INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS

IOPS GUIDELINES FOR SUPERVISORY INTERVENTION, ENFORECMENT AND SANCTIONS

November 2009

THE INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS (IOPS)

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Introduction

1. Due to the crucial role of the private pension systems within the financial markets, and their increasing importance as a source of retirement income for individuals, the effective supervision of pension funds is becoming ever more important. Yet pension supervision is a complex issue, not least because pensions are long-term contracts, with a wide social coverage of millions of members and beneficiaries, involving the participation of a range of different players (from pension funds and plans, to financial institutions, plan sponsors and social partners).

2. The objectives of pension supervision focus on protecting the interests of pension fund members and beneficiaries, and can also include safeguarding the stability of the pension industry and contributing to the stability of the financial system as a whole. To achieve these objectives, supervisory authorities need not only to have adequate supervisory methods but also to be able to enforce regulations and require pension funds to take remedial action when necessary. The question of whether, when and how to intervene in the operation of pension funds is of crucial importance if the objectives of supervision are to be met.

3. In order to meet those objectives, the pension supervisory authority may be required to utilize a range of measures when a breach of law or regulation is identified or suspected. Pressures on supervisory costs and efficiency and a trend towards a risk-based supervisory approach mean that the supervisor needs to handle these measurers increasingly effectively. These measures can be categorised into three broad headings, namely, intervention, enforcement and sanctions

4. For the purpose of these guidelines, actions such as the provision of guidance by the supervisory authority to assist funds comply with regulations, or collection of information and on-site visits to review the pension fund's management and operations are regarded as part of normal, preventative and routine supervisory process. A risk-based approach to supervision will attempt to use preventative measures as much as possible to avoid problems before they occur or escalate. For example, the supervisory authority may consider issuing guidance notes on how to interpret and follow regulatory and supervisory requirements. Such an approach may be particularly relevant where supervisory authorities take a 'deterrent-based approach' and only intervene rarely.

5. **Interventions** may be categorised as the range of actions taken to protect pension fund members and beneficiaries when a breach - or potential breach - of requirements is observed, suspected or anticipated. Such actions may include requiring the pension fund to provide information or documents to demonstrate how its processes and decisions are in accordance with its obligations, out-of-session visit by the authority etc. **Enforcement** is taken to include any action, (including criminal or civil court based action), taken against the pension fund or its officers or a pension fund provider to compel required behaviour. **Sanctions** would encompass punitive actions (e.g. fines) proposed or imposed by the supervisor on the pension fund or pension fund provider as a penalty for non-compliant or other problematic behaviour.

Scope and Coverage

6. Despite the heterogeneity of pension fund systems in the world today, certain approaches to pension supervision have been identified[1], which are driven by factors such as the nature of the pension system being supervised, the level of legal and financial market development etc. Rather than being a choice between discrete alternatives, these supervisory approaches should be considered to reflect a set of attributes that represent different positions along a spectrum. The two ends of the spectrum may be represented by the Latin American approach at one end (where supervisors engage in intensive supervision, interacting with funds on a daily basis) and an 'Anglo-Saxon' style at the other (whereby supervisors operate more by communication and deterrent). A third approach, part way along the spectrum, would be more usual in Continental Europe, for example. These various approaches naturally imply that some pension supervisors may use their intervention, enforcement or sanction powers to engage with pension funds more regularly than other supervisory authorities.

7. Despite the country-specific situations and supervisory approach, the IOPS believes that general guidelines for the use of intervention, enforcement and sanction powers can be drafted, and will be helpful to member countries in the supervision of their pension markets and systems. The guidelines are intended to reflect international good practice regarding the powers which are needed and used by supervisory authorities in relation to intervening, applying sanctions and enforcing action in regards to the pension entities they oversee, and how these powers should be used in order to protect members and beneficiaries, maximise benefits and minimise costs. These guidelines build on the IOPS '*Principles of Private Pension Supervision'*, and draw on the OECD '*Core Principles of Occupational Pension Regulation'*, the IAIS '*Insurance Core Principles and Methodology'*, and IOSCO's '*Objectives and Principles of Securities Regulation'*. Although these guidelines serve as a benchmark reference, the question of how to best apply them in practice should take into account country-specific conditions and circumstances.

