



INTERNATIONAL ORGANISATION
OF PENSION SUPERVISORS

**GOVERNANCE AND PERFORMANCE MEASUREMENT
OF PENSION SUPERVISORY AUTHORITIES**

**John Ashcroft, Nina Paklina
and Fiona Stewart**

**WORKING PAPER No. 10
November 2009**



WORKING PAPER NO. 10
NOVEMBER 2009

**GOVERNANCE AND PERFORMANCE
MEASUREMENT OF PENSION SUPERVISORY
AUTHORITIES**

THE INTERNATIONAL ORGANISATION OF PENSION SUPERVISORS

John Ashcroft, Nina Paklina, Fiona Stewart¹

Working Paper No. 10

ABSTRACT

Governance and Performance Measurement of Pension Supervisory Authorities

The governance, oversight and performance measurement of financial supervisory authorities are increasingly recognized as important topics – not least due to the recent financial crisis and perceived problems in (and lack of) the regulatory oversight of financial institutions. Yet this is a relatively under-researched area, particularly in relation to pension supervision. This paper therefore attempts to combine theoretical material from a range of financial sectors along with practical examples from the pensions sector to establish what the good governance of pension supervisory authorities entails, how it is applied in practice, and how it can be monitored and measured.

Good governance of pension supervisory authorities can be summarized in four categories: **Independence**: requiring clarification of the authority's responsibilities and powers, processes for appointing its governing board and the ability to secure resources and operate without undue influence; **Accountability**: involving external audits, suitable internal organisation and measuring performance; **Transparency**: ensuring that the authority's objectives and achievements are understood, and that a consultative relationship with industry is established; **Integrity**: requiring codes of conduct, discretion to apply powers, internal controls and competent staff.

In terms of performance, though it is difficult to measure the effectiveness of pension supervisory authorities as 'counter-factuals' (i.e. what did not happen) and external factors play a large part, supervisory authorities could establish a range of measures looking at the following categories: **Effectiveness measures**: looking at outcomes against the authority's high level objectives; **Efficiency measures**: using the supervisor's credibility or reputation with its key stakeholders as a proxy or performance pledges; **Economy measures**: which could take the form of cost per inspection or cost of overheads relative to operational activities

Keywords: *Pensions, Governance, Performance Measure* JEL codes: G23, G32 Copyright IOPS 2009

[HTTP://WWW.IOPSWEB.ORG](http://WWW.IOPSWEB.ORG)

IOPS Working Papers are not formal publications. They present preliminary results and analysis and are circulated to encourage discussion and comment. Any usage or citation should take into account this provisional character. The findings and conclusions of the papers reflect the views of the authors and may not represent the opinions of the IOPS membership as a whole.

¹Mr. John Ashcroft is independent consultant to IOPS. Ms. Nina Paklina and Ms. Fiona Stewart are with the IOPS Secretariat and members of the Private Pensions Unit of the OECD's Financial Affairs Division.

GOVERNANCE AND PERFORMANCE MEASUREMENT OF PENSION SUPERVISORY AUTHORITIES

TABLE OF CONTENTS

I. Governance of Pension Supervisory Authorities	4
1) Why is good governance and performance measurement important for pension supervisory authorities?	4
2) What does the good governance of pension supervisory authorities involve?	5
3) Are good governance mechanisms applied by pension supervisory authorities in practice?	13
II. Performance Measurement of Pension Supervisory Authorities	22
1) Importance of performance measurement.....	22
2) Performance measurement in theory	23
3) Performance measurement in practice	25
5 Strategic Themes	37
BIBLOGRAHPY	40
ANNEX: GOVERNANCE MECHANISMS OF PENSION SUPERVISORY AUTHORITIES.....	42
Table 1: Status of the Supervisory Authority	42
Table 2: Appointment Procedures for the Head and Senior Directors of the Supervisory Authority	44
Table 3: Composition of Governing Board	47
Table 4: Source of Supervisory Authority's Funds	51
Table 5: National authorities which control and audit the activities of the supervisory authority	54
Table 6: Consultation Procedures	55
Table 7: Internal and Review Procedures.....	59

I. Governance of Pension Supervisory Authorities

1) Why is good governance and performance measurement important for pension supervisory authorities?

