

COMMENT

Comment

of the German Insurance Association (GDV)
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on the amending Directives (EU) 2016/2341 and
2016/97 as regards the strengthening of the framework
for occupational retirement provision

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1. Key topics and challenges

We fully support the objective of promoting broader access to occupational pension schemes. With their extensive experience, IORPs are well positioned to contribute to the expansion of occupational pension provision. According to EIOPA, in the fourth quarter of 2024, European IORPs had 74.1 million members and held € 2.69 trillion in investments (around 9 % from Germany). This underlines the substantial role of both European and German IORPs in providing reliable and long-term retirement solutions.

We welcome and broadly support ongoing efforts to further strengthen risk-based supervision across the EU, recognising its important role in enhancing the resilience and soundness of the occupational pensions sector. A well-calibrated risk-based approach can contribute to effective supervision while supporting long-term sustainability. We welcome the fact that many of the governance and risk management requirements in the proposal of the Directive are similar to the Solvency II requirements. We also welcome initiatives to promote prudent investment diversification and strengthen trust in supplementary pensions. Building trust is essential, and efforts to increase transparency, improve communication, and provide clear information to savers are crucial steps in achieving this objective. We therefore generally welcome initiatives aimed at enhancing transparency and helping individuals make informed decisions about their future retirement provision.

While the current proposal to revise the Directive seeks to strengthen supervision and improve standards, there are concerns that certain elements may move beyond the intended scope. In particular, we fear that the proposed changes to the Directive risk limiting the flexibility of IORPs to adapt to the specificities of labour and social law in their respective markets. To avoid this, it is important that the Directive retains its minimally harmonising character. New requirements should remain flexible and proportionate, allowing for innovation and adaptation to local market conditions. This is particularly important to ensure that smaller IORPs can continue to operate on an equal footing without being overburdened by extensive or disproportionate regulations. Proportionality should guide the design of all new requirements, especially in markets with well functioning national supervision. During the legislative process, it would be beneficial for the Council and the European Parliament to ensure that governance and information duties are formulated in a practical and flexible manner. A balanced approach, one that accommodates national diversity and leverages existing frameworks, will allow different models to coexist and thrive, strengthening Europe's pension landscape.

In Germany, occupational pension schemes continue to be characterised by many smaller players and predominantly defined-benefit commitments: pure defined-contribution (DC) models – pure contribution commitments – currently account for significantly less than 5 % of the total. Almost all entitlements are based on defined

benefit (DB) commitments. Since employers bear the capital market and longevity risk for defined benefit commitments and have high balance sheet liabilities for this, regulatory requirements must take particular account of this guarantee burden and risk exposure.

To that end, we have identified the following key recommendations for coming legislative work on the IORP II framework:

1.1 Maintain the minimum harmonisation approach in the Directive:

The conditions for occupational pensions vary significantly across Member States. For this reason, the **IORP II framework was designed as minimum-harmonisation directive**, allowing Member States the flexibility to adapt the rules to their own labour markets and social security systems. This flexibility is essential not only to respect national differences but also to accommodate the diversity of IORPs – large and small, with varying structures and activities.

Many of the changes proposed by the European Commission to the IORP II Directive would remove its minimum harmonisation character.

The revision would not only tighten numerous supervisory requirements, but would also introduce mandates for technical regulatory standards and guidelines (Level 2 and Level 3 regulation). This would result in highly specific and uniform requirements across all Member States, without sufficient regard to national circumstances. The introduction of and reliance on level 2 and level 3 rulemaking introduces uncertainty and could lead to regulatory overlap or duplication of national processes. This approach is contrary to the original spirit of the IORP II Directive, which emphasises stability and respect for national frameworks.

Increased harmonisation – such as stricter information requirements – risks disrupting well-functioning national models, increasing costs for IORPs, and ultimately disadvantaging policyholders and beneficiaries. Moreover, relying on extensive Level 2 and Level 3 regulation would also contradict the EU's simplification agenda and the broader objectives of the Savings and Investment Union.

GDV recommendation

Due to the differing situations and conditions across Member States, national supervisory authorities (NCAs) should retain the freedom to adapt their requirements to the specific circumstances of their respective countries. This is essential to ensure that Member States with well-functioning pension systems and consumer protection can continue to rely on their existing models.

1.2 Ensure proportionality in the newly introduced requirements in IORP

We welcome the fact that many of the governance and risk management requirements in the proposal of the Directive are similar to the Solvency II requirements. However, this entails a significant effort, particularly for small IORPs. The consideration of the size of IORPs is omitted in the supervisory requirements. At the same time, the prudential requirements and reporting obligations are being expanded. This could overburden smaller IORPs.

