



**LABOR AND EMPLOYMENT and
EMPLOYEE BENEFITS AND PENSIONS
JOINT PRACTICE GROUP MEETING
April 26-27, 2012**

Panel I: Attacks on Public Sector Pension Plans

Gary Cullen, Maclay Murray & Spens LLP

**Helena Tapp Barroso, Moraes Leitão, Galvão Teles, Soares da Silva &
Associados – Sociedade de Advogados RL**

Moderator: Philip Smith, Arthur Cox

Panelists

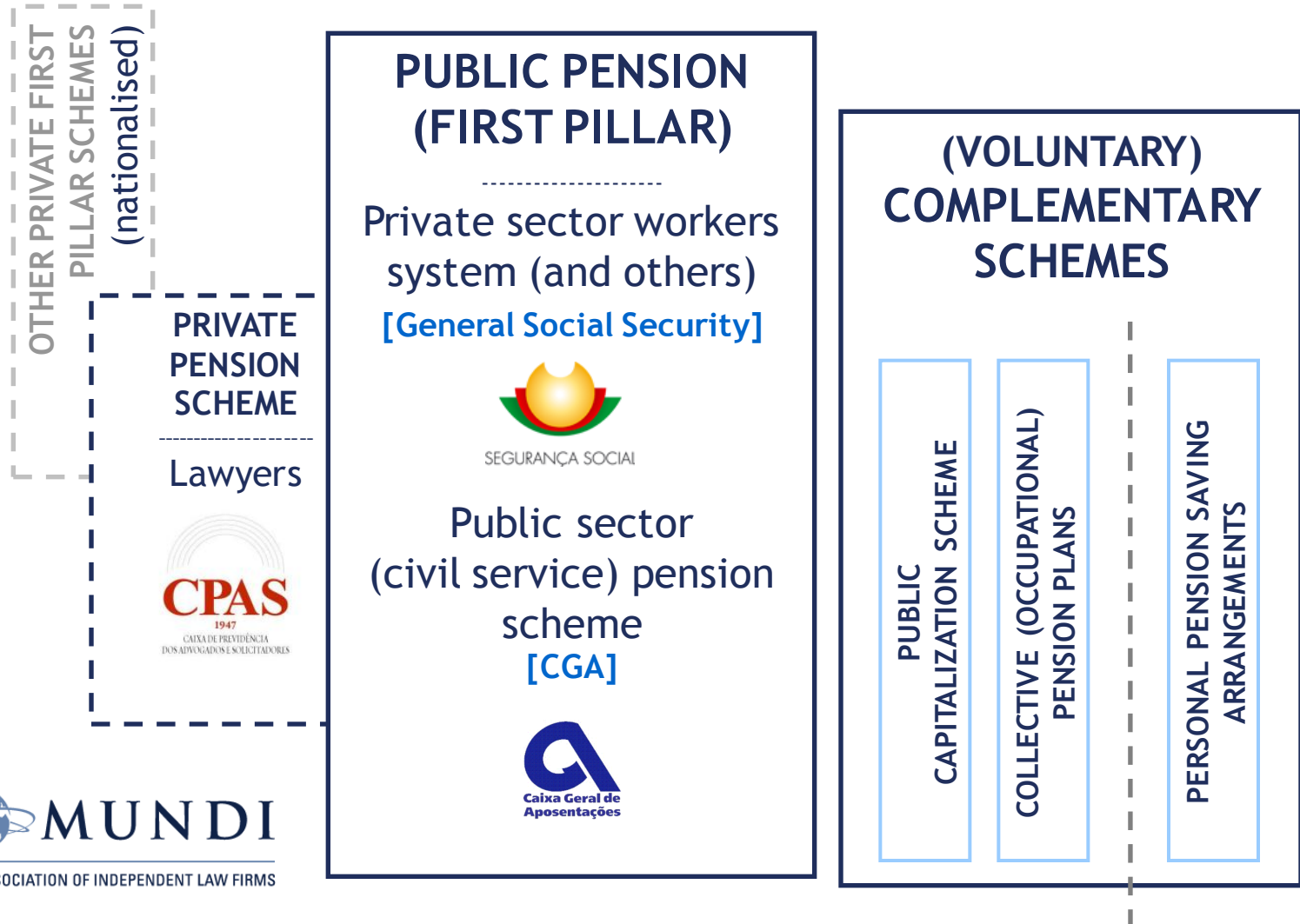
- *Moderator: Philip Smith, Arthur Cox*
- *Speakers:*
 - *Helena Tapp Barroso, Moraes Leitão, Galvão Teles, Soares da Silva & Associados - Sociedade de Advogados RL*
 - *Gary Cullen, Maclay Murray & Spens LLP*