1. Literature on the regulation of financial services in general identifies securing credibility with supervised entities as a key goal of supervisory governance. Such governance is considered within a wide context (or ‘nexus’),² looking at the relationships between government, supervisors and financial institutions, with their main responsibilities identified as follows:

- financial institutions bear the ultimate responsibility for establishing good governance practices internally in order to gain and keep the confidence of their clients, counterparties, and the markets;
- supervisory authorities play a key role in instilling and overseeing implementation of the use of such good practices. To fulfil this role, the authorities themselves need to establish and operate sound governance practices – otherwise they would lose the credibility and moral authority to promulgate good practices in the institutions under their oversight; and
- good regulatory governance cannot be sustained without good public sector governance, including the absence of corruption, a sound approach to competition policies, effective legal and judicial systems, and an arm’s-length approach to government ownership.

2. In addition to establishing the necessary credibility of the supervisory authority, good governance is also required to handle conflicts of interest. Carmichael³ suggests that public sector bodies, such as financial supervisory authorities, share with the corporate world an inherent principal-agent problem arising from a potential divergence in interest between supervisory staff and the legislature and the public they represent. This could be reflected in excessive supervisory activity, to justify high staff levels or too ‘cosy’ a relationship with supervised entities.

3. However, as Carmichael goes on to point out, the effective management of this conflict is conceptually harder to monitor than in the private sector - where a dislocation between managerial and shareholder interest may be seen in reduced profitability – as supervisory authorities have a range of objectives which the authority’s activities contribute to. Yet these objectives - such as financial stability or the avoidance of misconduct - are inherently difficult to measure (except when there is a serious failure). Assessing governance and measuring performance at financial supervisory authorities is therefore both essential and challenging.

4. Das, Quintyn, and Chenard⁴ have derived some statistical support for good corporate governance within supervisory authorities. They constructed indexes of financial stability and sound corporate governance within regulatory agencies for a large sample of countries and found a statistical relationship between good regulatory governance and the soundness of the financial system.

5. Looking specifically as pension supervision, focus is increasingly being placed on how supervised entities themselves are governed – which in turn raises the need for the supervisory authorities

² The regulatory nexus and the four pillars of regulatory governance referred to later in this paper derive from (Das et al 2002).

³ See (Carmichael 2002)

⁴ See (Das, Udaibir, Quintyn, Chenard. 2003).

to have strong governance and oversight mechanisms in place in order to strengthen their legitimacy and credibility. As a recent OECD paper⁵ states:

“the basic goal of pension fund governance regulation is to minimise the potential agency problems, or conflicts of interest, that can arise between the fund members and those responsible for the fund’s management, and which can adversely affect the security of pension savings and promises. Good governance goes beyond this basic goal and aims at delivering high pension fund performance while keeping costs low for all stakeholders.”

6. These thoughts underpin the OECD principles of pension fund governance and would also appear to be important considerations for the governance of pension supervisors themselves.

7. In addition, pension fund governance is also central to risk-based supervision, which is beginning to be adopted by pension supervisory authorities. Assessing the quality of governance at supervised entities can enable supervisors, where appropriate, to place reliance on the risk management of the entities themselves, and some risk-based models make explicit reference to governance quality. The promotion of good governance has therefore become an important objective for regulators and supervisors, evidenced by OECD and IOPS guidelines and research on the subject.⁶

2) What does the good governance of pension supervisory authorities involve?

Evidence from other financial sectors

8. Having established that good governance is important for pension supervisory authorities, the next question to consider is what such good governance may involve? Given this is still a relatively under-researched area, evidence will first be considered from other financial sectors.

IMF

9. A good starting point is the IMF’s paper on the governance of financial supervisors which was issued alongside a 2007 survey on the governance of integrated supervisory authorities, which formed part of the project on ‘*Governance Practices of Financial Regulatory and Supervisory Agencies*’⁷. The IMF paper draws on the previous literature on the governance of financial institutions, recognising that previous research into the governance of supervisors is rather thin. It also recognises that financial services supervision has been moving rapidly from a world where the supervisor was a compliance officer to becoming a ‘governance supervisor’, i.e. a supervisor who ensures, in a forward looking manner, that sound governance practices are applied in supervised entities. This sentiment reflects the mentioned shift to a risk-based orientation visible among pension supervisors.

10. The IMF paper bases its methodology on four pre-requisites (‘pillars’) for good supervisory governance⁸:

⁵ See (Stewart, Yermo 2008)

⁶ See (OECD 2009), (Stewart, Yermo 2008), (IOPS 2008a), (IOPS 2008b)

⁷ See (Quintyn 2007). The paper refers to supervision and regulation inter-changeably, and this paper substitutes ‘supervision’ for regulation’ when quoting from it.

⁸ The pillars appeared first in (Das, Udaibir, Quintyn. 2002).

