

Pension system transition – division of responsibilities between social partners and pension funds

“Seven recommendations for resolving issues”

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The consultation document on the Dutch Act on Future Pensions sets out a framework for the structure of, and transition to, the new Dutch pension system. It starts from the notion that social partners and pension providers will work together in an iterative process consecutively to change and implement their pension arrangements. The paper demonstrates that this process may give rise to legal issues.

The paper contains seven key recommendations how to resolve the legal issues. Among those are:

- Decisions on the transition should be taken by social partners and fund boards simultaneously rather than successively. The decision-making process should be in compliance with the requirements of good governance of pension funds.
- The legislature should clarify the criteria for converting existing accrued pension benefits.
- Ideally, social partners and fund boards should reach consensus on the essentials of the transition from the current to the new contract. This involves rules governing conversion, compensation for terminating the average contribution system, provisions on filling and emptying the solidarity reserve, and exit arrangements in case the parties decide to discontinue their collaboration. Social partners and fund boards would be well-advised to formalize their consensus, including mandate and acceptance, in a pension execution agreement. This can be facilitated by the legislator through a change in the law.
- Social partners and fund boards might encounter deadlocks, which can be broken by either asking the Transition Committee to intervene or by referring a matter to court. This can alter the dynamic between social partners and fund boards, enabling them to reach agreement in a timely manner. This will require the legislator to broaden the envisioned role of the Transition Committee and assign more powers to the Enterprise Chamber of the Amsterdam Court of Appeal.

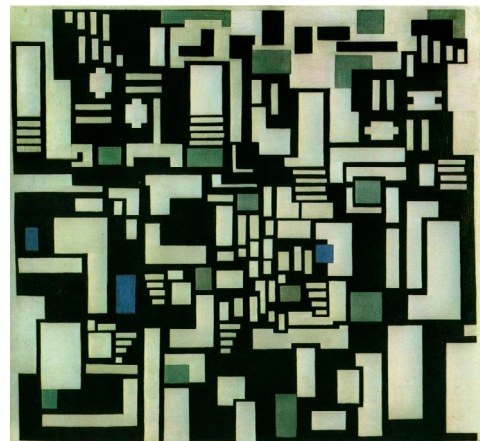


Figure: *Composition IX, Opus 18: portrayal of De kaartspelers (The Cardplayers)*, Th. van Doesburg

Key Takeaways for the Industry

- Encourage simultaneous decision-making by social partners and fund boards, taking an approach that respects the good governance of pension funds.
- Formalize the essentials of the transition to the new pension contract in an implementation agreement and clarify the regulations governing mandate, implementation and exit.



Want to know more? Read the paper

'Bevoegdheidsverdeling sociale partners en pensioenfondsen bij stelseltransitie'