



Case Study: Cross Border Pension Funds, Time to Jump

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Occupational Pensions

Long live diversity!

- DC, Cash Balance, DB, lump sum, annuities,...
- Large to very small pension institutions
- Social and labor laws vary greatly

→ Appropriate supervision is essential

Cross-Border Activities

Special legal vehicle (OFP)

- Articles of association and other documents: flexibility
 - Flexible organization
 - general assembly
 - board of directors
 - other ...
 - Ring-fencing is possible
 - level of 'solidarity' is to be determined: from no solidarity to total solidarity
 - > via a separate fund (total ring-fencing)
 - > via a buffer fund
 - > via ...
 - to be set down in governing documents (ring-fencing as long as no bankruptcy)

Financial Aspects

- The financing plan
 - Technical provisions: no percentages, no quantitative restrictions, proportionality
 - Regular financing by the contributing enterprise
 - No changes year on year, unless justified
- Statement of investment policy principles
 - **Needs to be prudent, coherent and justified**
- Restoration plan or recovery plan

Supervision of the “Prudent Person” Principle

- Openness
- Responsibility and accountability
- Fit and Proper
- Good governance
- Internal supervision (internal control, internal audit, compliance officer and an actuary), the external auditor and ultimately the FSMA
- Knowing one's own risks

Very Limited Cross-Border Activity

- Fiscal disharmony
- Hidden protection mechanisms
- The financial crisis
- Lack of experience ==> first movers
- S & L law vs. prudential law
- Cultural difference
- Employees/retirees' councils to be convinced

Convincing Employees/Retirees Councils

Pension councils in host country are possible

- For employee representation if needed
- For binding or non-binding opinions if needed
- By pension plan, country or group
- S&L law (information, participation, ...)

Cross-Border Activities in Belgium

- 9* Belgian IORPs operating cross-border
 - BE, LU, NL, IE, IT, MA, LI, CY, LT

- Several in the pipeline
 - Major multinationals

 - Multi-employer

- New markets, mobile workers, small pension funds, etc.

*as at 15 June 2011

How Does the FSMA Operate ?

- 25 years of pension fund experience
- Circular letters, announcements, memoranda
- Individual replies by email, letter, etc.

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(in English, German, French and Dutch)