1. Independence

The supervisory authority should be isolated from improper influence from the political sphere from supervised entities.

11. A fair degree of independence from both sides will increase the possibility of taking credible action, but it must be recognised that independence can never be absolute. Supervisory management is unelected and has to act consistently with the government system, sharing broad objectives and responsibilities. Nonetheless, senior management should be subject to transparent processes for appointment and dismissal that minimise the scope for political influence. The authority should be able to secure adequate resources. It should have sufficient powers to take effective actions without reliance on others, which can be over-ruled only by a judicial process. Clarity of mandate, preferably approved by the legislature, should reduce the risk of interference by the executive, by making it clear what the authority is and is not responsible for and its objectives in fulfilling its responsibilities.

2. Accountability

The supervisory authority should be demonstrably accountable to the legislature, government, beneficiaries of supervision and supervised entities and have effective internal scrutiny and review.

12. The IMF paper sees accountability as the indispensable flip-side of independence. It can be seen as fulfilling the functions of:

- *providing public oversight* – the authority gives a public account of the way it independently pursues its mandate and objectives;
- *maintaining and enhancing legitimacy* – the authority can only use its independence if its actions have legitimacy in the eyes of its political sponsors, supervised entities and the broader public. It needs therefore to explain its mandate, objectives and intended actions, and its performance against these; and
- *improving the authority's performance* – establishing an approach for subjecting the authority's decisions and actions to review and using the results of review processes to enhance future performance.

13. There is, however, a thin line between accountability to stakeholders and control by them. The purpose of designing accountability arrangements should be to put in place a combination of monitoring arrangements and instruments so as to arrive at a situation where no-one controls the authority but it is still 'under control', i.e. stakeholders can monitor whether it is fulfilling its objectives. Independent checks and balances (such as an appeals board) should be put in place to ensure fairness in operational procedures and aid such oversight.

14. Supervisory authorities need therefore to have effective processes for internal scrutiny and review including appropriate performance measurement, with an important role in this process for the governing board where one exists. They should be subject to regular external audit and scrutiny of how well they are fulfilling their mandate. For supervisors applying a risk orientation, it is especially important that there is clarity about what outcomes the authority is accountable. This should flow from a clearly articulated strategy as to the way finite resources are to be used in a proportionate and efficient manner to mitigate

those risks that have been demonstrated to be the most important. Otherwise, the authority could either be held accountable for issues that it has not sought to mitigate or avoid accountability for those that it has.

3. Transparency

The supervisory authority should be transparent about its intentions, strategies, actions and achievements, consulting with stakeholders as appropriate

15. The IMF paper regards transparency as referring to an environment in which the authority's objectives, frameworks, decisions and their rationale, data and other information are provided to stakeholders in a comprehensive, accessible and timely manner. As such, it is a means to securing accountability and hence legitimacy. It is also beneficial in its own right by reducing market uncertainty and countering poor operating practices and policies. Exposing decisions to public scrutiny before they are taken, through consultative processes, should result in better decision making and greater supervised entity buy-in. Reporting on supervisory interventions after they have been made, including explaining reasons for decisions, helps regulated entities understand what is expected of them to take action accordingly.

16. Authorities therefore need to regularly publish information on their intentions, objectives plans and performance, and to consult, as appropriate, with regulated entities and other stakeholders when determining their approach to supervision.

4. Integrity

The supervisory authority should be run with appropriate management processes to ensure that decisions are taken consistently and impartially and to with due propriety

17. There should be governance processes to ensure that the governing board, directors and staff of the supervisory authority pursue institutional goals without compromising them due to their own behaviour or self-interest. This means that there are processes, training and documentation to ensure and demonstrate that decisions are taken consistently and impartially, and are subject to appropriate internal review. These processes should, in particular provide for supervisory responses to be proportionate to the risks posed.

18. The integrity of supervisory responses should not be compromised by inadequacies in the powers available and there should be legal protection for the authority's staff to ensure that they are not prevented from taking effective action by the fear of subsequent litigation. There need also to be standards of conduct for authority staff that prevent conflicts of interest. More generally, the authority needs some form of governance code, along with effective processes for risk management. The requirements of confidentiality, and processes needed to secure it, also fall under this heading.

Other Sources

19. Looking at other sources on financial sector governance, Carmichael⁹ proposes some principles for the governance of financial regulatory agencies - effectively supervisors - focusing on independence and accountability, and in particular covering the legal nature of the authority, the structure, appointment and dismissal of its board, legal indemnities, external accountability, internal governance, mechanisms for dealing with appeals and disputes and the scope to be overruled. He adds that culture, proper funding and skilled/motivated staff are also important.

