



Arbeitsgemeinschaft für
betriebliche Altersversorgung e. V.

The Occupational Pension Landscape in Germany

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Overview

- Occupational pensions in the overall system
- History of occupational pensions in Germany
- Labour law: the pension promise
- Five vehicles to deliver occupational pensions
- Occupational pensions in numbers
- Information on occupational pensions
- Insolvency protection
- Occupational pensions in the EU
- Advantages and Challenges

Occupational pensions in the overall system

1

1st pillar: State Pension

- mandatory for all employees who are subject to social insurance contributions
- PAYG

2

2nd pillar: Occupational pension

- Voluntary or by collective agreement
- With exceptions funded
- EET taxation / incentives

3

3rd pillar: Personal Pension

- Voluntary
- Encouraged through financial incentives (Riester-Rente)

Retirement provision

History of occupational pensions (1/4)

- The concept of an employer sponsored pension fund goes back to the 16th century (miners). In the 17th century pension funds that covered clerics, teachers and public servants emerged.
- One of the most famous actuarial valuations was performed by Carl Friedrich Gauss in 1845 for the Professors' Widows and Orphans of the University of Göttingen.
- Early funds offered survivor's pensions, sickness benefits and funeral payments. Many were jointly administered by employers and members.
- 2nd period of proliferation during industrial revolution – movement away from professional schemes to company based schemes. Employer felt „duty of care“ to provide social benefits.

History of occupational pensions (2/4)

- One of the earliest industrial funds was founded in 1812 by Peter Joseph Boch for his porcelain factory in Luxembourg, later to become the Villeroy & Boch workers fund.
- During the 19th century, many banks and insurance companies set up pension funds prior to the expansion of the industrial sector.
- Precursor to modern day Pensionskasse was established in 1837 by a Bavarian spinning and weaving mill.
- Similar institutions followed: Krupp (1858), Siemens (1872), Hoechst (1879), Degussa (1885), BASF (1887).

History of occupational pensions (3/4)

1974: Betriebsrentengesetz to protect occupational pensions

“Occupational retirement provision encompasses all benefits which employers voluntary grant to their employees under their employment relationships through the five permissible vehicles (Durchführungswege) for old-age, survivors’ or disability provision.”

(Translated from Law on occupational pensions – Betriebsrentengesetz – in its form of December 20, 2022 – Art. 1)

History of occupational pensions (4/4)

- 2002: Altersvermögensgesetz (introduction of Pensionsfonds, Beitragszusage mit Mindestleistung, limited EET for Pensionskassen und Pensionsfonds, Riester incentives)
- 2005: Alterseinkünftegesetz (new tax rules / framework)
- 2018: Betriebsrentenstärkungsgesetz (Law strengthening occupational pensions – i.a. introducing Social Partner DC, making the EET framework more flexible)

Labour Law: The pension promise (1/3)

- **Traditional DB** (defined benefit, salary or career progression related)
- Two types of hybrid promises:
- **Contribution oriented DB** with an annual minimum return guarantee (beitragsorientierte Leistungszusage).
- **Contribution oriented with minimum guarantee** of sum of nominal contributions at retirement (Beitragszusage mit Mindestleistung)
- Regardless of the vehicle used, the employer is liable for the benefit promised in a traditional DB or hybrid scheme.
- **Social Partner DC**: defined contribution promises can be given if the Social Partners are involved in the governance of the scheme.

Labour Law: The pension promise (2/3)

- Contributions can be financed by the employer or the employee through salary conversion (Entgeltumwandlung).
- All employees subject to social insurance contributions in Germany have a right to an occupational pension through salary conversion (Riester reform 2001).
- A pension promise is always given by an employer (but may be financed/administered through an external vehicle).
- Contributions can be in „cash“ to an external vehicle or „notional“ if employer is using book reserves.

Labour Law: The pension promise (3/3)

- Due to tax reasons, lifelong retirement benefits are mainly in pension form, but lump sum payments are not forbidden.
- A benefit promise may include benefits payable on old age, death and/or disability. It may include a temporary pension that bridges the gap between early retirement (after age 62) and normal retirement.
- Not allowed are benefits payable in other events e.g. temporary illness, early retirement prior to age 62, periods of care etc.

