
PENSION FUND: THE NEW RULES ON CORPORATE GOVERNANCE AND INVESTMENT STRATEGIES

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Abstract

Complementary pensions have been affected in recent years by a regulatory reform at European level which has certainly had a significant impact on the operation and management of savings intended for private supplementary pensions, which contribute to social sustainability within the social security system. Specifically, reference is made to the new European Directive of 14 December 2016, the so-called IORP II Directive, relating to the activities and supervision of corporate or occupational pension institutions (Institution for Occupational Retirement Provision — IORPs) which play a fundamental role in the provision of corporate or occupational pension benefits, taking into account national rules and traditions. In detail, the scope of application of the new discipline is extended to entities with a social purpose that provide important financial services in the context of the relationship between worker and employer. Specifically, regardless of the legal form, the institution should operate according to the capitalization principle in order to provide pension benefits in relation to an employment activity and on the basis of an agreement entered into individually or collectively between employer and employee or with self-employed, in accordance with the legislation of the home member state and the host member state.

In detail, the new regulatory framework aims to foster a sound, prudent and efficient management of companies or occupational pension schemes as well as to harmonize the rules on corporate governance of pension institutions, in order to create a uniform legal framework in full respect for the differences between the member states. In particular, the regulator requires the establishment of an adequate and transparent

organization, with a clear division and appropriate separation of responsibilities, as well as a management model proportionate to the size, nature and complexity of the entity's activities. The new regulatory framework requires IORPs to have three basic functions: a risk management function, an internal audit function and, in certain cases, an actuarial function. Specifically, the risk management function has the fundamental task of adopting the reporting strategies and procedures to identify, monitor and manage the risks, both at an individual and aggregate level, to which IORPs may be exposed. The legislation also provides that IORPs must have an effective internal audit function that deals, specifically, with verifying the correctness of the operational and management processes and other elements of the fund's governance system as well as the outsourced activities. Finally, the actuarial function is mandatory if the IORP guarantees biometric risks, investment returns or a certain level of performance. The holders of the respective functions must communicate the findings and relevant recommendations to the administrative, management or supervisory body of the IORP, which defines the corrective actions to be taken.

With reference to the topic of investment strategies and choices, the directive establishes that IORPs can also invest: 1) in instruments that have a long-term investment horizon and are not traded on regulated markets, MTFs (multilateral trading facilities) or OTFs (organized trading facilities); 2) in instruments issued or guaranteed by the European Investment Bank (EIB) and provided under the European Fund for Strategic Investments, European long-term investment funds, European funds for social entrepreneurship and European venture capital funds. The European directive contains a specific reference to environmental, social and governance (ESG) factors to be taken into consideration in the context of risk management policies and investment strategies, considering the relevance of these factors as underlined by the United Nations. IORPs must also provide for a sound remuneration policy for the staff involved in fund management, key functions and professional activities with a significant impact on the institution's risk profile. This policy must be proportionate to the size, internal organization, nature and complexity of the activities carried out.

In the Italian market, the transposition of the European Directive IORP II which took place with Legislative Decree No. 147 of 13 December 2018, contributed to strengthening the organizational structure of pension funds, improving internal processes and risk management methods. On the basis of the main regulatory changes, it is clear the importance of deepening, in a theoretical and empirical key, the analysis of the different types of pension forms present in the Italian market and at the same time conducting a study on the choices and investment strategies made by individuals is certainly evident to mitigate the impact of the volatility of the main financial markets, confirming the validity of the management approach followed.

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