8. These Guidelines cover the supervision of private pensions, including both work-based occupational pensions and personal private pensions[2]. Though mainly referring to pension funds and pension plans[3], a range of other market participants may be involved (such as plan sponsors or financial institutions serving as external service providers). The pension supervisory authority refers to the

[1] See Hinz, R. P., Mataoanu, A., '*Pension Supervision: Understanding International Practice and Country Context.*', World Bank Social Protection Discussion Paper No. 0524, May 2005 http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/0524.pdf

[2] In EU countries, the guidelines may not apply to those pension funds and pension plans that fall outside the scope of the EU Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, e.g. pensions funded via book reserves.

[3] According to the OECD's taxonomy, a pension fund is a legally separated pool of assets forming an independent legal entity that is bought with the contributions to a pension plan for the exclusive purpose of financing pension plan benefits. The plan/fund members have a legal or beneficial right or some other contractual claim against the assets of the pension fund. Pension funds take the form of either a special purpose entity with legal capacity (such as a trust, foundation, or corporate entity) or a legally separated fund without legal capacity managed by a dedicated provider (pension fund management company) or other financial institution on behalf of the plan/fund members.

A pension plan is a legally binding contract having an explicit retirement objective (or – in order to satisfy tax-related conditions or contract provisions – the benefits cannot be paid at all or without a significant penalty unless the beneficiary is older than a legally defined retirement age). This contract may be part of a broader employment contract, it may be set forth in the plan rules or documents, or it may be required by law. In addition to having an explicit retirement objective, pension plans may offer additional benefits, such as disability, sickness, and survivors' benefits.

institution (mostly governmental agencies), which is empowered to supervise and oversee the pension industry. It is noted that in some countries this authority is a separate agency, while in many other countries it is integrated with the oversight of other financial activities into a single supervisory body.

Guideline 1: Goals of intervention, enforcement and sanctions

The pension supervisory authority should have clear and well-defined strategic supervisory goals for the use of intervention, enforcement and sanction powers

1.1 The pension supervisory authority should have clear goals for the use of intervention, enforcement and sanction powers. These should be used when pension funds fail to meet legal requirements or supervisory standards, or when the pension supervisor believes that risks posed by a pension fund are high enough to be a potential threat to members and beneficiaries of the pension fund or could potentially have negative implications for the pension system or financial markets as a whole.

1.2 Supervisors should clearly establish whether the goal of their action is preventative, protective or punitive and use the appropriate tools and powers accordingly. The use of intervention powers can be for preventative or protective purposes. Enforcement powers can be used as a protective measure or punitively. Sanction related powers are punitive in relation to the specific entity or individual, though may be protective at the system level due to an intended deterrent effect.

1.3 Protective powers should be given priority as they are relatively straightforward to use (not involving courts). Punitive powers may often only be applied by courts and may involve more burdensome requirements of evidence etc. Based on their assessment of risk, supervisory authorities should therefore clarify the goal they are seeking to achieve before using the various tools at their disposal. The course of action should be based on objective criteria.

1.4 The legal framework that defines conditions and circumstances under which the pension fund supervisor must intervene should be flexible enough to enable the pension supervisor to undertake preventative, protective or punitive actions. Supervisory authorities should possess sufficient flexibility in order to be able to act pragmatically and to react in a timely (ideally pre-emptive) and efficient fashion to issues and problems which they encounter in their daily activities.

Guideline 2: Intervention, enforcement and sanction powers

The pension supervisory authority should have adequate intervention, enforcement and sanction powers to fulfil its supervisory duties and responsibilities

2.1 It is of crucial importance that the pension supervisory authority possesses sufficient intervention, enforcement and sanction powers and maintains a range of means to undertake its duties and responsibilities in a timely and efficient manner. The supervisory authority needs to have the legal and operational capacity (such as actuarial expertise) to respond to perceived or developing risks, with legislation allowing for basic powers which can be exercised with varying degrees of intensity.

2.2 Such powers should be set out in legislation and may include the following. However, it should be noted that the range of powers available to and used by a supervisory authority will depend on context, such as the nature of the pension system and supervisory approach.