Five vehicles for occupational pensions (1/2)

All vehicles are defined in the German Occupational Pensions Act, originally enacted in 1974 (Betriebsrentengesetz, BetrAVG)

Pensionskassen

Pensionsfonds

Direct Insurance
(Direktversicherung)

Direct Promise
(Direktzusage)

Support Fund
(Unterstützungskasse)

Under scope of IORP II Directive
Assets segregated from sponsor
Beneficiaries have direct claim against assets

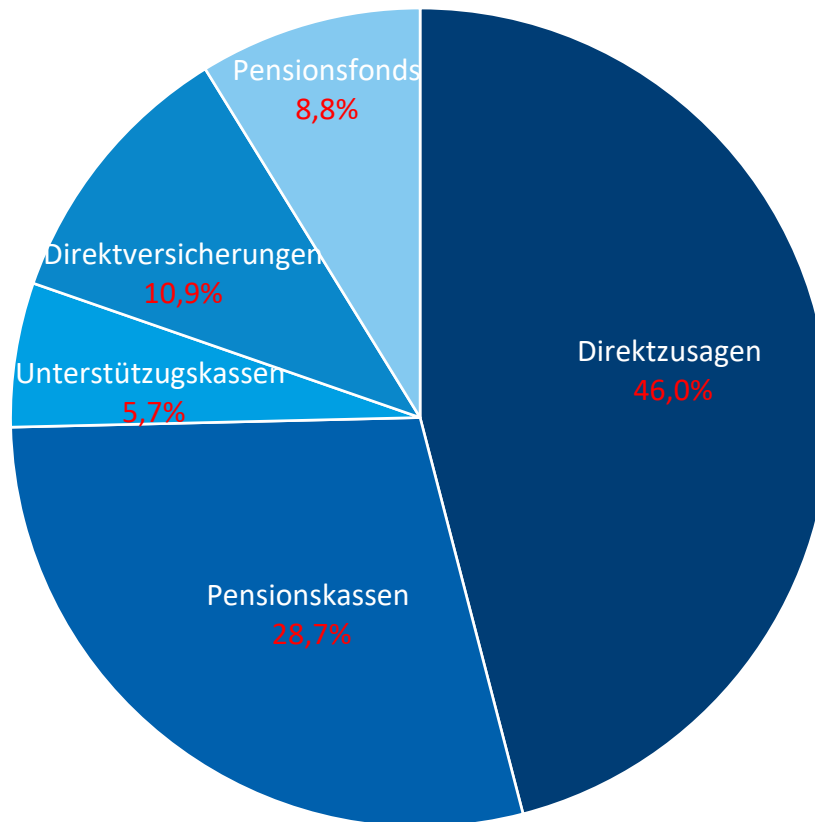
Under scope of Solvency II Directive

Outside scope of IORP II Directive
Book reserve schemes
Assets not required to be separated from sponsor
No direct claim against underlying assets

Five vehicles for occupational pensions (2/2)

	Pensionskasse	Direct Insurance	Pensionsfonds	Direct Promise (Book Reserves)	Support Fund
Tax Effective Contribution Limits	Contributions tax effective up to 8% per year of the social security contributions ceiling of the statutory pension system € 87,600 EUR in 2023, that means the limit is € 7,008 in 2023			No upper limit for tax effective allocations to book reserves	Tax effective contributions severely limited unless fully reinsured, then no upper limit
Taxation of Benefits	Fully taxable (certain plans / amounts still tax-free due to grandfathering provisions)				
Own Funds	4 % of technical reserves plus 0.3% of risked capital (additional amount needed in worst-case-scenario (in total ~ 4.5 % of technical reserves), i.e. Solvency I	Risk-based solvency capital requirements in accordance with Solvency II	Almost none (except minimum guarantee fund of €2.75m) if Pensionsfonds does not bear risks, otherwise regulation similar to Pensionskasse	None	None
Investment Restrictions	Catalogue of qualitative and quantitative investment restrictions (e.g. max. 35% risky assets)	Qualitative risk-based investment regulation according to Solvency II	Qualitative investment restrictions	None	None
Underfunding	Not allowed		Up to 10% with 10 yr recovery period (5% if fund bears risk)	No funding by definition	No minimum funding requirement

Occupational pensions in numbers: the vehicles (1/2)



2021 total assets: € 693,7 billion

Source: Klein R. (2023): Die Deckungsmittel der betrieblichen Altersversorgung in 2021, in: Betriebliche Altersversorgung, Heft 5/2023, S. 400ff.

Occupational pensions in numbers: membership (2/2)



	2001	2017	2018	2019	2020	2021
	- in thousands -					
Pensionskasse	1.389	4.664	4.658	4.625	4.334	4.251
Pensionsfonds	-	462	484	526	562	582
Direktversicherungen	4.205	4.918	5.089	5.180	5.228	5.289
Direktzusagen & U-Kassen	3.861	4.733	4.743	4.729	4.953	4.985
ZÖD (Public Service)	5.105	5.577	5.688	5.764	5.959	6.058
Total	14.560	20.354	20.662	20.824	21.036	21.165

Source: Bundesministerium Arbeit und Soziales (2023): Arbeitgeber- und Trägerbefragung zur Verbreitung der betrieblichen Altersversorgung ([BAV 2021](#)), Endbericht, Forschungsbericht 618, Untersuchung durchgeführt von Kantar, München, P. 15.

