

Directive (EU) 2016/2341 of the European Parliament and of the Council
of 14 December 2016 on the activities and supervision of institutions for
occupational retirement provision (IORPs) (recast) (Text with EEA relevance)

TITLE VI

FINAL PROVISIONS

Article 60

Cooperation between Member States, the Commission and EIOPA

1 Member States shall ensure, in an appropriate manner, the uniform application of this Directive through regular exchanges of information and experience with a view to developing best practices in this sphere and closer cooperation with the involvement of the social partners where applicable, and by so doing, preventing distortions of competition and creating the conditions required for unproblematic cross-border membership.

2 The Commission and the competent authorities of the Member States shall collaborate closely with a view to facilitating supervision of the operations of IORPs.

3 The competent authorities of the Member States shall cooperate with EIOPA for the purposes of this Directive, in accordance with Regulation (EU) No 1094/2010 and shall without delay provide EIOPA with all information necessary to carry out its duties under this Directive and under Regulation (EU) No 1094/2010, in accordance with Article 35 of that Regulation.

4 Each Member State shall inform the Commission and EIOPA of any major difficulties to which the application of this Directive gives rise. The Commission, EIOPA and the competent authorities of the Member States concerned shall examine such difficulties as quickly as possible in order to find an appropriate solution.

Article 61

Processing of personal data

With regard to the processing of personal data within the framework of this Directive, IORPs and competent authorities shall carry out their tasks for the purposes of this Directive in accordance with Regulation (EU) 2016/679. With regard to the processing of personal data by EIOPA within the framework of this Directive, EIOPA shall comply with Regulation (EC) No 45/2001.

Article 62

Evaluation and review

1 By 13 January 2023, the Commission shall review this Directive and report on its implementation and effectiveness to the European Parliament and to the Council.

2 The review referred to in paragraph 1 shall in particular consider:

- a the adequacy of this Directive from a prudential and governance point of view;

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- b cross-border activity;
- c the experience acquired in applying this Directive and its impact on the stability of IORPs;
- d the Pension Benefit Statement.

Article 63

Amendment of Directive 2009/138/EC

Directive 2009/138/EC is amended as follows:

- (1) in Article 13, point (7) is replaced by the following:
 - (7) “reinsurance” means one of the following:
 - (a) the activity consisting in accepting risks ceded by an insurance undertaking or third-country insurance undertaking, or by another reinsurance undertaking or third-country reinsurance undertaking;
 - (b) in the case of the association of underwriters known as Lloyd's, the activity consisting in accepting risks, ceded by any member of Lloyd's, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd's; or
 - (c) the provision of cover by a reinsurance undertaking to an institution that falls within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council⁽¹⁾;

- (2) in Article 308b, paragraph 15 is replaced by the following:

- 15. Where, on the entry into force of this Directive, home Member States applied provisions referred to in Article 4 of Directive (EU) 2016/2341, those home Member States may continue to apply the laws, regulations and administrative provisions that had been adopted by them with a view to complying with Articles 1 to 19, Articles 27 to 30, Articles 32 to 35 and Articles 37 to 67 of Directive 2002/83/EC as in force on 31 December 2015 for a transitional period expiring on 31 December 2022.

Where a home Member State continues to apply those laws, regulations and administrative provisions, insurance undertakings in that home Member State shall calculate their solvency capital requirement as the sum of the following:

- a a notional solvency capital requirement with respect to their insurance activity, calculated without the occupational retirement provision business under Article 4 of Directive (EU) 2016/2341;
- b the solvency margin with respect to the occupational retirement provision business, calculated in accordance with the laws, regulations and administrative provisions that have been adopted to comply with Article 28 of Directive 2002/83/EC.

By 31 December 2017, the Commission shall submit a report to the European Parliament and to the Council, on whether the period referred to in the first subparagraph should be extended, taking account of changes to Union or national law resulting from this Directive..

Article 64

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 13 January 2019. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 65

Repeal

Directive 2003/41/EC, as amended by the Directives listed in Annex I, Part A, is repealed with effect from 13 January 2019 without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directives set out in Annex I, Part B.

References to the repealed Directive 2003/41/EC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 66

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 67

Addressees

This Directive is addressed to the Member States.

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- (1) Directive (EU) 2016/2341 of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) ([OJ L 354, 23.12.2016, p. 37](#));