GDV recommendation

We recommend that the principle of proportionality be upheld, for example by taking into account the size and risk profile of the IORP when applying the requirements of the Directive. It would also be conceivable to create a new class of small and non-complex IORPs that receive automatic simplifications because of their low-risk profile as in the Solvency II-regime. Besides, it would be adequate to grant various exemptions for certain small IORPs like already provided under the Regulation (EU) 2022/2554 on digital operational resilience for the financial sector (DORA).

1.3 Do not extend the scope of the IORP Directive to private pension provision to avoid uncertainty for providers:

The inclusion of private pension provision (pension products outside occupational schemes) in several articles of a directive for occupational pension institutions (IORPs) raises certain challenges. In particular, it may become more difficult to maintain a clear distinction between private and occupational pension schemes. This could potentially create uncertainty regarding the applicable regulations or leading to overlapping obligations.

GDV recommendation

Maintaining a clear separation between the two types of provision within the legislative framework would help ensure legal certainty, reduce unnecessary complexity, and respect the distinct regulatory objectives and market structures of occupational and private pensions.

1.4 Focus on information that is relevant to members and beneficiaries and adapted to national circumstances:

Providing additional information does not necessarily lead to more clarity or transparency. For savers, focusing on the most essential information is likely to be more effective. While we support the objective of enhancing transparency, the proposal appears to overlook the already well-functioning cost transparency and reporting systems that exist in individual Member States.

Introducing highly generalised requirements at European level could lead to increased administrative effort without a clear corresponding improvement in transparency. This may create confusion, generate additional costs for members and beneficiaries, and could potentially run counter to European objectives regarding efficiency, affordability and value for money.

The current provisions of the IORP II Directive already ensure that members and beneficiaries receive clear and effective information on key aspects such as costs, performance, risks, and benefit projections, and these are supported by national supervisory frameworks. We believe that the national characteristics can best be taken into account by the NCA.

It is also important to recognise that the relevance of information, particularly on costs and performance, can vary depending on the pension scheme type (DB or DC). Cost disclosures are most meaningful where members bear investment risk, but should not give disproportionate weight in DB schemes, where employees have no influence over the product or investment decisions and no cost impact.

Moreover, the additional effort required from companies to comply with these information obligations could increase costs and may not fully align with the Commission's objective of efficiency in occupational pension provision. In general, the proposed requirements regarding information duties appear to be considerably more extensive and could entail a significant administrative burden.

GDV recommendation

While transparency remains an important objective, mandatory reporting requirements should be designed to be adaptable to national contexts and remain practical, proportionate, as well as manageable.

1.5 Find a more pragmatic solution to ensure Value for Money for IORPs:

The proposal introduces obligations to ensure “value for money,” including corresponding benchmarks, through an information requirement in Article 41a in the event of underperformance. Under this provision, IORPs would be required to regularly test their performance. If there is a deviation from the supervisory authority's benchmarks, the authority must be informed. If the authority considers the costs unjustified, based on the IORPs' explanations, members and beneficiaries must be informed in detail.

While the objective of enhancing value for money is important, developing benchmarks that adequately reflect the diversity of IORPs would be highly complex. In addition, the regular testing requirements could be burdensome for IORPs. And there is a risk that members may find the resulting information difficult to interpret. There is also a concern that supervisory benchmarks could, over time, be perceived as de facto performance targets, potentially influencing management decisions in ways that may not always align with members' best interests.

GDV recommendation

For these reasons, we believe that careful reconsideration of this provision may be warranted. We therefore suggest creating more flexible obligations that enable NCAs to intervene in case of complaints by beneficiaries.

1.6 Focus on outcomes for beneficiaries not IORP size:

In the press release on the review, in the recitals, and in the proposed amendments to the IORP II Directive, there appears to be an increased emphasis on market consolidation. The proposed amendments reflect a shift in supervisory philosophy, moving from a predominantly prudential, risk-based approach toward one that places greater focus on institutional scale, consolidation, and restructuring of IORPs. While scale can be an important factor in certain contexts, there is a risk that supervision could be perceived as influencing market structure, without sufficiently clear legal boundaries or safeguards. This raises considerations regarding subsidiarity, proportionality, and alignment with the diversity of national occupational pension systems.

GDV recommendation

In our view, explicitly pursuing market consolidation may not be the most appropriate objective for a supervisory directive. A balanced approach that respects diversity and supports competition is likely to better serve members' interests and help maintain a healthy and resilient pension landscape.