Information on occupational pensions

Growing information needs regarding occupational pensions and requirements

- For many years, members and beneficiaries had a right to request information (§4a BetrAVG) – i.e. information was provided on demand.
- With the growing importance of occupational pensions, these rights are supplemented with the requirement to provide information (without the member / beneficiary requesting it): IORP II Directive for Pensionskassen and Pensionsfonds, transposed through the VAG and subsequent Verordnungen (also applicable to Direktversicherungen)
- A Digital Pension Overview encompassing all three pillars (“Digitale Rentenübersicht”) has been developed (see next two slides)

A project years in the making



- **Since 2005:** Start of annual Pension Benefit Statements issued by the Statutory Public Pension Insurance to all insured persons (first pillar; after an introduction period of three years)
- **2005-2019:** Coordinated efforts within GVG (a national stakeholder association for social security) for better cross-pillar information (tracking, projections); Recommendations published in 2019
- **2019:** Publication of a study by AON / University of Ulm-Study: “Conceptual foundations for a cross-pillar pension information system” (commissioned by the Federal Ministry of Labour and Social Affairs (BMAS))
- **July 2020 – December 2020:** Legislative process

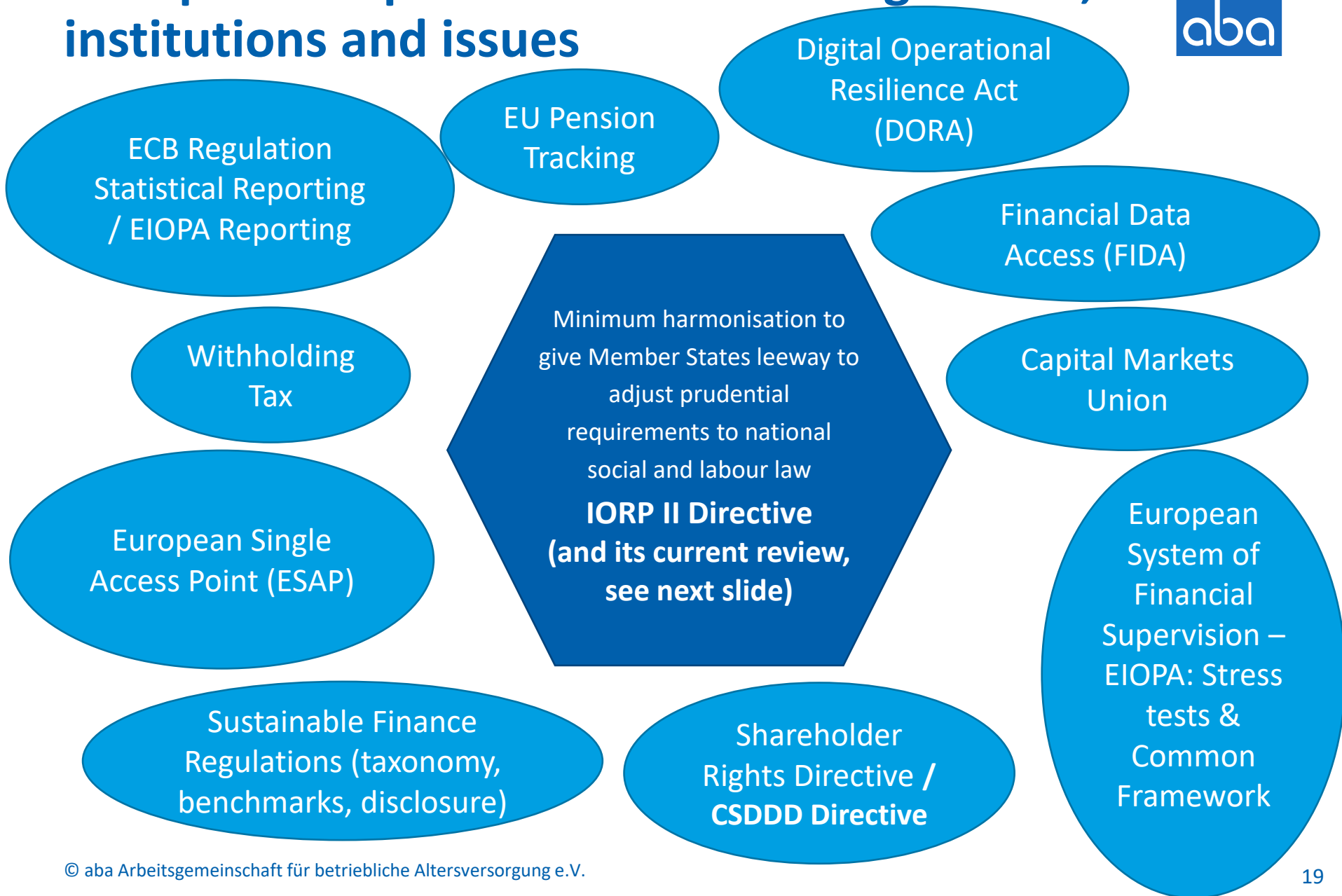
The “Digital Pension Overview Act” and its timeframe



