

Warsaw, September 12<sup>th</sup> 2013**Mr.****José Manuel Barroso****President of the European Commission**

IGTE/90/2013

*Dear Sir,*

The Polish Chamber of Pension Funds, respectfully wishes to state its serious concern and call on the European authorities to reflect and take a position on the proposals of the Prime Minister Donald Tusk for reforming the second pillar of the pension system.

On 4<sup>th</sup> of September the Prime Minister announced that:

1. The entire bond part of the private pension (OFE) assets should be moved to public pension fund (ZUS), the bonds should be redeemed and changed to pension liabilities in ZUS.
2. The Assets of pensioners who are 10 (and less) years before the pension age should be moved from OFE to ZUS. This is for the better stability of pensioners assets before the pension age, but effectively this also means about PLN 10bn of cash which public pension fund would receive in 2014. As a result to the sector deficit would be 0.6% of GDP lower.
3. Voluntary membership in the OFE:
  - Each insured who pays pension contributions will be able to decide whether he or she wants to remain in OFE.
  - Each insured would have only 3 months for a decision whether to stay in OFE.
  - The insured who would like to remain in the OFE must confirm this (opt-in), indicating the selected OFE and inform ZUS of his or her decision.
  - The decision to transfer to ZUS would be irrevocable.
  - Persons who decided to stay in the OFE could in the future change this decision.
4. The debt thresholds would be lowered, accordingly to the value of assets moved from OFE to ZUS (by about 7.5% of GDP). This is to prevent future fiscal expansion caused overtaking OFE bond part and lower official debt.

The Chamber is very concerned and disappointed with the announcement of the changes planned by the Government in the rules of functioning of open pension funds.

During consultations the Government failed to take into consideration any arguments or opinions presented by outstanding economists, lawyers and specialists in pension-related issues, which might serve as alternative solutions or be the basis of such solutions. The Government decided instead to engage in actions leading to devastation of the capital part of

the common, mandatory pension system. Costs of this operation will be borne by all those who are covered with the system, that is all future pensioners.

The steps which the government wants to take raise also serious legal doubts. Contrary to assurances, takeover of treasury bonds held now in investment portfolios of open pension funds is their nationalisation. In accordance with legal regulations valid in Poland, the OFE have the right to invest the assets of their members until the insured retire. Until then the assets are the property of the OFE. Therefore, the transfer of assets from the OFE to ZUS, even if it concerns only a part of them, as in the case of bonds, constitutes appropriation of the assets which are the property of the OFE by a public institution without compensation. The assets accumulated on behalf of the insured will cease to be private property, they will become public property and will be consumed by the state.

Contrary to assurances of the government representatives, the announced steps will not increase pension security. Forcing a pension fund to invest almost exclusively in shares will significantly increase the risk of such transactions and will make it impossible to manage in a manner beneficial for the insured their assets saved for their future pensions. And above all, it will make it impossible to protect the real value of those assets in periods of a slump in the economy. Until now such solution has never been used in pension funds anywhere.

We would also like to emphasise that the whole consultation process is not transparent. For example, the Chamber hasn't been formally requested to present its position of the report on the review of pension system functioning "*Security through Sustainability*" of 26<sup>th</sup> June 2013. We have no access to the opinions of other organisations. Additionally our proposal for a compromise was ignored by the government and we didn't get any respond on this.

In this situation we would like to ask the European Commission to closely analyse proposed by the Polish government decisions and take appropriate actions in this situation.

Our organization is at your disposal for collaborating in all mentioned above matters.

*Sincerely,*

Małgorzata Rusewicz

Acting as President of the Chamber

Enclosures:

1. *Position of the Polish Chamber of Pension Funds on the Report of the Ministry of Labour and Social Policy and Ministry of Finance on review of pension system functioning Security through Sustainability of 26 June 2013*
2. *Recommendations of the European Financial Congress concerning reform of capital system of social insurance Proposal for a compromise presented by the Polish Chamber of Pension Funds*
3. *Voluntary participation in the OFE – analysis of potential effects, Piotr Lewandowski, Warsaw 5 July 2013.*
4. *Transfer of assets of the insured from the OFE to ZUS 10 years before retirement – analysis of potential effects, Piotr Lewandowski, Warsaw 29 July 2013.*