⁹ Op cit footnote 3.

20. Llewellyn¹⁰, drawing on Carmichael and other sources, identifies 10 key issues in corporate governance arrangements with respect to financial regulatory authorities, which should mostly apply also to supervisors. These relate to:

- the legal nature and legitimacy of regulatory agencies and the legal route through which they are created; transparency—in particular, the clarity of the agencies’ objectives, rules, responsibilities, and procedures;
- independence—the extent to which an agency is independent of external influence in its rule setting and adjudications. Carmichael¹¹ describes this position as follows: “*The regulator should have the capacity to develop, implement, and enforce regulatory policy without inappropriate interference from the national legislature, government, or industry.*”
- the structure of any managing board that is created within the agency and the nature, security, and source of appointments to it (for instance, whether the board includes representatives of the industry itself);
- appointment procedures of senior staff of the agency;
- the terms of appointments and the security of staff members of the agency;
- the integrity of the agency and its board and staff and the procedures to monitor this area;
- the extent of legal immunity of staff members acting in a bona fide manner;
- competence of the agency and its personnel;
- accountability arrangements, meaning arrangements to settle issues such as accountability for what, when, how and to whom.

21. The paper also indicates that there are internal governance arrangements to settle, including mechanisms and procedures for authorisation of financial firms, mechanisms for dispute resolution and appeals in the event that an authority takes sanctions against a supervised institution, the funding arrangements of authorities, especially the extent to which the authority is funded by the industry, and staff remuneration.

Evidence from the pension sector

22. The *IOPS Principles of Private Pension Supervision* (IOPS 2006) contain some similar recommendations on the governance of supervisory authorities themselves, which can be ‘mapped’ to the IMF 4 pillars.

¹⁰ See (Llewellyn 2004)

¹¹ See (Carmichael 2002).

Figure 1: read-across from IOPS Principles of Private Pension Supervision to the IMF pillars for good supervisory governance

IOPS Principle	Independence	Accountability	Transparency	Integrity
1. Objectives <i>National Laws should assign clear and explicit objectives to pension supervisory authorities</i>	√		√	
2. Independence <i>Pension supervisory authorities should have operational independence</i>	√√			√
3. Adequate resources <i>Pension supervisory authorities require adequate financial, human and other resources</i>	√			√
4. Adequate powers <i>Pension supervisory authorities should be endowed with the necessary investigatory and enforcement powers to fulfil their functions and achieve their objectives</i>	√			√
5. Risk orientation <i>Pension supervision should seek to mitigate the greatest potential risks to the pension system</i>		√		
6. Proportionality & consistency <i>Pension supervisory authorities should ensure that investigatory and enforcement requirements are proportional to the risks being mitigated and that their actions are consistent</i>				√
7. Consultation & co-operation <i>Pension supervisory authorities should consult with the bodies they are overseeing and cooperate with other supervisory authorities</i>			√	
8. Confidentiality <i>Pension supervisory authorities should treat confidential information appropriately</i>				√
9. Transparency <i>Pension supervisory authorities should conduct their operations in a transparent manner</i>		√	√√	
10. Governance <i>The supervisory authority should adhere to its own governance code and should be accountable</i>		√√		√√
Key: √√: direct relationship; √: the IOPS principle is closely related to the pillar				

23. In addition, the *OECD Principles of Pension Fund Governance* (OECD 2009) of particular relevance to the supervisory authority are paraphrased in Figure 2 below. It can be seen that particular emphasis is placed on oversight by a governing board separate from operational functions with clear lines of accountability both within the fund and to external stakeholders. There is also an emphasis on the fitness, propriety and skills of board members and staff, risk management and internal controls and disclosure. While pension supervisory authorities do not always have a board structure, there might reasonably be expectations that senior management have an effective oversight role and there is a segregation of roles between operational decision making and review.

24. The reference to pension funds being held liable for their actions is probably less appropriate. The literature (notably Carmichael) relating to financial supervisors stressing the importance of legal indemnities to prevent management being deterred from taking effective action by the threat of litigation. With this exception, however, the principles would appear to provide a good guide to the principles that pension supervisory authorities should follow.

25. Combining all the evidence from pension and other sectors, Table 3 summarizes what a framework for the good governance of a pension supervisory authority would look like.

Figure 2: Draft OECD Principles of Pension Fund Governance relevant to the governance of pension supervisory authorities.