Overview

- Country approach - Portugal, Ireland, the UK
- Basics of the pension system
- Where public sector pensions fit in
- Historic structures
- Recent developments
- Attacks or solutions?
- Q & A

Portugal

Portugal - Basics of the pension system (pension system design)



Portugal - Basics of the pension system

Public sector (civil service) pension scheme [CGA]

PUBLIC PENSION PILLAR

Year	Members	Pensioners (age retirement)	Pensioners (disability)
2009	603.840	428.752	135.312
2010	586.391	440.194	137.133
2011	559.164	453.129	138.648

- ☑ Central and local public service and public organization servants and agents (until December 31st 2005)
- ☑ Contributions (on monthly remuneration) - General rule - 6%
(civil servant) 15% (public service) (2011 = 3.363.352,5 M €)

Portugal - Basics of the pension system

Public sector (civil service) pension scheme [CGA]

- ☒ Civil Service Scheme - transition 60 yrs. retirement age / 36 yrs. contributions

Career- Length	Transitional Period	
36.5 years	January 1, 2006	- December 31, 2006
37 years	January 1, 2007	- December 31, 2007
37.5 years	January 1, 2008	- December 31, 2008
38 years	January 1, 2009	- December 31, 2009
38.5 years	January 1, 2010	- December 31, 2010
39 years	January 1, 2011	- December 31, 2011
39.5 years	January 1, 2012	- December 31, 2012
40 years	From January 1, 2013 onwards	

Special rules
(eg. teachers, nurses)

Age	Transitional Period	
60.5 years	January 1, 2006	- December 31, 2006
61 years	January 1, 2007	- December 31, 2007
61.5 years	January 1, 2008	- December 31, 2008
62 years	January 1, 2009	- December 31, 2009
62.5 years	January 1, 2010	- December 31, 2010
63 years	January 1, 2011	- December 31, 2011
63.5 years	January 1, 2012	- December 31, 2012
64 years	January 1, 2013	- December 31, 2013
64.5 years	January 1, 2014	- December 31, 2014
65 years	From January 1, 2015 onwards	

Source: Law No. 60/2005.

Portugal - Basics of the pension system

Private sector workers system (and others) [General Social Security]

PUBLIC PENSION PILLAR

Year	Members (active beneficiaries)	Pensioners (age retirement)	Pensioners (disability)
2008	4.533.301	1.827.052	302.529
2009	4.467.974	1.864.840	297.177
2010	4.462.588	1.903.525	289.409
2011		1.951.031	282.697

Source PORDATA

Portugal - Basics of the pension system

Private sector workers system (and others) [General Social Security]

PUBLIC PENSION SCHEME

- ☒ (all) Private sector workers
- ☒ Public sector workers (admitted after January 1st 2006)
- ☒ Self-employed (freelance)
- ☒ Other private/special systems

- ☒ Contributions (general regime) on monthly remuneration

11% (employee)

23,75% (employer)

(Contributions in 2010 = 13.483.331,4 M €)

- ☒ Social Voluntary Insurance

Portugal - Basics of the pension system

(VOLUNTARY) COMPLEMENTARY SCHEMES

Public Capitalization Scheme

Voluntary Contributions (monthly) converted in capitalizing retirement certificates

Eligible beneficiaries/contributors

- ✓ Public sector (civil service) workers
- ✓ Private sector employees contributing to first pillar public pension scheme

Contribution level option (over average monthly remuneration):

- ✓ 2%
- ✓ 4%
- ✓ 6% (over 50)

Portugal - Basics of the pension system

(VOLUNTARY) COMPLEMENTARY SCHEMES

Collective (occupational) pension plans

Company benefit plans not widespread

- % workforce comprised by occupational pension schemes ($\pm 3,7\%$)
- % Portuguese companies with pension plan in operation ($\pm 1\%$)

