BIAC Consensus Statement on: Draft Recommendation of the Council on the Core Principles of Private Pensions Regulation

BIAC appreciates the Draft Recommendation of the Council on the Core Principles of Private Pensions Regulation (here forth “Core Principles”), and is pleased to offer the following comments.

The Secretariat of the Directorate for Financial and Enterprise Affairs and the Working Party for Private Pensions make important efforts in modernizing, addressing lessons learnt and improving the consistency of the regulation of private pensions. In line with BIAC’s work in long-term finance, to benefit from the opportunities of long-term investment, OECD countries should focus on building co-ordination in financial sector regulation and take imminent action to improve the consultation processes involved in regulation in the financial sector. Likewise, it is important for the OECD to take a lead role in building awareness of the unintended consequences of financial regulation. This can be done through the practice of conducting impact assessments and building awareness, including in financial literacy. BIAC acknowledges that the proposed Core Principles streamline the importance of transparency, accountability and information to consumers and to financial regulators; however, the Core Principles do not expressly support the practice of impact assessment for changes in financial regulations and regulatory practices as regarding private pensions.

The proposed Core Principles reflect many of the practices already in effect in the area of occupational pensions regulations. BIAC has three major concerns with the proposed Core Principles.

First, extending the Core Principles to individual or personal pension arrangements is not only a significant challenge but moreover it undermines the fundamental basis for the Core Principles which were initially designed to cover occupational pensions. Individual or personal arrangements are simply too diverse and are subject to very different issues (such as consumer and investor protection) to be adequately “imbedded” with occupational pension plans. There is a significant risk of conflicting interpretations should the proposed Core Principles remain unchanged as specific characteristics and features of occupational pension schemes will be examined in the light of those of private pension arrangements and vice versa. The pension promise made by the employer as part of an employment relationship is a core characteristic of occupational pensions and differs significantly from the client – pension provider relationship prevalent in private pension arrangements. BIAC therefore strongly suggests that the regulation of private pension arrangements be the subject of a separate and distinct set of Core Principles.

Second, BIAC disagrees with the statement in Core Principle 7 that termination funding should be promoted as the “minimum level.” This does not reflect the current reality of private pension fund policies. The business community suggests removing this statement as many jurisdictions do not use
termination funding and instead use a more flexible ongoing prudent funding approach. The potential impact of a significant increase in pension funding requirements would be damaging for companies, economic growth, jobs and future pension provision.

Third, the proposed Core Principles should clearly acknowledge the role of employers as sponsors and funding agents for occupational pension plans. The continued existence of many occupational pension arrangements is dependent on flexible funding rules and innovative risk sharing schemes which can be adapted to the contractual relationship between the employers and their employees.

In 2007 and 2012, BIAC advised that there would be little future for Defined Benefit plans, unless both accounting rules and solvency regulations were revised to provide more flexibility. The current outlook for Defined Benefit plans still remains poor today. A better outlook for all types of occupational pension plans (defined benefit, defined contribution, hybrid, etc) can be provided if all stakeholders agree to redefine the “pension promise” through risk sharing. This would lead to better governance, increased flexibility in funding and accounting rules and improved financial literacy by employees.