1.7 Comparison websites should only be introduced where they add value:

We consider transparency to be a highly important objective and fully support initiatives aimed at improving the availability and quality of information for members and beneficiaries. According to Article 51 paragraph 4 of the proposal, supervisory authorities would be required to establish a comparison website presenting individual pension schemes and their main characteristics. While the intention behind this provision is understandable, the

development and maintenance of such an overview would entail a significant administrative burden for both NCAs and IORPs responsible for providing the underlying information. Particularly with regard to German occupational pension schemes, we do not believe that such an overview would be of much use to members and beneficiaries. In Germany, employees moreover have only limited choices, as occupational pensions are generally arranged through employers rather than individually.

GDV recommendation

Taking into account the associated costs and effort, it may be worth reconsidering the proposal to establish a comparison website in its current form. One alternative could be to introduce such a comparison website gradually, initially with voluntary participation by IORPs, and to give NCAs some leeway in setting up a website.

1.8 Ensure that stress tests can be adapted to the diverse profiles of IORPs, national specificities and current market conditions:

We support efforts to further strengthen risk-based supervision at EU level. While the introduction of stress tests under the proposed Article 18a follows a clear supervisory rationale, the proposal appears far-reaching. In particular, the use of predefined scenarios may conflict with the principle of minimum harmonisation.

Moreover, the proposed requirements could significantly increase the operational and administrative burden for IORPs, especially if Member States make use of the option to impose additional stress-testing obligations. The associated administrative burden could increase significantly. This aspect may warrant careful consideration in light of the EU's simplification agenda.

GDV recommendation

In this context, it may be useful to consider whether a more flexible approach could better accommodate the diverse risk profiles of IORPs, national specificities and current prevailing market conditions.

2. Regarding the individual articles amending the Directive (EU) 2016/2341

2.1 Article 4 – Optional application

We understand the idea of strengthening occupational pension schemes in Europe and making them more secure overall. This seems to be the reason for the proposed revision of Article 4. However, we consider this proposal to be questionable. In the German context, it is also difficult to imagine how the supervisory authority could manage to supervise additional schemes.

2.2 Articles 6, 7, 13, 16 and 47 – Distinction between private and occupational pension provision

While we recognise the intention behind the proposal, we have reservations regarding the introduction of a Workplace PEPP through the incorporation of corresponding provisions into the IORP Directive. In our view, the occupational pension market already offers a wide variety of products, and the addition of another variant could increase complexity without a clear added value.

Including private pension provision (pension products outside occupational schemes) in several articles of a directive for occupational pension institutions raises concerns. We fear that this inclusion may make it more difficult in the future to clearly distinguish between private and occupational pension provision. This could lead to uncertainty about which rules apply to private pension products, or to a duplication of obligations.

GDV recommendation

We prefer a clear separation between the two types of provision within the legislative framework. This ensures legal certainty, avoids unnecessary complexity, and respects the different regulatory objectives and market structures of occupational and private pensions.

2.3 Articles 10, 12a, 17, 36, 38 and 50 – Moving away from minimal harmonisation

The conditions for occupational pensions vary significantly across Member States. For this reason, a fundamental principle of the IORP II framework was the nature of minimum-harmonisation, allowing Member States the flexibility to adapt the rules to their own labour markets and social security systems. Such flexibility is necessary to reflect national particularities and the diversity of IORPs. The starting point for the IORP II review should therefore be to maintain this approach, so that Member States can continue using their models.

The proposed revision would significantly expand supervisory obligations and introduce binding technical standards and guidance at Level 2 and Level 3. As a result, IORPs would be subject to detailed and largely uniform rules across the Union, leaving limited scope to reflect national specificities. Greater reliance on secondary legislation may also create legal uncertainty and increase the risk of overlapping or duplicative regulatory frameworks at national level. Overall, this direction departs from the original intent of the IORP II Directive, which was built on stability and respect for national pension systems.

A higher degree of harmonisation, including stricter information requirements, could undermine well-functioning national models, raise operational costs for IORPs and, ultimately, have adverse effects on members and beneficiaries. Such changes would also contradict the EU's simplification agenda and the broader objectives of the Savings and Investment Union. It also appears inconsistent with the latest Council Conclusions on simplifying the Union's financial services regulation.

GDV recommendation

Due to the differing situations and conditions across Member States, NCAs should retain the freedom to adapt their requirements to the specific circumstances of their respective countries. This is essential to ensure that Member States with well-functioning pension systems and consumer protection can continue to rely on their existing models.

