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20<sup>th</sup> MEETING OF THE ASSOCIATES  
- Budapest, Hungary, 12 May 2005 -

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**ITEM 7 OF THE AGENDA: PAN-EUROPEAN PENSIONS DELIVERED THROUGH  
THE 26<sup>TH</sup> REGIME**

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At the Meeting the subject will be introduced by Mr. Elmars Kronbergs, Adviser at the FBE. After the short presentation a round table discussion on the concept of 26<sup>th</sup> regime in general and for pension products in particular will take place.

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**Issues to Discuss:**

- **How viable is the 26th regime concept in general?**
- **Is the 26<sup>th</sup> regime concept particularly well suited to delivering a pan-European pension product?**
- **Initial reaction to EFR proposals to develop a pan-European Pensions Product**

## BACKGROUND TO THE 26<sup>th</sup> REGIME

The 26th regime is the name for a proposal for a European set of optional laws aimed at creating non-complicated pan-European products. The proponents of such a system believe that creating a parallel system that operates alongside existing national legal systems would give undertakings and consumers a choice between national laws and the 26th regime. Their aim is to define simple rules to enable banks to offer optional pan-European products accessible to multinational and local participants, which is currently impossible due to different national legislation (consumer law, contract law, etc.). This would foster creativity among providers and promote competition.

It has been proposed as a way of integrating the market in those areas which have not been subjected to regulatory harmonisation (such as consumer credit). Hence, it is targeted to those fields where “25 regimes” currently exist, whereas it is not seen as relevant for those other areas where one single EU regime has also replaced the existing national laws (such as capital markets regulation).

According to its advocates, advantages of the 26<sup>th</sup> regime are the following:

- Such a system would promote the creation of a uniform European framework in those areas not yet integrated by the FSAP;
- It would offer an alternative to a long and tedious process of full harmonisation;
- National rules would continue to exist alongside;
- Providers and consumers would have a choice between pan-European and local products;
- Providers would benefit from economies of scale; and
- Pan-European products would benefit from tax incentives.

According to its critics, the disadvantages of the 26<sup>th</sup> regime could be summarised as follows:

- Supplementing the national systems of the 25 Member States with a 26th regime would be complicated and generate huge costs;
- We would be confronted with a multiplicity of legal systems;
- There would not be a level playing field between banks offering cross-border services and those offering their services in their national markets only; and
- The benefits of the current model used in many other areas covered by the FSAP – i.e., mutual recognition based on a single EU regime – would create a sounder environment whereby the key framework principles are harmonised and the day-to-day implementation of the EU rules ensures an optimal mix of convergence and flexibility.

The FBE’s position on this issue, in the context of retail markets, has been to say that the 26<sup>th</sup> regime is one of the options that could be considered in order to achieve an integrated retail market.

Due to the ageing of the population in Europe, a small group of active workers will have to support a large group of pensioners. Therefore, it is more and more urgent to search

sustainable solutions. Even though the European Commission has taken several steps to break down the barriers for cross-border pensions (e.g. FSAP, IORP Directive, etc.), it is widely accepted that further progress needs to be made in this area. Whether the 26<sup>th</sup> regime can be useful in this context deserves further debate.

The European Financial Services Roundtable (EFR)<sup>1</sup> “feels that the scale of the EU’s ageing problem is so enormous that more radical alternatives to traditional approaches are necessary”. According to the EFR, “finding a way to allow the same pension products to be sold anywhere in the EU, subject to a single regulatory regime, should be a top priority”.

## **DEVELOPMENTS OVER THE LAST SIX MONTHS**

The EFR kicked off the debate on the creation on a pan-European pension product in the autumn of last year. Rather than embedding new pension rules and regulations in the national structures of all the Member States, the EFR proposed to create a pan-European pension regime that can exist alongside the existing structures, i.e. delivered via a so-called “26<sup>th</sup> regime”.

The ultimate aim of the EFR in proposing a pan-European pension product (EPP) is to come to a clear standard for the outline of such plans which can be made available in every Member State and will be recognised by consumers all over the EU. The EFR sees its role as not to define the detailed features of EPP’s, but to describe the key features of a group of such products on a general level and trigger the debate on the way to move forward.

That debate has been triggered as EFR had aimed for across Brussels and the EU. There have been a number of seminars and roundtable sessions exploring the concept of the 26<sup>th</sup> regime in general and the EPP in particular.

## **EXPECTED DEVELOPMENTS OVER THE COMING SIX MONTHS**

Within the FBE there are three bodies with an interest in the topic of pensions. The FMC is in the lead in terms of developing industry’s response to the EFR’s proposal to develop an EPP delivered through the 26<sup>th</sup> regime. The Fiscal Committee has expressed an interest in looking at potential tax obstacles to developing the product, while the Legal Committee is considering the wider concept of a 26<sup>th</sup> regime in terms of its usefulness and applicability as a legal concept. The EMAC has a lesser interest from a macro-economic stand point.

- EFR has requested that industry provide it with input before the summer break on its proposals for the EPP.
- Therefore, the FBE will develop the FBE’s response to the proposals, to be submitted by 30 June 2005.

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<sup>1</sup> The purpose of the EFR is to contribute to the European public policy debate on issues relating to financial services and in particular the completion of the single market in financial services. Currently the EFR is focusing on issues related to, in particular, capital markets, consumer protection, pensions, and regulation and supervision.

- Once the EFR has taken stock of the responses it will have then it will move onto the second stage of the proposal which is to develop a more detailed specification of an EPP.
- It would then be up to the Commission to develop the proposal further in whichever form that may take.

**ACCESS TO REFERENCE DOCUMENTS:**

***EFR recommendations to create a common structure for Pan-European Pensions***

<http://www.efr.be/members/upload/news/53351PenSM.pdf>

<http://www.efr.be/members/upload/news/53351Penreco.pdf>

***EFR practical examples: the pension reality for internationally mobile workers and companies operating across the EU***

<http://www.efr.be/members/upload/news/53351PenRLC.pdf>

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