

MEMO# 12789

October 26, 2000

EUROPEAN COMMISSION PROPOSES DIRECTIVE ON OCCUPATIONAL PENSIONS

[12789] October 26, 2000 TO: INTERNATIONAL COMMITTEE No. 38-00 RE: EUROPEAN COMMISSION PROPOSES DIRECTIVE ON OCCUPATIONAL PENSIONS On October 11, 2000, the European Commission issued a proposal for a directive on occupational pensions that, among other things, would establish European-wide standards for the management of pension assets. The proposal would establish prudential standards for pension funds while permitting funds sufficient flexibility to determine their own investment policies. The proposal also takes the first step in allowing pension schemes to be managed on a cross-border basis. The Commission also intends to propose appropriate tax initiatives for pension contributions in the coming year to facilitate further cross-border management of pension schemes. The Commission's proposal incorporates several of the recommendations made by the Institute in our comments on trade negotiations and to the Committee of Wise Men on the Regulation of European Securities Markets.¹ A copy of the proposal is attached. The proposed pension directive would cover institutions that operate on a funded basis for the sole purpose of providing retirement benefits (IORPs). The directive would impose certain conditions for operations of IORPs, rules for investment of IORPs, and rules permitting the cross-border management of occupational pension schemes. The directive would exclude expressly from its coverage UCITS funds as well as other institutions that already have a framework for cross-border provision of services. With respect to investment rules, the directive would impose a prudent person standard on IORPs along the lines the Institute has advocated. The directive would prohibit member states from requiring IORPs to invest in certain categories of assets and from requiring IORPs or their investment managers to obtain prior approval or provide prior notification of investment decisions. Although the directive would allow member states to impose certain quantitative investment limits on pension funds, the proposal would limit the restrictions that member states may maintain. Specifically, under the directive, IORPs must be permitted to invest 70% of the assets in shares and corporate bonds and 30% in assets denominated in non-matching currencies (i.e., foreign securities not denominated in Euro). Moreover, under the directive, 1 See Memorandum to International Committee No. 20-96 (July 3, 1996); Memorandum to International Committee No. 26-00 (August 16, 2000); Memorandum to International Committee No. 33-00 (September 29, 2000). 2 member states must allow IORPs to appoint investment managers established in other member states to manage portfolios. Finally, the directive provides a framework for the cross-border management of IORPs. The pension directive would permit an IORP to manage pension schemes for companies located in host member states by complying with the investment and prudential rules of the IORP's home member state. The host member state regulations regarding social security and labor, such as the types of benefits to be provided, however, would apply rather than the regulations of the IORP's home member state. The proposal will be considered by the European

Parliament and the Council of Ministers. The Institute is considering whether to provide comments on the proposal either informally or formally. Please provide me with your views on any comments the Institute should make. If you have any questions, please contact me at (202) 326-5810 or jchoi@ici.org. Jennifer S. Choi Assistant Counsel Attachment Attachment (in .pdf format)

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