- **January 2021:** Promulgation in the Federal law gazette
- **Since February 2021:** Preparation of implementing regulation and technical details with stakeholder participation (all 3 pillars, consumer advocates)
 - ❖ Five Advisory Boards (w/o consumer advocates)
 - ❖ One Steering Committee (with limited veto powers)
- **December 2022:** Start of (evaluated) trial operations and voluntary participation
- **July 2023:** “public launch” of www.rentenuebersicht.de for the general public
- **December 2023:** Regular operation (with adjustments) on a voluntary basis
- **After December 2023 / tbd:** Mandatory participation in regular operation

- Pensions-Sicherungs-Verein (PSVaG): Established 1974, extended to cover **Luxemburg** employers in 2002.
 - Provides benefits in case of insolvency of the **sponsoring employer**.
 - Covers all **vested promises** (subject to ceiling) in book reserve, support fund, Pensionsfonds and since 2021 majority of Pensionskassen schemes.
 - **Ceiling** is pension up to €10,185 p.m. (Western States) and €9,870 p.m. (Eastern States) in 2023.
 - **Payment of pensions outsourced** to a consortium of 47 life insurers.
 - Collects **annual levy** from sponsoring employers proportionate to the present value of accrued vested benefits.
 - **Total levy covers:** Present value of claims (pensions in payment arising in the year); present value of increase in claims (deferred entitlements in the year); contribution to a fluctuation reserve; Contribution to a loss reserve fund; and admin costs
- The levy can be smoothed by
- Accessing fluctuation reserve
 - Spreading contribution peaks over a 5-year period (used in 2009 for the 1st time)
 - Pensionsfonds and Pensionskassen pay a reduced levy (20%) due to external funding and prudential regulation
- Participating employers** in 2022: 101,300
- Insurable cases** in 2022: 275

Occupational pensions in the EU: legislation, institutions and issues



IORP II-Review

- In June 2022, the European Commission issued a call for technical advice regarding the evaluation and review of the IORP II Directive to EIOPA
- The consultation covers the following areas
 - ❖ Governance and prudential standards
 - ❖ Cross-border activities and transfers
 - ❖ Information to members and beneficiaries and other business conduct requirements
 - ❖ Shift from DB to DC
 - ❖ Sustainability
 - ❖ Diversity and inclusion
- In March 2023, EIOPA launched a public consultation on its draft technical advice, in which [aba participated](#)
- EIOPA will provide its final advice to the Commission in October 2023
- The Commission is expected to act upon this advice in the new legislative period starting in 2024

Advantages of occupational pensions for employees

Employees are protected by social and labour law, which stipulates amongst other things that the employer has a legal duty to make sure the pension promise is met.

Occupational pensions:

- are often organised by the social partners (collective agreements can achieve broad coverage)
- cover biometric risks such as longevity, death and/or disability
- spread the risk: in collective schemes, members share the investment risk
- diversify: individuals not solely rely on the public PAYG system for their old age income
- are good value for money: employers can offer in-house solutions or negotiate collective agreements, which are often cheaper than individual contracts used for a personal pension

Challenges for occupational pensions

- Inflation, economic downturn, unstable geopolitical environment
- Increasing regulatory requirements – e.g. increasing reporting requirements after the financial crisis
- Undifferentiated inclusion of IORPs in horizontal financial market regulation (e.g. SFDR, DORA, FIDA)
- Coverage in Germany (2021): 53,5% (18.4m) of employees who pay social insurance contributions are entitled to an occupational pension – this could be increased
- Generally, occupational pensions mirror the labour market – this means e.g. lower occupational pensions for women (because of lower wages and less time spent in paid employment)
- More flexible labour markets / increasing mobility - both domestically and internationally

Thank you very much for your interest in German occupational pensions!

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