LEGAL CONSIDERATIONS REGARDING THE INTRODUCTION AND IMPLEMENT OF IFRS MECHANISMS IN PRIVATE PENSION SYSTEM. PRESENT AND PROSPECTS

CONSIDERAȚII LEGALE PRIVIND INTRODUCEREA ŞI IMPLEMENTAREA MECANISMELOR BAZATE PE IFRS ÎN SISTEMUL DE PENSII PRIVATE. PREZENT ŞI PERSPECTIVE.

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Abstract*. In economies in which pension obligations are substantial, it is important that there is a high degree of trust in the financial reporting of pensions by employers and by pension plans. The objective of this paper is to assess legal considerations regarding the introduction and implement of IFRS mechanisms in private pension system. In line with this objective, an understanding of financial reporting for pensions is essential to being able to efficiently and effectively create a secure accounting environment.*

Key words: *financial instruments, IFRS, pension plan, pension fund, private pension.*

INTRODUCTION

The International Financial Reporting Standards (IFRS) consist of a set of international accounting principles, the adoption of which aims at establishing clear rules within the European Union to design up comparable and transparent annual reports and financial statements. The role of introduction and implement of IFRS mechanisms in private pension system is visible in countries with mature defined benefit private pension plans, as well as in countries that have introduced a mandatory private pillar as part of a systemic pension reform.

MATERIALS AND METHODS

Retirement benefit plans are arrangements whereby an entity provides benefits for employees on or after termination of service when such benefits, or the contributions towards them, can be determined or estimated in advance of retirement from the provisions of a document or from the entity's practices.

Defined contribution plans (DC) are retirement benefit plans under which amounts to be paid as retirement benefits are determined by contributions to a fund together with investment earnings thereon. Under a DC, the amount of a participant's future benefits is determined by the contributions paid by the employer, the participant, or both, and the operating efficiency and investment earnings of the fund.

Defined benefit plans (DB) are retirement benefit plans under which amounts to be paid as retirement benefits are determined by reference to a formula usually based on employees' earnings and/or years of service. Under a DB, the payment of promised retirement benefits depends on the financial position of the plan and the ability of contributors to make future contributions to the plan as well as the investment performance and operating efficiency of the plan.

Table 1

The structure of Romanian pension system

Pillar 1	Pillar 2	Pillar 3
- Public Pension System - "pay as you go" system - Defined benefit	- Privately managed - Defined contribution - Mandatory for persons aged between 15 and 35 and voluntary for persons aged between 35 and 45 years old - Minimum defined benefit - The sum of all contributions minus management fees	- Privately managed - Defined contribution - Voluntary

Table 2

The design of Romanian private pension system

	Pillar 2	Pillar 3
Coverage	Participation in a mandatory pension fund will be obligatory for all those under 35 years old and voluntary for the 36 - 45 age group. At the outset of the scheme an estimated 2.6 million members will be accruing rights, though this estimate is based on the assumption that 50% of those who can voluntarily join (36-45 age bracket) will do so.	Employers and trade unions or the employees' representatives can establish a pension scheme through collective bargaining at plant level, group level or industry level. In the absence of a collective agreement or a trade union, employers can either individually or at the industry-wide level establish a pension scheme. Establishment of an occupational pension fund is voluntary for employers.
Pension fund	A pension fund must have minimum 50.000 participants and is established by a civil society contract.	Voluntary pension funds must have at least 100 members. Employees and the self-employed may participate in voluntary schemes. Participation is voluntary for employees. Employees can participate in as many occupational schemes as they wish and cumulate pension rights and benefits.
Contributions	A part of the employee's Social Security contributions is compulsorily directed towards the mandatory pension scheme. Contributions will amount to up to 2% of wages during the	Contribution levels are established by the scheme rules and collected and paid by the employer and/or employee into a pension account identified by the employee, simultaneously

	Pillar 2	Pillar 3
	first year and increase by 0.5% each year until they reach rate of 6% after 8 years.	with the mandatory social insurance contributions. The contributions are paid into the employee's individual account. Contributions to the voluntary pension tier can amount to 15% of the monthly gross wage or of income associated with the member's employment. The contribution can be shared between employer and employee in accordance with the scheme regulations or a collective agreement. Employees may at any time change the level of contributions or cease paying contributions altogether.
Benefits	Benefits are payable when participants fulfill the retirement conditions and when the assets are at least equal to the amount required for a minimum private pension.	Benefits are payable when participants fulfill the retirement conditions and when the assets are at least equal to the amount required for a minimum voluntary pension.
Tax	Investment income is exempted. -	Investment income is exempted. Employee and employer contributions are tax-deductible up to a ceiling of €400 per year for employee and €400 per year for employer.
Fees	Administrators can charge an	Administrators can charge a

	Pillar 2	Pillar 3
	annual management fee of up to 0.6% and a contribution fee of up to 2.5% of contributions paid in.	contribution fee of up to 5% and an annual management fee of up to 2.4%. Transfer fees are payable if the participant switches funds within 2 years of joining.

RESULTS AND DISCUTIONS

The database reflects legal aspects regarding the introduction and implement of IFRS mechanisms in private pension system.

Table 3

Legal expression regarding the introduction and implement of IFRS mechanisms in private pension system

Element in a problem	Pillar 2	Pillar 3
Defined contribution	- a description of significant activities for the period and the effect of any changes relating to the plan, and its membership and terms and conditions; - statements reporting on the transactions and investment performance for the period and the financial position of the plan at the end of the period; - a description of the investment policies.	
Defined benefit	- a statement that shows: the net assets available for benefits; the actuarial present value of promised retirement benefits, distinguishing between vested benefits and non-vested benefits; and the resulting excess or deficit; - a statement of net assets available for benefits including either: a note disclosing the actuarial present value of promised retirement benefits, distinguishing between vested benefits and non-vested benefits; or a reference to this information in an accompanying actuarial report.	

CONCLUSIONS

Finally, the study shows that the transition to IFRS in private pension field has produced a quite relevant impact on romanian accounting practices, that depends de facto on the tax driven nature of the romanian accounting system and some disagreement with some IFRS areas relating to fair assets of a privately administrated pension fund, personal assets, revenue recognition in accounting administrator, collateral benefits, amounts paid by participants and/or paid on their behalf to a pension fund, guarantee pension fund, financial instruments, derivate financial instruments, private pension, technical provision, biometrical risks, unit of fund and deferred taxation. But these findings also enforce pension companies belief that to converge to IFRS has meant to make a deep revision and improvement of the romanian accounting system, and to adopt a global financial reporting model that will enable entities to play in a global financial market.

REFERENCES

1.*** Directive 2003/41/EC of the European Parliament and the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (IORP Directive);

2.*** Fourth Directive of the European Economic Communities 78/660/EEC dated 25 July 1978 on the annual accounts of some categories of companies;

3. ***Law accounting no. 82/1991;

4. ***Law no. 411/2004 on Privately Administered Pension Funds;

5. ***Law no. 204/2006 on Voluntary Pension Law;

6. ***Norm no. 14/2007 on the accounting regulations conform to the Fourth Directive of CEE applicable to the entities authorized, regulated and supervised by the Private Pension System Supervision Commission.

7. ***http://www.iopsweb.org Note: Laws, regulations and practices concerning private pension funds may be found on the internet web-site of the Pension Fund Authority (Private Pension System Supervisory Commission, PPSSC), at www.csspp.ro