

**MEMO# 15575**

January 23, 2003

## **DRAFT REPORT FOR THE SECOND READING OF THE PROPOSED EU OCCUPATIONAL PENSIONS DIRECTIVE**

[15575] January 23, 2003 TO: INTERNATIONAL COMMITTEE No. 7-03 RE: DRAFT REPORT FOR THE SECOND READING OF THE PROPOSED EU OCCUPATIONAL PENSIONS DIRECTIVE On January 21, 2003, the EU Economic and Monetary Affairs Committee (EMAC) had its first exchange of views for the second reading of the proposed EU Directive on Occupational Pensions.<sup>1</sup> EMAC's discussion was based on the rapporteur's draft second reading report, a copy of which is attached. As you know, the Council of Economic Ministers reached a political agreement on the proposed Directive in June 2002.<sup>2</sup> In its amended text, the Council: (1) accepted generally the prudent man principle drafted by the Commission and approved earlier by the Parliament (with some exceptions); (2) permitted member states to impose more detailed rules for institutions located in their territories, including quantitative rules, and to impose certain investment rules on institutions conducting cross-border activity in their territory; and (3) refused to adopt provisions for biometric risks (risks of longevity, disability, and premature death), which had been adopted by the Parliament in the first reading. The EMAC meeting begins the Parliament's second reading of the proposed Directive. The draft report includes a number of amendments to the Council's text. Some of the amendments that may be of interest to members are described below. The most significant amendment is the reintroduction of provisions on biometric risk. The draft report would require member states to ensure that institutions offer participants the option of covering biometric risks and, at a participant's request, an additional benefit of coverage for the guarantee of contributions made to the pension scheme. In addition, the draft report would require institutions to provide regular information to participants. We understand that members of Parliament will likely try to include these amendments at the second reading. 1 Under the European Union co-decision procedure, a directive may be adopted at the second reading if the Parliament agrees with the Common Position of the Council of Economic Ministers. If the Parliament and the Council cannot agree on the same text, the matter is referred to a Conciliation Committee, which will attempt to negotiate a compromise text for approval by the Parliament and the Council. 2 See International Members Memorandum No. 15-02 (June 24, 2002). 2 The draft report also reintroduces the concept that as a general rule, pension payments should be in the form of an annuity and that lump-sum payments are permissible only if the sum would be used specifically for retirement and not for other purposes. In addition, the draft report deletes a provision that would have given institutions with less than 100 employees the option to be subject to the proposed Directive. The draft report also includes 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. EMAC is

expected to vote on the draft report on February 17, 2003. The outcome of a vote by the Parliament in its plenary session (scheduled for April 2003) remains unclear. If the Parliament adopts amendments to the proposed Directive that are inconsistent with those of the Council (e.g., provisions on biometric risk), the proposal will go through a conciliation process – the outcome of which would be uncertain. The Institute will provide comments on the proposal informally to members of the European Parliament and to the rapporteur of the Directive on Occupational Pensions. Please review the attached report and provide me with any comments you may have on the report. If you have any questions, please contact me at (202) 326-5810 or [jchoi@ici.org](mailto:jchoi@ici.org). Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

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