Schemes

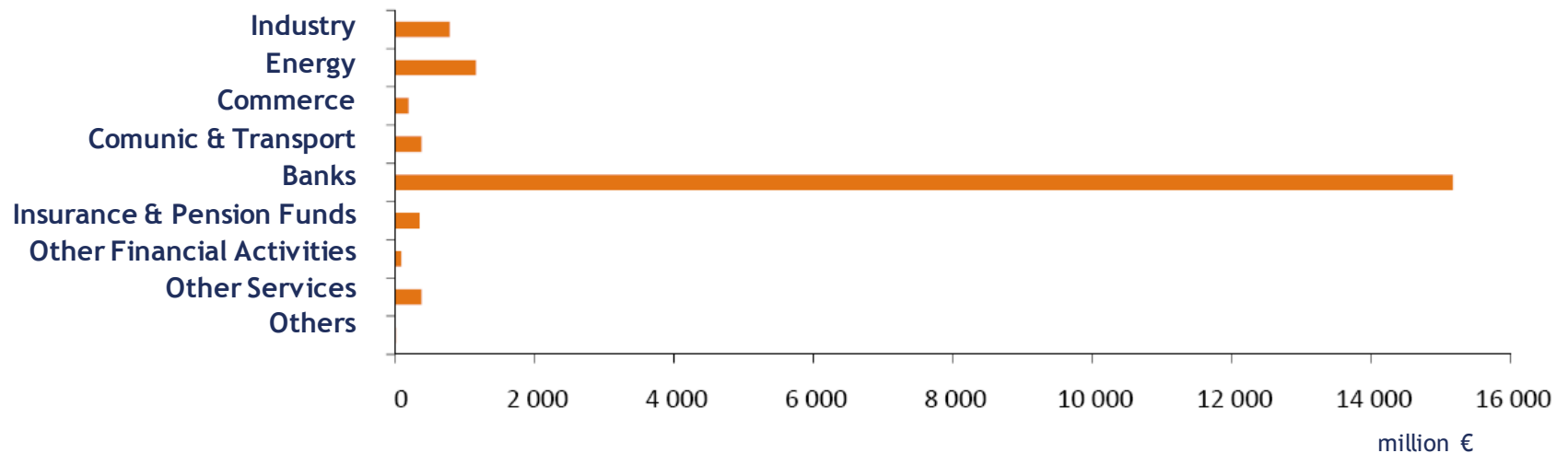
- Most under a pension fund arrangement
- Insurance Schemes (small and medium-sized companies)
- Unfunded schemes (rare)

Voluntary, occupational

- *Fundos de Pensões Fechados* (closed pension funds)
- *Fundos de Pensões Abertos* (open pension funds)
- Pension insurance contract: collective insurance

Portugal - Basics of the pension system

Distribution per business sector of the amounts of closed pension funds



Portugal - Basics of the pension system

(VOLUNTARY) COMPLEMENTARY SCHEMES

Personal Pension Saving Arrangements

Voluntary, personal

- *Fundos de Pensões Abertos* (open pension funds)
- Personal retirement saving funds: *Fundos Poupança Reforma* (PPR) and *Fundos Poupança Acções* (PPA)
- Pension insurance retirement contracts

Source: OECD Global Pension Statistics.