Preventative Powers

- power to obtain additional data and information from all relevant parties on suspicion of potential breach of regulation and/or potential harm to interests of members and beneficiaries, in order to assist formation of decision regarding whether and how to intervene;

- power to conduct on-site visits to the offices of pension funds and pension fund managing companies and possibly also external service providers including custodians;

- power to follow up on complaints received from pension fund members and beneficiaries or service providers (such as auditors, possibly via whistle blowing requirements), to the extent that such complaints go to the soundness of the pension provider or its compliance with the legal framework;

Protective Powers

- power to issue formal orders with respect to the pension funds, the members of the managing boards and other managers, requiring them to take particular actions or to desist from taking particular actions (such as directions to comply with whole of part of a law or standard; to appoint or remove an auditor/ actuary, to not engage in specific transactions etc.);

- power to replace members of the managing board and other managers of pension funds;

- power to disqualify members of the managing board and other members of pension funds from acting in responsible capacity in future, either temporarily or permanently;

- power to restrict business activities;

- withholding approval for new activities or acquisitions;

- power to direct the pension fund to stop practices that are unsafe or unsound;

- power to impose conditions/ restrictions on or to revoke the operating licence of the pension fund and / or its managing company;

- power to remove or replace external service providers or report them to the applicable authorities;

- power to put the assets of a pension fund in a trust or to restrict the disposal of those assets (i.e. to freeze them);

Punitive Powers

- power to impose administrative sanctions including fines against the pension fund managing body or individuals;

- power to apply to a court for orders requiring a pension fund to do or refrain from undertaking certain actions;

- power to accept a court enforceable undertaking from a pension fund or other relevant person or body;

- power to refer matters for criminal prosecution.

2.3 Though not all powers may be used 'actively' it may still be useful for the supervisory authority to have such powers either to use in exceptional circumstances - thereby avoiding what could be time consuming delays in dealing with other authorities or institutions – or, by acting as a deterrent, serving to modify the behaviour of supervised entities. Supervisory authorities should note that unless such threats are supported by actual instances of the application of such sanctions their credibility in the market will be diminished.

2.4 Sanctions for serious breaches need to be credible, clearly indicated and of a sufficient magnitude to act as a deterrent.

2.5 The process of applying sanctions should not delay necessary preventative and corrective measures and enforcement.

2.6 The imposition of significant numbers of financial and other penalties that are minor in nature and apply to relatively small transgressions is not generally an effective method of supervision (as in this type of situation supervisors spend too much time levying and collecting fines – most of which have limited impact on the behaviour of supervised entities).

2.7 Supervisory authorities need to be able to use their enforcement and sanction powers without intervention or being overridden by other authorities (such as government officials etc.)[4].

Guideline 3: Decision making process

When a potential or actual breach of legislation or standards is identified, a well defined decision making process should be in place and followed

3.1 Once a problem is identified, a clear and well-defined, 'due process' should be followed. Due process describes the checks and balances that a supervisory authority should have in place to ensure that supervised entities are treated fairly, consistently and transparently. Due process should be considered at each stage in the process when deciding on the appropriate supervisory action to be taken. Process should be structured to ensure that supervisors exercise their powers in an objective and professional manner.

3.2 During the decision making process, a balance should be struck between the potential benefits of the supervisory action and the costs and impact on pension fund members and beneficiaries. Supervisors should attempt to protect members and beneficiaries before and/or while taking enforcement action. If delaying supervisory action could reduce or eliminate any negative impact on members or beneficiaries of the pension fund, such a postponement should be considered (though the significance of the breach requiring supervisory attention should be taken into account). The financial impact on pension members and beneficiaries should be minimized so long as that is consistent with the proper supervision of the industry. However, significant misconduct should draw a supervisory response, even where there is a negative impact on members and beneficiaries of a particular fund, so that an appropriate signal is sent to the market about what constitutes acceptable conduct.

3.3 Good planning allows the supervisory authority to verify the legal authority and processes that should be taken and the information needs that may be required to initiate any subsequent action. Preparing for the worst should be a part of contingency planning in dealing with any problem situation

[4] See IOPS Principles No. 1 'Independence'.

3.4 Where the supervisory authority intervenes in serious issues which could potentially have, or have had, significant implications for the pension market and system, those within the authority proposing interventions should be separated from those taking the final decision to some extent, so as to ensure an unbiased intervention process. Court based processes achieve this separation at a structural level.

3.5 The decision making process should require approval by senior staff where sanctions etc. are imposed. The decision making lines of the supervisory authority should be structured so that actions to preserve member and beneficiary interest can be taken immediately in the case of emergency situations.