2.4 Article 12a – Domestic transfers

Considering existing national regulations on domestic portfolio transfers, we see no need for European harmonisation. NCAs already have sufficient powers to supervise domestic transfers.

2.5 Article 18a – Internal stress testing

We welcome and broadly support ongoing efforts to further strengthen risk-based supervision across the EU, recognising its important role in enhancing the resilience and soundness of the occupational pensions sector. A well-calibrated risk-based approach can contribute to effective supervision while supporting long-term sustainability. It is important, however, that any new requirements, such as additional stress testing, remain sufficiently flexible and proportionate, while continuing to allow for innovation and adaptation to local market conditions.

While the underlying rationale for introducing stress tests under the proposed Article 18a is understandable, the proposal appears extensive. For example, the requirement to apply predefined scenarios may be difficult to reconcile with the Directive's principle of minimum harmonisation. The Article also stipulates that

IORPs whose stress test results indicate insufficient assets or an insufficient available solvency margin must submit a convergence plan with measures to achieve sufficient coverage of technical provisions. It seems absurd to us to draw up a convergence plan based on scenarios that are very likely to be outdated.

In this context, it may be useful to consider whether a more flexible approach could better accommodate the diverse risk profiles of IORPs, national specificities and prevailing market conditions.

In addition, the proposed requirement is likely to entail a considerable increase in effort for IORPs. Given the possibility for Member States to further intensify stress-testing requirements, the associated administrative burden could increase significantly. This aspect may warrant careful consideration in light of the EU's simplification agenda.

GDV recommendation

A general obligation to conduct stress tests, accompanied by general requirements, could potentially achieve the desired objectives while maintaining the necessary degree of flexibility. The precise details of this should be left to the NCAs in accordance with national circumstances. The NCAs should keep the administrative burden on IORPs within reasonable limits in this context.

2.6 Article 19 – Investment rules

The alignment of the “Prudent Person Rule” with the “Prudent Person Principle” (PPP) from Solvency II is not critical in principle. However, the further development of a “risk-based PPP,” the restriction on Member States’ ability to impose investment limits, and, in particular, the interpretation of the PPP in the European Commission communication of 20 November 2025 raise concerns with regard to the level playing field between Solvency I and Solvency II companies.

The new provisions in Article 19 paragraph 1d(b) and (c) concerning the requirement to take into account the individual sustainability preferences of beneficiaries with the restriction “as far as they are known” are largely aligned with the requirements laid down in Article 2 No. 4 of the Delegated Regulation 2021/1257. The same applies to the provisions in Article 23 paragraph 3. However, in the EU Commission's current draft revision of the Disclosure Regulation 2019/2088 (SFDR), Article 2 No. 17 (the definition of sustainable investments) and Article 5 (transparency of remuneration policies in relation to the integration of sustainability risks) are being deleted, the regulations on Principle Adverse Impacts (PAIs) are being amended.

It seems to us that there is a lack of coordination between these proposed amendments, which were adopted from the current SFDR-Regulation, and the proposals in the current review for amending the SFDR-Regulation 2019/2088. In view of the proposals for the review of the SFDR that have been published on November 2025, the additions to the topic of sustainability proposed here, which adopt the provisions from the existing SFDR, are already outdated and will once again lead to inconsistent regulations between the reviewed SFDR and IORP II.

We have strong concerns regarding the changes provided for in paragraph 6. We view the fact that Member States will no longer be allowed to impose national regulations in cases where IORPs bear the investment risk themselves and provide a guarantee themselves (defined benefit, DB) as critical. IORPs would be subject solely to the PPP, and the only controlling element of supervision would be the stresstest. Compared to these proposed investment regulations for IORPs with a defined benefit system, Solvency II insurers are subject to stricter requirements than IORPs, as they have to meet the capital adequacy requirements of Pillar 1 of Solvency II in addition to the PPP. For IORPs, on the other hand, only the stress test would be a controlling element in addition to the PPP.

GDV recommendation

The investment rules should not differentiate between defined contribution (DC) and defined benefit schemes (DB). Member States should have the right to lay down more detailed prudentially justified national rules, including quantitative rules, not only for defined contribution but also for defined benefit schemes.

We propose that the amendments in the review of the SFDR be incorporated into the IORP II Directive so that the regulations will be harmonised.

Furthermore, the requirement to take into account the individual sustainability preferences of beneficiaries misses the mark when it comes to the reality of collectively organized occupational pension schemes, at least in Germany (occupational pension schemes are not covered by the IDD). Sustainability preferences are, under IDD and MiFID, an inherent part of the advice provided to an individual customer. They are not applicable in other contexts.