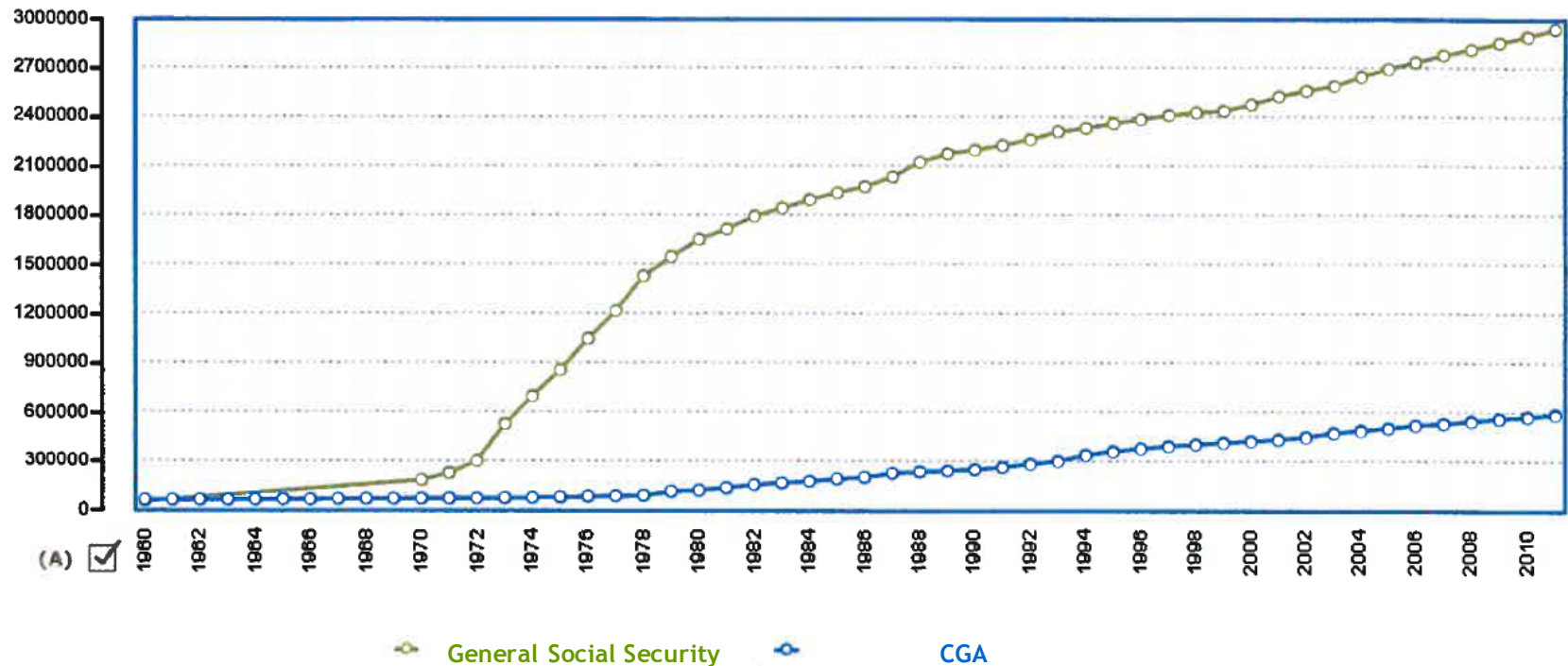
OECD PRIVATE PENSIONS OUTLOOK 2008 – ISBN 978-92-64-04438-8 – © OECD 2009

Personal voluntary

On 31 December 2007 there were 55 personal retirement saving funds on the market with a total of 441 183 members. Total assets in the personal system amounted to EUR 3.5 billion (USD 4.8 billion).