Guideline 4: Consistency of Decisions[5]

The actions of the pension supervisory authority should be consistent, following well documented procedures

4.1 Consistency of actions by the supervisory authority should be ensured on two dimensions, i.e. horizontally (e.g. between pension funds) and vertically (i.e. over time). However, any action to be taken by the supervisory authority should also take into account the environment and legal framework in which the pension funds and other supervised entities operate, which may be subject to change over time.

4.2 A well established procedure should be in place and followed (for example, procedural manuals, documentation, training, review and communication between divisions, comparing results and sharing experience), so as to ensure that similar decisions are made by the pension supervisor in similar circumstances and that these decisions are made on objective and unbiased grounds. Models such as enforcement pyramids and risk-scoring matrixes[6], may also be used to aid consistency by providing guides to what measures typically will be applied in certain circumstances.

4.3 A 'double-checking' principle may be used to ensure the consistency of decisions between staff (e.g. via peer reviews or requiring senior level oversight for entities with a higher supervisory stance). Alternatively, authorities may employ specialist teams - either enforcement or technical specialists - to ensure consistency in decision making.

Guideline 5: Proportionality and Escalation of Response[7]

The investigatory and enforcement response of the pension supervisory authority should be proportional to the risks being examined. Subject to the availability of regulatory and administrative powers and measures, the response should be escalated appropriately to achieve the desired regulatory objectives

5.1 Intervention actions and/or sanctions imposed by the pension supervisory authority should be proportionate to the risk to which the pension fund is exposed, taking into account the nature, scale, complexity and seriousness of the potential compliance irregularities relating to the relevant party.

5.2 The extent of supervisory demands placed on supervised entities should be commensurate with the value expected to be derived. Proportionality suggests that communicative dialogue is appropriate for

[5] This guideline is drawn from IOPS Principles No. 6 'Proportionality and Consistency'.

[6] For further details see the IOPS Toolkit for Risk-based Supervision. Enforcement Pyramids may also be known as Intervention Ladders.

[7] This guideline is drawn from IOPS Principles No. 6 'Proportionality and Consistency'.

emerging, inadvertent weaknesses that do not pose an immediate threat to fund members and beneficiaries. However, an immediate, high-level risk may require urgent, protective action - such as the freezing of assets, cessation of receipt of contributions and/or suspension of the pension provider.

5.3 To ensure proportionality, requirements could be set out in legislation, secondary regulation or detailed industry guidance (outlining various circumstances and risk as well as the associated intervention measures). Appropriate documentation, guidance and examples should be regulated or provided to staff.

5.4 Before using formal powers, in non-urgent circumstances, the pension supervisory authority should try to informally ensure compliance by a pension fund. Where possible, persuasion and cooperation should be initially used to gain compliance and avoid expensive enforcement and litigation. Such informal methods may be more cost effective and efficient than immediately using time consuming, formal powers. The supervisory authority should strive to build good working relationships with supervised entities so that emerging problems can be discussed in a constructive way.

5.5 If the supervisory authority does, however, need to intervene early– for protective or punitive reasons – the authority should select tools which are commensurate with the risk to which pension fund members and beneficiaries are exposed. Depending on the nature scale and complexity of the problem detected, a graduated response may be most effective. The concept of an enforcement pyramid[8] can be used to model the increasingly forceful powers available to the supervisory authority, and help develop a more responsive supervisory approach and more effective compliance strategies. Though the powers available to the supervisor will depend on the nature of the pension system and supervisory approach, a sufficient gradation of powers is required to enable the supervisory authority to tailor its response accordingly and sufficiently punitive powers are needed at the top of the pyramid to enforce action.

5.6 The escalation of action should be tailored to the individual situation. There should be a progressive escalation of action if the problems become worse or if the supervised entity ignores requests from the supervisor to take action. It may be advisable for supervisors to refrain from initially using a harsh enforcement approach and from escalating too rapidly. If punitive measures are used insensitively a resistance to regulation and compliance may be fostered, jeopardising future compliance. Nevertheless, supervisors do not need to move through every step available to them in each case, and may need to escalate their response rapidly to ensure satisfactory resolution of an urgent problem.