2.7 Articles 19, 21, 23 to 26, 28, 47, 49 and 62 – Review aims at market consolidation

The press release accompanying the review, as well as the recitals and several proposed amendments to the IORP II Directive, indicate an increased focus on market consolidation. By way of example, Article 47 paragraph 6 provides that “Member States shall ensure that competent authorities monitor market developments relating to the scale of IORPs.” While monitoring such developments may

be informative, it is important to consider whether an explicit emphasis on market consolidation aligns with the core objectives of a supervisory framework. Careful reflection may be warranted to ensure that the directive continues to support a competitive and well-functioning internal market.

The consideration of the size of IORPs is omitted in the supervisory requirements. At the same time, the prudential requirements and reporting obligations are being expanded. This raises concerns that smaller IORPs could face disproportionate burdens. While strengthening governance and transparency is important, any framework should apply the principle of proportionality, as in the past, to ensure requirements are risk-based and tailored to the scale and complexity of the entity. The size of an IORP alone is not a reliable indicator of quality or scheme performance. For example, small IORPs can achieve very strong investment results by pooling their investments.

GDV recommendation

It may be worth considering whether market consolidation should form part of the objectives of a supervisory directive. A balanced approach that recognises diversity and fosters competition could help to serve members' interests and support a sustainable pension landscape.

2.8 Article 21 – General governance requirements

The mandatory establishment of a compliance function required by Article 21 paragraph 4 is in line with Solvency II requirements for insurance companies, but may be excessive, particularly for smaller IORPs.

GDV recommendation

We recommend that the establishment of a compliance function be made dependent on the risk profile of the IORP or that certain small IORPs be exempted from this obligation.

2.9 Article 30 – Statement of investment policy principles

The proposed additions are understandable, when considered individually. Overall, however, they greatly expand the statement. This expansion is particularly relevant for IORPs that operate not just one, but a number, in some cases even a large number, of different pension schemes. In such cases, a separate document setting out the principles of investment policy would have to be drawn up for each individual case. The effort involved may be disproportionate to the expected benefit.

GDV recommendation

We propose that in the case of IORPs that manage a larger number of pension schemes only a single statement needs to be prepared and, in addition, only the differences between the pension schemes need to be disclosed.

2.10 Articles 36 to 44 – Information to members and beneficiaries during the accumulation and decumulation phases

We agree with the objective of the proposed requirements regarding information duties that transparency is extremely important. But their scope appears significantly broader and would introduce additional complexity. Providing additional information does not necessarily lead to more clarity for savers or transparency. For savers, it is far more important to focus on the essential information. The additional effort required from companies due to these extra information obligations would increase costs and would run counter to the Commission's objective of efficiency in occupational pension provision. While transparency is important, mandatory reporting requirements should not become overly prescriptive or burdensome.

With the proposed amendments regarding information duties, the directive could move far away from its minimal harmonisation character and would move toward detailed EU-level harmonisation, which risks undermining well-functioning national solutions.

We are particularly concerned about the requirements for cost transparency set out in several articles of the proposal. While the proposal aims to enhance transparency, it may not fully reflect the existing, well-established cost transparency and reporting systems in the individual Member States. The introduction of uniform requirements could increase administrative effort without delivering a clear added value in terms of transparency. This could create challenges for members and beneficiaries and may risk undermining European objectives such as efficiency, affordability and ensuring good value for money.

The current rules in the IORP II Directive are sufficient to ensure that members and beneficiaries receive clear and effective information, including on costs, performance, risks, and benefit projections. They are part of national supervisory law. We believe that the national characteristics can best be taken into account by the NCA.

It is also important to emphasise that the relevance of information, for example on costs and performance, varies depending on the pension scheme type (DB or DC). Cost disclosures are meaningful where members bear investment risk, but should not be overstated in DB schemes, where employees have no influence over the product or investment decisions and no cost impact.

We will address the individual points in the following text.

2.11 Article 36 – General provisions - Principles

This proposal requires IORPs that provide personal pension products to ensure a transparency level equivalent to personal pension products provided by other entities. EIOPA will develop guidelines on the required information. As already mentioned, we have concerns about including personal pension products in the directive. Without a clear legal separation of the information duties for personal pension products and the information duties for pension schemes this proposal would lead to a considerable extension of information duties for personal pension products.

Furthermore, we are concerned about uniform guidelines. Uniform guidelines by EIOPA are not the right approach to tackle the diverse challenges and conditions of different Member States.

