



Comments on “Review of IOPS Principles of Private Pension Supervision”

This document includes comments from various FIAP members, belonging to different countries. These do not necessarily represent the organization’s official position.

Preamble

Point 1

The protection of the State’s interests should also be included in the aims of supervision, since in many pension systems there are implied or explicit state guarantees that protect members and beneficiaries.

Point 2

We do not share the statement that limited competition and possibilities of choice are a unique characteristic of the products and services offered by the private pension systems. Furthermore, it is evident that in many private pension programs the decisions are taken individually by the workers, who have a considerable number of alternatives to choose from, such as their management institution and investment structure.

Principle 1: Objectives

The Supervisory Authorities of Costa Rica comply with this specific aspect, in accordance with the terms of the legal and regulatory framework currently in force.

Principle 2: Independence

In point of fact, the Superintendence of Pension in Costa Rica is an organ of the Central Bank, with maximum de-concentration. It does depend on the latter, however, from the budget point of view.

Principle 3: Adequate Resources

Comment 1:

In 3.3 the document suggests, at the end of the paragraph, the possibility that people who have interests in the regulated institutions might work in the supervisory bodies, provided this is openly reported. This possibility should not be authorized, because of the negative influence that such an interest may have on the decisions adopted by the supervisory authority.



Comment 2:

In 3.5 we suggest reviewing the proposal, to limit outsourcing to support activities and tasks that enable the supervisory authorities' responsibilities to be fulfilled, but not to extend it to the aims and functions of supervision themselves, which should be carried out directly by the supervisory authorities.

Comment 3:

The Superintendencia of Pensions in Costa Rica has a group of professionals who are given a training program every year. This means that its human resources are theoretically up-to-date for carrying out the tasks involved in supervision. In addition, a percentage of the budget depends on the Central Bank and the rest is taken from the gross income of the supervised institutions, which finance the operation and possible improvements to the system of supervision.

Principle 4: Adequate Powers

Comment 1:

It would be desirable to state what would be exceeding the supervisory authorities' powers and a conciliation mechanism to solve these issues with the regulators besides needing to appeal to the judicial authorities.

Comment 2:

In 4.4 we suggest to clarify the meaning of "the scope of the powers may extend to the power..., to direct management,". This may generate a confusion between the role of supervision and management.

Comment 3:

This item is fulfilled in Costa Rica, based on the faculties of supervision that the legal system grants to the Superintendencia.

Principle 5: Risk-based Supervision

Comment 1:

In 5.3 there is an apparent mistake in the final sentence, which says "Rules-based supervision does not mean having no rules or compliance procedures". We assume that this should read "Risk-based supervision does not mean having no rules or compliance procedures".



Comment 2:

In 5.3 (which should be 5.4) we suggest clarifying the sentence “A legal framework allowing suitable discretion in terms of interpretation and enforcement is required,...” Interpretation and enforcement of what? In general, the possibility of the authorities’ acting discretionally should be limited as much as possible.

Comment 3:

The Superintendence of Pension in Costa Rica has a six-monthly review mechanism in which it uses criteria of operating risk for its evaluation. The measurement of the “Capital Adjustment” is also established in the regulations, in line with the best local and international practices.

Principle 6: Proportionality and Consistency

The Superintendence of Pensions in Costa Rica uses the six-monthly review mechanism mentioned above to establish grading parameters, to enable the institutions to be valued on the basis of their operating ability in risk management and their internal control systems as an alternative for mitigation. That valuation makes it possible to establish which institutions have most opportunities for improvement.

Principle 7: Consultation and Cooperation

Comment 1:

Its good foreseeing the benefits of cooperation between the pension supervisory authority and the related other relevant financial institutions or markets; however, setting the forums for the pension funds to discuss with authorities that don’t oversee them, but do supervise other relevant financial institutions issues that might have an impact in their business. Some examples might be manipulating securities prices, setting controls to outsourcers regulated by a different financial authority or promoting changes/improvements in regulation that will benefit several financial institutions supervise by different financial supervisory authorities.

Comment 2:

In Costa Rica, there is the National Council of Financial System Supervision (CONASSIF). This body is in charge, at national level, of coordinating the whole issue of supervision between the four existing Superintendences. This organism consults the interested parties before making any modification in the regulations, with the aim of receiving feedback on their pronouncement.

Principle 8: Confidentiality

There is a body of rules in Costa Rica that regulates the confidentiality of information.



Principle 9: Transparency

All actions on the part of the Superintendence of Costa Rica must abide by the provisions of the law and regulations, which guarantees a high level of transparency in its dealings.

Principle 10: Governance

Comment 1:

10.4 states: “...An internal audit should be considered good practice for pension supervisory authorities, which reviews the consistency and transparency of the decision making process, the effectiveness of the risk management practices and the efficiency and propriety in the use of resources. These internal audits should be carried out as part of the legal and functional oversight of the supervisory authorities and their findings should be present to the overseeing ministry or other statutory authority...” The results of this audit should be shared with the pension funds at least in a summarized way without jeopardizing the reliability of the authority. Besides, we suggest including in the scope of the audit the degree of compliance to this principles and a least publish the report of this audit to understand the status of a pension supervisory authority compared to the global best practices.

Comment 2:

It is suggested that the last sentence, referring to the idea that personnel of the supervisory institution should have immunity from civil suits, be made more precise. Should they have this in all cases: if they fail to comply with the information confidentiality rules imposed on them, for example?

Comment 3:

The law empowers the Superintendence of Costa Rica to develop its own practices in relation with these topics. As a matter of fact, the regulations produced by both the CONASSIF and the Superintendences themselves, are based on and applied according to risk and good governance criteria.

Each of the Superintendences has its own Web page, where relevant information is published for financial business clients, under confidentiality of information criteria. It is also important to emphasize that these supervisory bodies are subject to audits by the General Comptroller of the Republic’s Office: the external body that supervises them.