5.7 Supervisors should try to understand why non-compliance or violations have occurred. Genuine mistakes, for example, need to be rectified, but may justify a less punitive response than willful and persistent violations. The supervisory authority should be responsive to the supervised party's own behaviour if the relevant parties are acting cooperatively, the supervisory authority should generally do so as well.

5.8 The supervisory authority should clearly articulate what action or outcome is expected from the supervised entity and by what date, and what its response may be if such expectations are not met. Once action has been taken or punitive measures imposed, the supervisory authority should periodically check to determine that the supervised entity is complying with the measures. Supervisory authorities must follow through on their statements of intent otherwise the integrity of the supervisory process could be undermined.

5.9 When deciding on the time-frame allowed for the entity to respond or to rectify, the seriousness of the breach and the potential risks to members and beneficiaries should be taken into account. On the one

[8] For further details see the IOPS Toolkit for Risk-based Supervision. Enforcement pyramids may also be known as intervention ladders.

hand, a feasible timeframe should be allowed in order to enable the relevant parties to understand and respond properly. Parties should also be given some flexibility, as deemed appropriate, in the manner in which regulatory compliance is achieved. On the other hand, given the fact that a long delay could increase risks to fund members and beneficiaries and the cost of remedying the particular risk (in some cases significantly), the time-frame and flexibility should be designed to avoid abuse. As well as being effective, timely action is also an important aspect of maintaining the credibility of the supervisory authority.

5.10 Where the supervisory authority does find it necessary to use resource-intensive, enforcement powers, such as court interventions, a factor in case- selection should be the likely success of the action, providing an opportunity to give a strong deterrent message to the rest of the supervised community.

Guideline 6: Notification of corrective action

A self-correction mechanism by pension funds may be allowed for minor transgressions, taking account of the nature, scale and complexity of the risks involved. However, if such an approach is taken, the supervisory authority should provide clear guidance and specify which material problems and issues identified by pension funds themselves need to be notified immediately.

6.1 Where appropriate (depending on the pension system and supervisory approach), a self-correction mechanism may be used by pension funds and other parties. To facilitate such an approach the supervisory authority could communicate that in some cases non-compliant behaviour which pension funds themselves have identified and self-corrected, (and in some jurisdictions still reported), will incur a reduced response from the pension supervisory authority. For example:

- occasional incorrect data entry of members or beneficiaries details (e.g. age, amount of contributions) or other minor administrative errors (e.g. missing signatures required on documents) would not entail any fine or sanction if the errors have been corrected by the pension plan or pension fund on its own volition;

- supervisory authorities will not impose inappropriately heavy penalties for non-material breaches (e.g. temporary breaches of investment limits) when the pension plan or pension fund has corrected the breaches of its own volition or after discovery of the breach during an audit.

6.2 Where such an approach is taken, clearly identifying what are material or important breaches (requiring immediate supervisory attention), and – importantly – those which are not material can avoid the supervisory authority being overwhelmed by reports of minor transgressions, which could potentially be costly, ineffective and inefficient.

6.3 However, care should be taken that such an approach by the pension supervisory authority should not be abused. Supervised entities should not be able to deliberately cover up mistakes, and persistent minor breaches in regulations and requirements by an entity may be taken by the supervisory authority to indicate poor internal management, risk or control mechanisms, which should be investigated further and may lead to a higher level supervisory response.

Guideline 7: Outsourcing Activities

Where pension supervisory authorities lack relevant expertise to carry out intervention or enforcement tasks internally, it should be possible to outsource some supporting activities to other supervisory authorities or external professionals, or to secondee staff with appropriate experience to work internally. However, exercising strict monitoring and controls is necessary and the supervisory authority always remains responsible for intervention and enforcement decisions.

7.1 Supervisory authorities should organise the supervisory process in order to balance effectiveness and efficiency. By doing so, they should consider, among other matters, the allocation of supervisory tasks between supervisors and whether they wish to receive support from other independent, external experts. Secondment of individuals with the appropriate skills to work internally (and bound by suitable confidential clauses where required) may be an option. For example, specialist auditors, IT investigators or lawyers may be required to collect evidence to be used in court cases. Using these professionals may provide the supervisory authorities with flexibility and augment their skill.