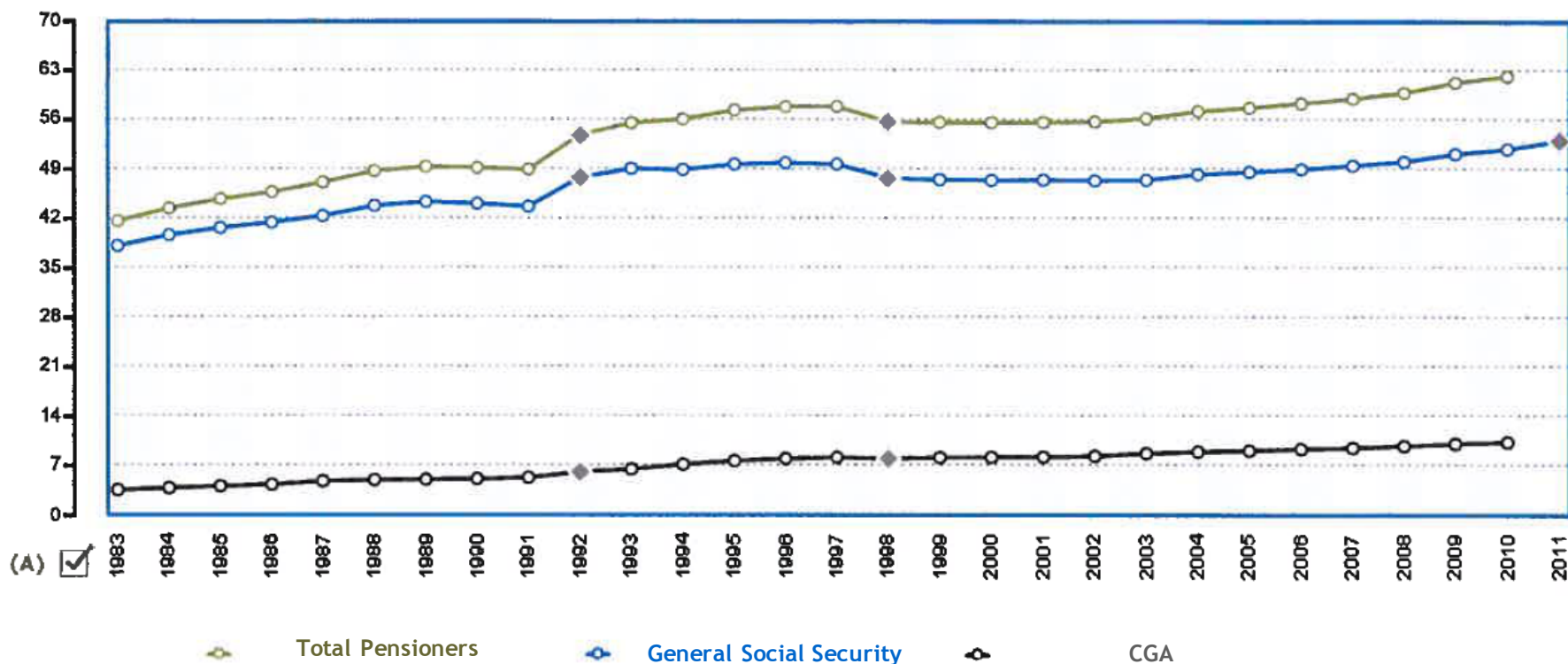
Portugal - Where public sector pensions fit in

Pensioners: total General Social Security and CGA (A) number of individuals



Portugal - Where public sector pensions fit in

Pensioners: active population %: total General Social Security and CGA
(A) Individuals %



Portugal - Historic structures

- (1970 →) First steps towards unified social security system (& pension)
- (→ 1993) Relevant rule and system unification & benefit improvements
- (1993 →) First steps towards convergence of civil service Public Scheme with first pillar private sector employee public system
- (2000 →) Increased concerns (system efficiency, benefit improvement & system sustainability)
- (2005 →) Additional steps towards convergence of civil service scheme
- (2007 →) First pillar private sector employee public system reforms
- (2010 →) Transfer of private funded systems to public system

Portugal - Recent developments

From a few year old changes ...

... to more recent developments

(2007 →) First pillar private sector employee public system reforms

- ☑ Introduction of sustainability factor
- ☑ Long contributory career incentives (active ageing)
- ☑ New formulas for pension calculation

(2011 →) New Social Security Contribution Act

- ☑ Contribution tax adjustment
- ☑ Broader contribution calculation basis

(2011 →) Transfer of private funded systems to public system
(nationalization of private funded first pillar schemes - bank

sector)

LEX  MUNDI

THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

Portugal - Recent developments

New Social Security Contribution Act Broader contribution calculation basis

- Representation expenses (*)
- Bonuses
- Transport expenses (*)
- Financial applications in benefit of the employees (in case of anticipated redemption) (**)
- Stable benefits based on employer performance / results (**)
- Amounts granted to employees by way of sharing company profits (**)
- Payments made to the employees, in cash or kind, on a regular basis, directly or indirectly for the job provided
- Compensation for agreed employment termination granting the right to unemployment benefits (*)

Portugal - Recent developments

New Social Security Contribution Act Tax / Contribution Components

	TAX COMPONENTS (%)				
	Total	Technical cost of benefits	Administration	Labor solidarity	Active employment policies and professional development
Sickness	1,41	1,33	0,03	0,04	
Professional disease	0,50	0,06	0,00	0,44	
Parenthood	0,76	0,72	0,02	0,02	
Unemployment	5,14	3,76	0,09	0,12	1,16
Invalidity	4,29	3,51	0,09	0,12	0,58
Age	20,21	19,10	0,48	0,63	
Death	2,44	2,31	0,06	0,08	
TOTAL	34,75	30,79	0,77	1,45	1,74

