

MEMO# 15674

February 21, 2003

AGREEMENT BY PARLIAMENTARY COMMITTEE ON AMENDMENTS TO THE PROPOSED EU DIRECTIVE ON OCCUPATIONAL PENSIONS

[15674] February 21, 2003 TO: INTERNATIONAL COMMITTEE No. 19-03 RE: AGREEMENT BY PARLIAMENTARY COMMITTEE ON AMENDMENTS TO THE PROPOSED EU DIRECTIVE ON OCCUPATIONAL PENSIONS On February 19, 2003, the Economic and Monetary Affairs Committee (EMAC) of the European Parliament voted on amendments for the second reading of the proposed EU Directive on occupational pensions. After somewhat difficult negotiations during which the rapporteur's draft report was not adopted,¹ EMAC agreed to a set of amendments, a copy of which is attached. Some of the amendments represent improvements to the Directive for the asset management industry while others do not. This memorandum briefly discusses the amendments that may be of most interest to members. One of the most significant amendments is the reintroduction of provisions on biometric risks (risks of longevity, disability, and premature death). Specifically, EMAC agreed to amendments that would require Member States to ensure that institutions offer participants upon request the option of covering biometric risks and guaranteeing contributions made to pension schemes.² EMAC's amendments also revise the definition of "retirement benefits" to mean benefits in the form of payments for a life time (e.g., annuity) although the language of the amendments has been tempered from the rapporteur's draft report to include the possibility that benefits also may be in the form of a lump sum or for a temporary period. Another significant amendment, that represents an improvement to the Directive, is a sunset provision on the ability of Member States to impose quantitative investment rules on institutions that are located in their territories. Under this amendment, Member States that do not already apply the prudent person principle may impose more detailed rules during the transitional period, which may not exceed five years. EMAC's amendments also delete specific references to insurance and replace them with references to regulated institutions providing occupational pensions in provisions regarding a level playing field among institutions that provide occupational pension schemes. These

¹ See Memorandum to International Committee No. 7-03 (Jan. 23, 2003) (attaching the rapporteur's draft report). ² EMAC also included some additional language that may give Member States greater flexibility for offering coverage. See Compromise K, new Article 9, paragraph 1a. 2 amendments would allow asset management firms as well as insurance companies to provide services under the Directive as an IORP in addition to their other businesses. The amendments would permit regulated institutions to segregate assets and liabilities of their occupational retirement provision business from their other businesses. As a result, a Member State may choose to impose certain provisions of the occupational

pensions directive only to an institution's activities that are related to occupational pensions rather than to all of its activities. In addition, EMAC has agreed to an amendment creating a "Coordination Committee" to assist the Commission and to encourage cooperation among national supervisory authorities in lieu of the existing Insurance and Pensions Committee. A technical amendment that the Institute supported was not included in the compromise set of amendments and was not voted on by EMAC. The amendment, which would have corrected a drafting error, would have made applicable to defined contribution plans the same provisions of the Directive that limit the ability of member states to restrict foreign investment by defined benefit plans. The Institute hopes this technical amendment will be adopted in the plenary session. A vote on the Directive in the plenary session of Parliament is scheduled for March 10-13. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.