GDV recommendation

We recommend maintaining a clear separation between the two types of provision within the legislative framework which would help ensure legal certainty, reduce unnecessary complexity, and respect the distinct regulatory objectives and market structures of occupational and private pensions. We believe in following the minimal harmonisation approach and letting NCAs determine the details of the information to be provided and adapt it to the national challenges. Therefore, we recommend refraining from developing uniform guidelines.

2.12 Article 38 – Pension Benefit Statement and supplementary information - General provisions

We support any effort to enhance transparency and continuously improve existing systems. But it is in the interest of the members to keep the information at a level which is both detailed enough to understand and not too complex as to not confuse members or overwhelm them with excessive information. Overwhelming members with information achieves the opposite of what the Commission is trying to achieve. Therefore, we have concerns about the plans to further expand information duties.

Germany has a well-functioning system with regular oversight by the BaFin. German IORPs already provide extensive information. It remains unclear to us why that system should be changed. The German members have little to gain from the

proposed extension at the cost of considerable administrative burden for both NCA and IORP. Therefore, we believe that keeping the regulation at a level that respects national differences may lead to more improvement.

Introducing regulatory technical standards with a Union-standardised document goes far beyond the scope of the minimal harmonisation of the directive. Furthermore, it creates administrative burden where there is no need. The national markets for IORPs are very heterogenous. Standardised information at the EU level would lead to many practical problems. The current information duties are already extensive and established. The directive should not change well working supervision systems.

GDV recommendation

We recommend carefully considering whether this proposal would be in line with the simplification agenda and whether the benefit to members would justify the effort required. The focus should remain on essential information.

The proposed regulatory technical standards directly contradict the minimal harmonisation character of the Directive and should be removed. The details of the information requirements should be left to the NCAs. They are best placed to assess and take into account national specificities.

2.13 Article 39 – Pension Benefit Statement

The proposal requires IORPs to include a detailed cost breakdown of the previous 12 months in the Pension Benefit Statement. Where members bear investment risk, it must include information on the past performance and nature of the investment option.

While the desire for enhanced cost transparency is understandable, the approach of frequent mandatory cost breakdowns is a significant effort.

In Germany the benefit of this cost breakdown is very limited. The BaFin already conducted an extensive test of the costs of German IORPs in 2021 and observed that German IORPs generally do not have a cost issue. Thus, the proposal would inflict heavy administrative burden for both IORPs and the NCA for very little benefit.

The new addition to (g) to include costs on compounded basis (Reduction in Wealth Approach) is troubling as past costs might not even be available. Furthermore, this representation of costs is misleading for members. For example, with a policy term of 40 years and an interest rate of 4 %, a cost of 1 € incurred in the first

year would be presented as 5 €. Compounded costs do not reflect the real costs of the product.

GDV recommendation

An approach that respects national differences should be implemented instead to not interfere with established systems and create unnecessary administrative effort.

For the reasons stated above, the inclusion of costs on compounded basis should be omitted. Systems with sufficiently clear cost information are already established at national level on the basis of the currently applicable directive.

2.14 Article 41 - Information to be given to prospective members

In line with our argumentation on Article 38, we also do not consider the extension of information duties proposed here to yield benefit to prospective members that is proportionate to the effort for the respective IORPs.

This proposal expands the mandatory information regarding cost transparency, the investment options and their risks. As stated before, enhanced transparency is in principle supported but should remain proportionate to the required effort and the resulting benefit for the saver. The current directive already requires sufficient information to be given to prospective members. Additional information on the past performance should remain restricted to products where the members bear investment risks. Where employees have no influence over the product or investment decisions and no cost impact, the additional effort required from companies to comply with these additional information obligations could increase costs and may not fully align with the Commission's objective of efficiency in occupational pension provision.

GDV recommendation

In line with the simplification agenda, any additional information requirements should focus on the benefits for the prospective members and remain proportionate to the effort required. The proposed amendments of the Directive would result in considerable administrative burden with limited benefits to prospective members and should therefore be avoided.

We believe that information about past performance can be misleading for customers. Past performance is not indicative of future performance. However, if information about past performance is still required, any additional information on past performance should be limited to prospective members that bear significant investment risks.

2.15 Article 41a – Information to be given to members and beneficiaries in the case of underperformance

The introduction of obligations to ensure “value for money,” including corresponding benchmarks, as part of an information requirement in Article 41a in the event of underperformance is also a matter of serious concern.