Portugal - Recent developments

New Social Security Contribution Act Tax / Contribution Components

	TAX COMPONENTS (%)		
	DL 200/99	New Social Security Contribution Act	Difference
Family expenses	2,15	0,00	-2,15
Sickness	3,05	1,41	-1,64
Professional disease	0,50	0,50	0,00
Parenthood	0,73	0,76	0,03
Unemployment	5,22	5,14	-0,08
Invalidity	3,42	4,29	0,87
Age	16,01	20,21	4,20
Death	3,67	2,44	-1,23
TOTAL	34,75	34,75	0,00

Portugal - Recent developments

New Social Security Contribution Act Contribution tax adjustment

	Sickness	Parenthood	Unemployment	Professional disease	Invalidity	Age	Death	%Employer	%Employee	Total
General regime	✓	✓	✓	✓	✓	✓	✓	23,75	11	34,75
Members of Statutory Bodies	✓	✓		✓	✓	✓	✓	20,3	9,3	29,6
Active pensioners (disability)		✓		✓	✓	✓	✓	19,3	8,9	28,2
Active pensioners (age retirement)		✓		✓		✓	✓	16,4	7,5	23,9
Self-employed	✓	✓		✓	✓	✓	✓	5% (*)	29,6% (*)	

Portugal - Attacks or solutions?

2012 →

Social benefit reference amount (IAS) freeze

Suspension of pension indexation for increase (pension freeze)

Cut on pensions over € 1.500

Cut on 13th and 14th «month» pension pay

Suspension of early retirement mechanism

Others ...

Ireland

Ireland - Basics of the pension system

- 2 pillar system: First pillar is a State pension (currently €11,975 - €230.30/wk for fully contributory person);
- Second pillar is occupational and personal pension schemes - three main types:
 - Private sector occupational schemes set up under trusts;
 - Personal arrangements set up under contract with an insurance company;
 - Public sector occupational schemes either funded (in which case set up under trust) or unfunded (in which case funded from current expenditure)
- Revenue restrictions on the maximum benefits and reliefs for contributions apply in broadly the same way to entire 2nd pillar

Ireland - Where public sector pensions fit in

- Almost all public sector workers in State and semi-State entities would participate in a pension scheme (coverage is 93% for public admin and defence arrangements) mostly in DB
- Total liability is approx. €116bn vs private sector pensions assets of €80bn (and liabilities of perhaps €100bn)
- Total pension coverage is around 54% meaning that 46% of population is totally reliant on State pension

Coverage figures from National Pensions Framework document from Q1, 2008

Ireland - Historic structures

- DB provision is based mainly on a model structure –
1/80th plus 3/80ths lump sum per year of service
- Central government civil service arrangements are unfunded
- Semi-state and more peripheral State entities have funded schemes
- “Equal contribution” issues to funded arrangements
- “Pay parity” system of increases in deferment

Ireland - Recent developments

- Direct “attack”
 - New single Public Service Pension Scheme announced in Budget 2010 - Public Service Pensions (Single Scheme) and Remuneration Bill 2011.
 - CARE structure; link normal retirement date to State pension age (i.e. up to 68 by 2028); future service only.
- Indirect “attack” - FEMPI legislation - pay cuts
 - 2009 Act - “pension-related deduction” - pay cut
 - 2010 (No. 2) Act - reduced pay rates from 1 January 2010 - exempted pension for reduced rates until 29 Feb 2012
 - 2010(No.1) Act reduced certain public service pensions from 1 January 2011

Ireland – Recent developments

- Detail of FEMPI changes:
- 2009 Act provided for reductions in pay of between 5% and 20% effective 1/1/2010
- 2010 Act provided for reductions in public sector pensions in payment from 1/1/2011 as follows:
 - <€12,000 pensions - exempt; €12-24k pensions - 6% reduction
 - €24-60k pensions - 9% reduction; >€60k pension - 12% reduction
- Change to State pension system - State pension age extended to 66 in 2014, 67 in 2021 and 68 in 2028
- Changes to tax reliefs: some made, some expected

Ireland – Attacks or solutions?

