

INPRS

INTERNATIONAL NETWORK OF PENSIONS REGULATORS AND SUPERVISORS

In cooperation with

Organisation for Economic Co-operation and Development



Organisation de Coopération et de Développement Économiques
Under the aegis of the Center for Co-operation with Non-Members

and the Partners for Financial Stability Program

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Room Document N°13, Session 1
BASIC PRINCIPLES FOR THE REGULATION OF PRIVATE OCCUPATIONAL
PENSIONS SCHEMES

OECD Secretariat

REGIONAL MEETING FOR THE EASTERN AND
CENTRAL EUROPEAN COUNTRIES

Hosted by
The Government of Estonia

Tallinn, Estonia
7-8 February 2002
Sakala Keskus
Rävala pst. 12, 10143 Tallinn

The following text provides fifteen principles for the regulation of private occupational pension schemes. The principles were approved by the International Network of Pension Regulators and Supervisors (INPRS) in April 2001 and by the OECD's Working Party on Private Pensions in November 2000.

FIFTEEN PRINCIPLES FOR THE REGULATION OF PRIVATE OCCUPATIONAL PENSIONS SCHEMES

Adequate regulatory framework

Principle N°1: An adequate regulatory framework for private pensions should be enforced in a comprehensive, dynamic and flexible way (taking into account the complexity of the schemes) in order to ensure the protection of pensions plans beneficiaries, the soundness of pensions funds and the stability of the economy as a whole. This framework should however not provide excessive burden on pensions markets, institutions, or employers.

Appropriate regulation of financial markets

Principle N°2: A productive, diversified investment of retirement savings which spreads risk requires well-functioning capital markets and financial institutions. The development of advance-funded pension systems should go hand-in-hand with a strengthening of the financial market infrastructure and regulatory framework (including the development of new financial instruments and new markets such as inflation-indexed markets and the improved functioning of retirement annuity markets).

Rights of the beneficiaries

Principle N°3: Non-discriminatory access should be granted to private pensions schemes. Regulation should aim at avoiding exclusions based on age, salary, gender, period of service, terms of employment, part-time employment, and civil status. It should also promote the protection of vested rights and proper entitlement process, as regard to contributions from both employees and employers. Policies for indexation should be encouraged. Portability of pensions rights is essential when professional mobility is promoted. Mechanisms for the protection of beneficiaries in case of early departure, especially when membership is not voluntary, should be encouraged.

Adequacy of the private schemes

Principle N°4: Proper assessment of adequacy of private schemes (risks, benefits, coverage) should be promoted, especially when these schemes play a public role, through substitution or substantial complementary function to public schemes and when they are mandatory. Adequacy should be evaluated taking into account the various sources of retirement income (tax-and-transfer systems, advance-funded systems, private savings and earnings).

Regulatory system and separation

Principle N°5: An institutional and functional system of adequate legal, accounting, technical, financial, and managerial criteria should apply to pensions funds and plans, jointly or separately, but without excessive administrative burden. The pension fund must be legally separated from the sponsor (or at least such separation must be irrevocably guaranteed through appropriate mechanisms).

Funding

Principle N°6: Private schemes should be funded. While full-funding exists in principle for defined contribution plans, other types of plans should be subject to minimum funding rules or other mechanisms to ensure adequate funding of pension liabilities. Rules based on winding-up approach (e.g. ABO, PBO) may be promoted as a minimum level to complement the on-going approach. Flexibility can be allowed for temporary limited under-funding under restricted circumstances. Consideration should be given to the development of adequate but flexible requirements for minimum capital/guarantee in pension funds,--taking account of the long term nature of their liabilities. Tax and prudential regulations should encourage a prudent level of funding. Private unfunded pay-as-you-go schemes at individual company level (i.e. overheads schemes) should be prohibited.

Calculation Techniques

Principles N°7: Appropriate calculation methods for asset valuation and liabilities funding, including actuarial techniques and amortisation rules must be set up and based on transparent and comparable standards. Increased reliance on modern and effective risk management, industry-wide risk management standards for pension funds and other institutions involved in the provision of retirement income should be promoted. The development of asset liability management techniques should be given proper consideration.

Supervisory structures

Principle N°8: Effective supervision of pension funds and plans must be set-up and focus on legal compliance, financial control, actuarial examination and supervision of managers. Appropriate supervisory bodies, properly staffed and funded, should be established in order to conduct when relevant off and on site supervision, at least for some categories of funds and in particular when problems are reported. Supervisory bodies should be endowed with appropriate regulatory and supervisory powers over individual plans, in order to prevent miss-selling cases arising from irregularities in the distribution and expenses methods.

Self-supervision

Principle N° 9: Self-regulation and self-supervision should be encouraged. The role of independent actuaries, custodian services and internal independent supervisory boards should be promoted within an appropriate regulatory framework.

Fair competition

Principle N°10: Regulation should promote a level playing field between the different operators and take account of the usefulness of a functional approach. The fair competition should benefit to the consumers and allow for the development of adequate private pensions markets

Investment

Principle N°11: Investment by pension funds should be adequately regulated (see selected principles for regulation of investments by insurance companies and pension funds in Annex). This includes the need for an integrated assets/liabilities approach, for both institutional and functional approaches, and the consideration of principles related to diversification, dispersion, and maturity and currency matching. Quantitative regulations, and prudent-person principles should be carefully assessed, having regard to both the security and profitability objectives of pension funds. Self-investment should be limited, unless appropriate safeguards exist. Liberalisation of investment abroad by pension funds should be promoted, subject to prudent management principles.

Insurance mechanisms

Principle N°12: The need for insolvency insurance and/or other guarantee schemes has to be properly evaluated. These mechanisms may be recommended in some cases but in an adequate framework. Recourse to insurance mechanisms (group and reinsurance) may be promoted.

Winding-up

Principle N°13: Proper winding-up mechanisms should be put in place. Arrangements (including, where necessary, priority creditors' rights for pension funds) should be put in place to ensure that contributions owed to the fund by the employer are paid in the event of his insolvency, in accordance with national laws.

Disclosure and education

Principle N°14: Appropriate disclosure and education should be promoted as regards respective costs and benefits characteristics of pensions schemes, especially where individual choice is offered. Beneficiaries should be educated on misuse of retirement benefits (in particular in case of lump sum) and adequate preservation of their rights. Disclosure of fees structure, plans performance and benefits modalities should be especially promoted in the case of pensions plans that offer individual choice.

Corporate governance

Principle N°15: The corporate governance role and capacity of pension funds should be considered. This includes: the role of guidelines (statutory or voluntary) for governance activities; the impact of shareholder activism by pension funds on corporate behaviour; and the governance of pension funds themselves and the role of trustees.