Specific obligations on value for money are currently being discussed as part of the retail investment strategy for IDD and MiFID II as a supplement to product governance requirements. We are very critical on this subject, as there is a high risk of detailed price regulation. Ultimately, there is a risk that the authority’s benchmarks could become de facto performance targets, influencing management decisions in ways that may not align with members’ best interests. In the particular case of IORPs, extensive requirements to test and justify performance and costs against supervisory benchmarks would also result in substantial additional administration and would be very burdensome.

Furthermore, it would not be appropriate to automatically require IORPs to inform members and beneficiaries in detail of cases where the supervisory benchmarks are not met. Members and beneficiaries may not be able to interpret the information correctly and may take premature and disadvantageous decisions on their contract.

GDV recommendation

For these reasons, this provision should be carefully reconsidered. We therefore suggest creating more flexible obligations that enable NCAs to intervene when complaints by beneficiaries arise. One option would be to delete paragraph 1, second subparagraph, as well as paragraphs 2 and 3. This would allow the supervisory authority to retain the necessary tools for monitoring and, where necessary, intervening. Moreover, it would exclude an automatic mandatory notification to members and beneficiaries. The supervisory authority would still have the option of ordering measures (including informing members and beneficiaries) if underperformance issues were identified. However, this would no longer have to happen automatically, thereby avoiding unnecessary uncertainty among members and beneficiaries.

2.16 Article 43 – Information to be given to beneficiaries during the pay-out phase

The proposed amendment should be assessed taking into account the characteristics of the pay-out phase. During this phase, portfolios typically focus on low-risk capital allocation, with limited investment activity. Furthermore, the regular payouts provide basic information for the member. Against this background, the proposed extension of information duties appears disproportionate.

GDV recommendation

While transparency remains an important objective in the pay-out phase, information duties should reflect the generally lower additional information requirements of beneficiaries during the payout phase.

2.17 Article 49 – Supervisory review process

The proposal requires a regular supervisory dialogue at least every three years for all IORPs, regardless of their individual risk profile or supervisory history. While supervisory engagement is supported in principle, a fixed minimum frequency is inconsistent with risk-based and proportionate supervision. Low-risk, well-governed and stable IORPs would be subject to the same recurring strategic scrutiny as structurally weak or underperforming institutions. This creates unnecessary administrative and governance burdens, particularly for smaller and social-partner-based IORPs. The obligation risks turning supervisory dialogue into a permanent strategic steering mechanism rather than an exception based supervisory tool. The requirement may also strain supervisory resources and encourage formalistic, low-value dialogue.

GDV recommendation

A risk-based trigger for supervisory dialogue would better align with the proportionality principle. Competent authorities should retain discretion to determine the timing and depth of dialogue based on material changes in risk. The fixed minimum frequency should therefore be removed or replaced with a flexible, risk-sensitive approach.

Besides, the introduction of “underperformance” and “value for money” as explicit supervisory objectives under Articles 41a, 49, 49a, 50 and 51 represents a significant extension of supervisory intervention beyond traditional prudential oversight. Assessing underperformance under Article 41a necessarily relies on benchmarks that are not harmonised at Union level and cannot adequately reflect differences in scheme design, risk tolerance, benefit structures or national social and labour law. This creates a risk that supervisory assessments of performance substitute supervisory judgement for legitimate strategic and governance choices. Similarly, “value for money”, as operationalised through cost, return and efficiency disclosures under Articles 49a, 50 and 51, lacks a clear legal definition and objective methodology. There is a structural risk that low-cost or high-return outcomes are implicitly prioritised over other legitimate objectives such as benefit stability, inter-generational fairness or solidarity. The combined focus on underperformance and value for money may encourage short-term or benchmark-driven investment

behaviour, contrary to the long-term nature of occupational pensions. These concepts also risk disadvantaging smaller, sectoral or non-profit IORPs whose governance and benefit models are not designed to optimise narrowly defined efficiency metrics. Without clear legal safeguards, the framework enables supervisory overreach into business and investment strategy. Performance and cost transparency are important, but they should inform members and supervisors, not function as de facto enforcement triggers.

GDV recommendation

The proposal should therefore clarify that underperformance and value for money indicators cannot, in themselves, justify supervisory measures absent a material prudential risk.

2.18 Article 49a – Regular supervisory dialogue

The introduction of Article 49a mark a qualitative shift in the nature of IORP supervision. While formally presented as supervisory review and dialogue, the framework effectively repositions supervisors as agents of structural transformation, with an explicit mandate to assess the “adequacy of scale” and to steer institutions toward consolidation, cooperation, or asset pooling.

This goes beyond traditional prudential supervision, which is normally confined to risk control, solvency, governance and member protection, and enters the domain of industrial policy for the pension sector. The Directive thus blurs the line between:

- risk-based supervision, and
- discretionary market-reshaping through regulatory pressure.