- Strongest attacks have come in the form of pay reductions.
- Impact of pay reduction on pension has not been fully understood.
- Opposition is strongest to the new CARE structure for new hires for future service - will take an age to feed through in the form of reductions to public sector pension liability
- Further reform seems inevitable

United Kingdom

United Kingdom - Basics of the pension system

- Also 2 Tier system
- 1st Tier - State Pension-
 - Currently = Basic State Pension (payable at SPA (65 for men or 60 for women but rising incrementally to 68 for both by 2046) of circa £102.15/week + State Second Pension (S2P) (based on NICs paid)
 - Future - replaced with single tier state pension set initially at £140/week. White Paper due in summer.
- 2nd Tier - occupational pension schemes + personal pension schemes
 - Private sector (Trust based)
 - Public Sector (enacted by parliament rules in Regulations)
 - SSASs (Trust), SIPP (Trust), GPPPs (contract)

United Kingdom - Where public sector pensions fit in

Four Big Schemes:

- The Principal Civil Service Pension Scheme (PCSPS) - unfunded
- The Local Government Pension Scheme (LGPS) - funded
- The National Health Service Pension Scheme (NHSPS) - unfunded
- The Teachers Pension Scheme (TPS) - unfunded

United Kingdom - Where public sector pensions fit in

- UK Debt £1 trillion. Cuts of £81 billion needed. Government departmental budgets face 34% cut
- 200 public sector schemes, 12 million members, 1/5 people in UK
- 2/3rds final salary (DB) + lump sum + incidental benefits – gold plated
- All underwritten + guaranteed to be paid in full
- NHSPS - Liabilities @ 31/3/08 = £212.5bn
- TPS - Liabilities @ 31/3/08 = £168.6bn
- PCSPS - Liabilities of DB section @ 2009 = £116bn

United Kingdom - Where public sector pensions fit in

- Private sector contrast
- (DB) schemes closed to new entrants, future accrual ceased or have been wound up
- Replaced with Defined Contribution (DC) - often stakeholder GPPPs - lower employer contributions & lower pension benefits & lower ancillary benefits
- Public Sector “attacks” the “solution” to the private/public disparity

United Kingdom - Historic structures

- Beginning of attacks/solutions - January 2007 - April 2008
- No single approach
- PCSPS – introduced CARE scheme for new entrants
- LGPS – continues to offer final salary
- NHS – DC for new entrants; DB for existing members
- TPS – continues to offer final salary

United Kingdom – Historic Structures

NHSPS – Previous Reforms

<i>Element of benefit design</i>	“Old” (1995 Section),	“Old” (post 1 Apr 2008)	“New” (1 Apr 2008)
Normal retirement age	60	60	65
Member contributions	5% manual 6% others	Tiered contributions based on pensionable pay ranging from 5% to 8.5%	Tiered contributions based on pensionable pay ranging from 5.5% to 8.5%
Primary benefits payable on retirement at 65	Pension based on 1/80th accrual of final salary pensionable pay (1.4% CARE for practitioners) Automatic lump sum of 3/80ths (or 4.2% for practitioners)	Pension based on 1/80th accrual (1.4% CARE for practitioners) Automatic lump sum of 3/80ths (or 4.2% for practitioners) - optional commutation at £12:£1	Pension based on 1/60th accrual of final salary reckonable pay but no automatic lump sum Optional commutation at £12:£1
Ill-health	Single-tier benefit with possible enhancements based on service	Two-tier benefit payable after 2 years' service	Two-tier benefit payable after 2 years' service

United Kingdom – Historic Structures

PCSSPS – Previous Reforms

Element of benefit design	Classic (1972)	Premium (2002)	Partnership (2002)	Nuvos (2007)
Type	DB	DB	DC	CARE
Normal Retirement Age	60	60	50-75	65
Member Contributions	1.5%	3.5%	No minimum	3.5%
Primary Benefits payable on retirement	Pension - 1/80 th accrual, lump sum automatic 3/80ths of final salary for every year of membership	Pension - 1/60 th accrual, lump sum optional commutation £12:£1	Benefits based on funds available. Lump sum optional commutation of 25% of fund	Pension - 2.3% of pensionable earnings each year, career average revalued earnings up to a pension limit of 75% of final pay

