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# OCCUPATIONAL PENSION SCHEME

INSURANCE PRACTICE

## The new law on Occupational Pension Schemes following transposition of the IORP II Directive

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April 1, 2020

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On March 19th, 2020, Greek Parliament voted Law 4680/2020 (Government Gazette A 72), by way of which the EU Directive 2016/2341 (IORP II) was transposed into Greek legislation (the “IORP II Law”). Although occupational funds (IORPs) had been regulated under Greek law for almost 20 years now, by virtue of Law 3029/2002 (as subsequently supplemented by additional laws and the Code of Conduct for such funds), in practice only a relatively small number of IORPs were established. This is the reason why the introduction of the IORP II legal framework in Greek law was highly anticipated in order to promote the development of the second pillar of the pension system in Greece which is also expected to support the sustainability of the first pillar.

The IORP II Law applies retroactively as of January 13th, 2019 and regulates the establishment, activities and supervision of IORPs. Law 3029/2002, which is not

abolished, will continue to regulate the establishment process for IORPs in Greece. In addition, the Code of Conduct and Good Practices for Occupational Pension Funds (Ministerial Decision Φ.51010/2015) will continue to apply, to the extent it does not contradict the IORP II Law provisions. It should be highlighted that the IORP II Law permits the establishment of an IORP even if its members are less than 100, which was the minimum number of members required under the previous legal framework.

Although a number of issues are expected to be clarified and regulated through subsequent Ministerial Decisions, the issuance of which is authorised in the IORP II Law, the most important changes with regard to the previous legal framework are the following:

- **Cross-border activity:** The provisions concerning cross-border activity of IORPs have been abolished in their entirety and have been replaced by a

- more detailed legal framework regulating the authorisation process conducted by the supervisory authorities of the home Member State as well as the reporting obligations towards the authorities of the host Member State.
- **(Cross-border) Transfer of funds:** The transfer of occupational pension plans was not explicitly regulated in Greek law until now and this was one of the key issues anticipated to be resolved under the new legal framework. The IORP II Law has introduced new and extensive regulation with regard to the (cross-border) transfer of pension plans, thus abolishing the obstacles concerning the cross-border activities of occupational funds, in order to allow employers and IORPs fully benefit from the privileges of the single market.
  - **Governance:** The legal framework regarding the terms of IORPs' operation and more specifically, the system of governance, outsourcing activities, as well as the investment principles is supplemented and enhanced. IORPs will have a duty to invest in accordance with the "prudent person" rule. In addition, they must run their own risk assessment for their activities relating to pensions and establish a sound remuneration policy for all persons who effectively run the IORP, and in general have a material impact on the risk profile of the IORP.
  - **Information requirements:** The IORP II Law sets out extensive requirements with respect to the information to be provided by IORPs to prospective members, existing members and beneficiaries in relation to the pension scheme, the financial risks they run, their options in case of transfer of the funds to a receiving IORP and the investment characteristics of the pension scheme.
  - **Prudential supervision:** New requirements have been established concerning prudential supervision by the competent authorities (which remain the Ministry of Labor and Social Affairs, the National Actuarial Authority and the Hellenic Capital Market Commission), in order to protect the rights of members and beneficiaries and the stability and reliability of IORP's. More specifically, the regulations include the sectors of prudential supervision, the powers of the authorities to intervene and the duties of transparency and accountability.

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