is a lack of quantitative data on transfers in some Member States; the available information on the volume and value of transfers based on the information reported is outlined in Annex I of the Report.

In addition, as requested by the Call for Advice, EIOPA identified 8 main impediments to both domestic as well as cross-border transfers and 13 Good Practices to overcome them. In terms of way forward, EIOPA particularly recommends addressing the following three key areas which could significantly facilitate the transferability of supplementary pension rights:

- Voluntary co-operation between pension schemes or associations can help significantly to foster the transferability of supplementary pension rights. EIOPA considers it a Good Practice to establish voluntary agreements covering as many providers as possible. Registers or questionnaires may be helpful to assist transferring schemes with the identification of eligible receiving scheme(s). This will also help to facilitate cross-border transfers.

- Scheme members should receive adequate information in order to take informed decisions. It is essential that information is structured in different layers in order to make it more comprehensive. Additional relevant information can be provided via appropriate tools such as online platforms. Furthermore, it is considered as a Good Practice to enable the scheme member to receive advice on costs and charges in order to understand whether a transfer is in his/her best interest or not (Good Practice 8).

- The transfer process could be more efficient if pension schemes negotiated the practicalities of the transfer without involving the scheme members and maintained reasonable time limits for the execution of transfers. A minimum level of active involvement by scheme members could help to improve the transfer process.

In addition, while the above impediments and Good Practices apply to both domestic transfers within a country as well as to cross-border transfers, EIOPA identified <u>two</u> areas of particular importance for cross-border transfers:

- The main impediment to cross-border transfers is considered to be taxation, and in particular the differences among the tax regimes and tax treatment of transfers/capital pay-out in different Member States (i.e. so called TEE/EET/ETT tax approaches). From the scheme member's perspective, a cross-border transfer carries the risk of creating tax issues. For example, a double-taxation could happen if a member transfers from a TEE into a EET or ETT regime; on the other hand, tax avoidance could occur if a member transfers from EET or ETT to a TEE regime.

- Secondly, the difficulties associated with the identification of the receiving scheme have also proven to be an obstacle to cross-border transfers. This step is necessary so as to establish with legal certainty whether the receiving scheme is eligible to receive a transfer. While this is typically rather straightforward in the case of domestic transfers, it may prove more difficult for cross-border cases given that the transferring scheme(s) may not be familiar with the pensions' landscape in other countries, language barrier etc.

I trust that these conclusions will assist you in your follow-up work. Please do not hesitate to contact me or my staff, should you have any questions or need any further details.

I look forward to continuing the fruitful cooperation on these aspects.

Yours faithfully,

Gabriel Bernardino