United Kingdom – Historic Structures

LGPS – Previous Reforms

<i>Element of benefit design</i>	<i>Old LGPS</i>	<i>New LGPS</i>
Member contributions	6% (Excluding manual workers who joined the LGPS before 31 March 1998.)	Tiered contributions based on salary ranging from 5.5% to 7.5%
Primary benefits payable on retirement at 65	Pension based on 1/80th accrual Automatic lump sum of 3/80ths of final salary for every year of membership (Optional commutation at £12:£1.)	Pension based on 1/60th accrual but no automatic lump sum Optional commutation at £12:£1
Death in service	2 x final pay	3 x final pay
Ill-health	Single tier with possible enhancements based on service	Three-tier benefit

United Kingdom – Historic Structures

TPS – Previous Reforms

<i>Element of benefit design</i>	Old scheme (pre 1 Jan 2007)	New scheme (post 1 Jan 2007 for pre-2007 members)	New scheme (post 1 Jan 2007 for new members)
Normal retirement age	60	60	65
Member contributions	6%	Currently 6.4% - rate to be revised going forward	Currently 6.4% - rate to be revised going forward
Primary benefits payable on retirement at 65	Pension based on 1/80th accrual Automatic lump sum of 3/80ths	Pension based on 1/80th accrual Automatic lump sum of 3/80ths (or 4.2% for practitioners) plus optional commutation at £12:£1	Pension based on 1/60th accrual but no automatic lump sum Optional commutation at £12:£1
Ill-health	Single tier with possible enhancements based on service	Two-tier benefit	Two-tier benefit

United Kingdom – Recent Developments

- **Second Wave of “attacks” - 10 March 2011** - Independent Public Service Pensions Commission publishes Hutton report and **23 March 2011** government accept report in full
- Hutton Report suggests wide scale reform necessary – Short Term and Long Term

Outline of Reform

- CARE structure + higher NPA+ increased contributions BUT accrued pension to be protected
- Increased contributions – average 3.2% increase in all schemes implemented in stages beginning 1 April 2012

United Kingdom – Recent Developments

- Consultations begin on scheme by scheme basis
- **2 November 2011** - Government announces improved offer of reform to stop threat of strike:

Offer

- CARE structure
 - Accrual rate increased from 1/65th back to 1/60th
 - Members within 10 years of retirement to be protected from changes
- **30 November 2011** – biggest public sector strike in history – 2 million take to streets in protest of “attacks”
- **20 December 2011 to 9 March 2012** negotiations with

United Kingdom – Attacks or solutions?

Final Proposed Agreements – the “solution”?

Proposed Change	PCSPS	NHSPS	TPS
Future Benefit basis	CARE of 2.3% of pensionable earnings	CARE of 1/54 th of pensionable earnings	CARE of 1/57 th of pensionable earnings
Revaluation of deferreds index	CPI	CPI + 1.5%	CPI
Revaluation of actives index	CPI	CPI	CPI
Pensions in payment index	CPI	CPI	CPI
NPA	State pension age	State pension age	State pension age
Average Member contribution rates by 2015	5.6%	9.8%	9.6%

United Kingdom – Attacks or solutions?

- “A settlement of a generation” or “Reforms that will save nothing?”
- Solution = A watered down Hutton Reform
- Proposed Final Agreements still to be accepted by public sector members and legislation still to be passed to make it official – some TU’s already rejecting it and planning more industrial action
- LGPS – negotiations are still ongoing
- Not the end of saga – political sensitivity of issue means it’s a vote loser/winner – how will future governments react?
- Lord Hutton only last month quoted as saying he expects further reform in the next 25 years to find a final solution

Conclusions and themes

Conclusions, Themes, Questions

- Public sector pension change is challenging in the absence of severe economic pressure
- Reform is generally too conservative but reaction is difficult to predict
- Expect transfers of funded systems to State (Portugal and Ireland)
- Expect tax and contribution changes (Portugal, Ireland and UK)

Discussion and Q&A Session



THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS