

Directive (EU) 2016/2341 of the European Parliament and of the Council
of 14 December 2016 on the activities and supervision of institutions for
occupational retirement provision (IORPs) (recast) (Text with EEA relevance)

TITLE V

PRUDENTIAL SUPERVISION

CHAPTER 1

General rules on prudential supervision

Article 48

Powers of intervention and duties of the competent authorities

1 The competent authorities shall require every IORP registered or authorised in their territories to have sound administrative and accounting procedures and adequate internal control mechanisms.

2 Without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall ensure that their competent authorities may impose administrative sanctions and other measures applicable to all infringements of the national provisions implementing this Directive, and shall take all measures necessary to ensure that they are implemented. Member States shall ensure that their administrative sanctions and other measures are effective, proportionate and dissuasive.

3 Member States may decide not to lay down rules on administrative sanctions under this Directive for infringements which are subject to criminal sanctions under their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

4 Member States shall ensure that the competent authorities publish any administrative sanction or other measure that has been imposed for breaches of the national provisions implementing this Directive and against which no appeal was lodged in time, without undue delay, including information on the type and nature of the breach and the identity of persons responsible for it. However, where the publication of the identity of the legal persons, or identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data or where publication jeopardises the stability of financial markets or an ongoing investigation, the competent authority may decide to defer publication, not to publish, or to publish the sanctions on an anonymous basis.

5 Any decision to prohibit or restrict the activities of an IORP shall contain detailed reasons and be notified to the IORP in question. That decision shall also be notified to EIOPA which shall communicate it to all competent authorities in the case of cross-border activity as referred to in Article 11.

6 Competent authorities may also restrict or prohibit the free disposal of the IORP's assets when, in particular:

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- a the IORP has failed to establish sufficient technical provisions in respect of the entire business or has insufficient assets to cover the technical provisions;
- b the IORP has failed to hold the regulatory own funds.

7 In order to safeguard the interests of members and beneficiaries, the competent authorities may transfer the powers which the persons running an IORP registered or authorised in their territories hold in accordance with the law of the home Member State wholly or partly to a special representative who is fit to exercise those powers.

8 The competent authorities may prohibit or restrict the activities of an IORP registered or authorised in their territories in particular if:

- a the IORP fails to protect adequately the interests of scheme members and beneficiaries;
- b the IORP no longer fulfils the conditions of operation;
- c the IORP fails seriously in its obligations under the rules to which it is subject;
- d in the case of cross-border activity, the IORP does not respect the requirements of social and labour law of the host Member State relevant to the field of occupational pension schemes.

9 Member States shall ensure that decisions taken in respect of an IORP under laws, regulations and administrative provisions adopted in accordance with this Directive are subject to a right of appeal to the courts.