7.2 It should be noted that the ultimate supervisory responsibility (including decision making and the application of sanctions) lies with the supervisory authority at all times. As the supervisory authority remains responsible for the supervision of pension funds, before using external professionals, they should consider:

a. whether adequate controls over their competence exist and the need to monitor their performance (for instance, through reviewing their working papers);

b. their independence towards the pension funds (in particular when they are paid by the governing body of the pension fund) and the consideration they give to the protection of member and beneficiaries' interests.

7.3 In addition, should such a delegation be set up, the supervisor should have the ability to rely on, and if necessary take legal action against, these external parties.

7.4 Where a disparity of resources exists between the supervisory authority and the industry being supervised (as may be the case, for example, in some emerging market situations), the supervisory authority may wish to have the legal power to require an entity subject to an in-depth investigation to bear the expenses of an enquiry carried out by outsourced experts.

Guideline 8: Coordination

In the case where the pension market is regulated and supervised by more than one authority, an inter-agency coordination mechanism should be in place. Such a coordination mechanism may also be required between supervisors on an international basis

8.1 If the pension industry is regulated and supervised by more than one authority, coordination between the supervisory bodies is necessary. This is particularly the case when the pension supervisory authority is an independent entity. Consistency and agreement on the application of intervention and sanction powers needs to be established. This may be facilitated by a process to permit agreement as to a main contact point in particular circumstances.

8.2 When the pension supervisor conducts intervention, enforcement and sanction actions, which can potentially have a wider effect on the market (i.e. beyond the target pension market and market player), consultation with relevant financial supervisors and/or regulators is essential.

8.3 Where the potential problem and intervention actions could have an international impact, communication and coordination between supervisory authorities in different countries should be facilitated, subject to confidentiality requirements and in principle based on formal agreements.

Guideline 9: Information disclosure

A transparent information disclosure mechanism and timely publication of intervention and sanction decisions, where appropriate, should be in place subject to relevant confidentiality requirements.

9.1 Where appropriate, the broad outlines of any supervisory response framework (such as an enforcement pyramid) should be made public by the supervisory authority, so that its actions will be understood by supervised entities and are not unexpected. Sharing with industry an outline of what broad supervisory response can be expected in certain circumstances may also help to ensure transparency, may strengthen the credibility of the authority, clarifies what is expected of supervised entities and consequently may help them stay in compliance with regulations and supervisory expectations.

9.2 Where appropriate, and as long as confidentiality and the proper protection of information and the member or beneficiary’s interests are not jeopardised, the pension supervisory authority may publish its decisions (and explanations for these). This publication strategy can be effective, and potentially have a wider and positive effect on the behaviour and conduct of the market participants.

9.3 Where appropriate, the information published may include the reasons for a decision to take action such as:

- imposition of a financial penalty on a particular pension plan or pension fund
- withdrawal of license from a pension fund or service provider
- replacement of senior managers/officers in the relevant party/ies

9.4 The dissemination of such information could be conducted through various channels (e.g. websites, media releases), with the most efficient and time effective recommended.

9.5 Confidentiality issues must, however, be respected and limits to disclosure clearly outlined. A balance also needs to be struck between conduct of business supervision (where disclosure can be used to influence the behaviour of the supervised community) and prudential supervision (where confidentiality is important to protect the interests of particular supervised entities).

Guideline 10: Appeals mechanism

A sound appeals mechanism should be in place in order to allow supervised entities to challenge the decisions of the supervisory authority

10.1 A working and sound appeals mechanism should be in place, so that supervised entities have the formal opportunity to exchange views with the supervisor regarding the decisions made (or to be made) by the latter. An appeal to the supervisory authority should be possible. This two-way communication mechanism ensures fairness and accuracy of the decisions made by the supervisor, thus enhancing the efficiency of the market and ultimately contributing to better protection of members' and beneficiaries' interests. Where the supervisor's decisions are exercised by means of an application by the supervisor to court or by a prosecution through the court, the right of supervised entities to put their position and views directly to the court is a sufficiently effective appeals system.

10.2 If communication between the relevant parties (such as the members of the managing board of a pension fund) and the supervisory authority fails to result in agreement, the affected parties should be able to appeal to an independent, third party – such as the relevant tribunal or courts - for decisions taken by the pension supervisory authority that affect them and which they consider inconsistent with legal provisions.

10.3 Enforcement powers should not compromise private rights of action. Private persons should be able to seek their own remedies (including, for example, for compensation).