This shift raises concerns about mandate creep, as no clear limiting principle is established to distinguish legitimate prudential intervention from policy-driven consolidation incentives.

GDV recommendation

We suggest to:

- explicitly state that lack of scale alone cannot constitute a supervisory deficiency;
- require supervisors to demonstrate that any consolidation-related recommendation is necessary, proportionate and strictly risk based;
- clarify that IORPs retain full discretion to reject consolidation strategies where member interests, governance structures or social-policy objectives justify alternative models.

2.19 Article 50 – Information to be provided to the competent authorities

The amendments to Article 50 are intended to expand reporting to the supervisory authority, including through regular qualitative and quantitative templates containing additional or supplementary information. Due to EIOPA Decision EIOPA-BoS-23/030, extensive reporting requirements already have to be met. The majority of reporting requirements are therefore likely to already be in practice.

We are somewhat concerned that reporting requirements could become more stringent. In our opinion, the EU's simplification agenda should be kept in mind. On the other hand, we consider the reference to Article 35 of EIOPA Regulation (EU) No 1094/2010, which regulates what data, information and documents national authorities, financial market participants and other institutions must provide to EIOPA, to be positive.

Our concern relates in particular to cost reporting. Currently, costs are already reported in accordance with the EIOPA templates. We agree that cost reporting is important. Member States are granted a certain degree of flexibility in how this cost reporting is carried out.

An already existing reasonable reporting system to the NCA should not be counteracted by European requirements with an unusual and not purposeful level of detail or completely different logic. Generalised requirements would inevitably lead to increased effort without any discernible gain in transparency. This would cause confusion and unnecessary costs for members and beneficiaries. This might contradict the European objectives regarding efficiency, affordability and good value for money. We believe that the national characteristics can best be taken into account by the NCA. Developing technical implementing standards for this purpose is neither appropriate nor necessary.

GDV recommendation

Given the different specificities across Member States and IORPs, the Directive's rules for reporting, information and transparency must continue to be principle-based, with minimum harmonisation provisions, and not overly detailed to ensure flexibility. It is also important to emphasise that the relevance of information, for example on costs and performance, varies depending on the pension scheme type (DB or DC). Cost disclosures are meaningful where members bear investment risk, but should not be overstated in DB schemes, where employees have no influence over the product or investment decisions and no cost impact.

The German NCAs assessment of costs and charges in 2022 / 2023 has shown that there is no cost problem in German occupational pension sector. The total cost level of German IORPs is appropriate at 0.79 % of investments. The German NCA

does not see any benefit in installing a comprehensive regular cost reporting system along the lines of the EIOPA 2021 Opinion. It does not expect that a comprehensive reporting system would lead to noticeable savings.

2.20 Article 51 – Transparency and accountability

We attach great importance to transparency and strongly support efforts to enhance both the accessibility and the quality of information provided to members and beneficiaries. Under Article 51 paragraph 4 of the proposal, supervisory authorities would be obliged to set up a comparison website displaying individual pension schemes and their key features. While the intention behind this provision is understandable, it may be challenging for such a website to fully reflect the complexity and diversity of the occupational pension landscape. There is therefore a risk that simplified comparisons could create a perception of transparency without adequately capturing relevant differences. Establishing and continuously updating such a platform would require substantial administrative resources, both for NCAs and for IORPs that would need to supply the relevant data.

In the specific context of German occupational pension arrangements, the added value of such an overview for members and beneficiaries appears limited. Employees in Germany typically have little scope for individual choice, as occupational pension provision is predominantly organised at employer level rather than selected on an individual basis. The choice of products in Germany is a matter for the employer, for whom aspects such as administrative simplicity are just as important as cost considerations. Against this background, the added value of such a comparison website for employees in Germany may be limited.

GDV recommendation

Taking into account the associated costs and effort, it may be worth reconsidering the proposal to establish a comparison website in its current form.

One alternative could be to introduce such a comparison website gradually, initially with voluntary participation by IORPs, and to give NCAs some leeway in setting up a website.

3. Regarding Amendments to Article 22 Directive (EU) 2016/97

Insurers offering occupational pension products must provide beneficiaries with both the IDD information and the information required under the IORP II Directive. Even if this is already standard practice in Germany, it nevertheless leads to unnecessary duplication. Insurers offering occupational pension products would have to provide a standardised IPID and the standardised documents in accordance with IORP II.

GDV recommendation

The legislator should opt for a single information regime here.

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