1 & 2. Identification of responsibilities	There should be a clear identification and separation of operational and oversight responsibilities within the fund. The legal form of the entity, its internal governance structure and its main objectives should be clearly stated in the entity's statutes. The responsibilities of the governing body should not be able to absolve itself of its responsibility by delegating functions to external service providers.
3. Delegation and expert advice	The governing body may rely on the support of sub-committees and delegate functions to internal staff or external service providers. Where it lacks sufficient expertise to make fully informed decisions and fulfil its responsibilities the governing body could...seek expert advice or appoint professionals to carry out certain functions. The governing body should assess the advice received and verify that all its professional staff and external service providers have adequate qualifications and expertise.
4 & 7. Audit and accountability	An auditor, independent of the entity...should be appointed by the appropriate body or authority to carry out a periodic audit consistent with the needs of the arrangement. The governing body should be accountable to the pension plan members and beneficiaries, its supervisory board (where relevant) and the competent authorities. The governing body should be legally liable for its actions which fail to be consistent with the obligations imposed on it. ¹²
8. Suitability	Membership of the governing body should be subject to minimum suitability standards in order to ensure a high level of integrity, competence, experience and professionalism in the administration of the pension fund. The governing body should collectively have the necessary skills and knowledge to oversee all the functions performed by a pension fund, and to monitor those delegates and advisors to whom such functions have been delegated. It should also seek to enhance its knowledge, where relevant, via appropriate training. Any criteria that may disqualify an individual from appointment to the governing body should be clearly laid out in regulation.
9. Risk-based internal controls	There should be appropriate controls in place that all persons and entities with operational and oversight responsibilities act in accordance with the objectives set out in the pension entity's governing documents, and that they comply with the law. Such controls should cover all basic organisational and administrative procedures; depending upon the scale and complexity of the plan, these controls will include performance assessment, compensation mechanisms, information systems and processes and risk management procedures. The governing body should also develop a code of conduct and a conflicts of interest policy for them and the staff of the pension entity as well as for any party with operational responsibilities. There should also be appropriate controls to promote the independence and impartiality of the decisions taken by the governing body, to ensure the confidentiality of sensitive information pertaining to the fund and to prevent the improper use of privileged or confidential information.
10 & 11. Reporting and disclosure	Reporting channels...should be established in order to ensure the effective and timely transmission of relevant and accurate information. The governing body should disclose relevant information to all parties involved (notably pension plan members and beneficiaries, supervisory authorities, auditors, etc.) in a clear, accurate and timely fashion.

Note: Principles 5 and 6 (the actuary and custodian) do not appear to be relevant.

¹² But see comment in paragraph 31, above.

Table 3: Summary of Mechanisms for the Good Governance of Pension Supervisory Authorities

1. Independence
A. Clarity of the authority's responsibilities, mandate and powers, which provide for operational independence.
B. Processes for the appointment, composition, remuneration and expertise of the governing board (or senior management team if there is no board) that minimise the scope for undue influence.
C. Ability to secure appropriate resources without being subject to undue influence.
2. Accountability
A. External audit and accountability to stakeholders.
B. Due process in the operation of the organisation, including clarity and division of responsibilities and the exercise of delegation.
C. The measurement and reporting of performance.
3. Transparency
A. Ensuring understanding of the authority's objectives, rules, responsibilities, and procedures along with its achievements.
B. An educative and consultative relationship with stakeholders.
4. Integrity
A. Codes of conduct for board members and operational staff, including processes relating to conflicts of interest and confidentiality.
B. The integrity of supervisory responses is assured through having the ability to apply appropriate discretion in exercising powers, without being constrained by the threat of litigation.
C. Internal controls aimed at securing consistency and transparency of decision making, effective risk management and efficiency and propriety in the use of resources.
D. The provision and assessment of competent and expert staff, deployed within the organisation and brought in from outside.

3) Are good governance mechanisms applied by pension supervisory authorities in practice?

26. Responses to IOPS questionnaires¹³ have been used to analyse whether these mechanisms for the good governance of pension supervisory authorities are being implemented in practice.

27. In general, most authorities broadly implement these mechanisms. In some countries independence from political interferences could be strengthened, and securing a public commitment from governments to provide adequate resources and support for the authority would be welcome. Increased resources may allow authorities to publish more data, surveys and reports on the pension industry in general, which would certainly be appreciated in the current, volatile financial climate.

28. In terms of accountability, having separate authorization for the use of sanctions could be considered a good practice which some authorities have yet to follow and the hierarchy of responsibilities and decision making could also be clarified. One mechanism for improving transparency could be to publish the remuneration of senior executives of the authorities – a good practice which is observed in some countries, and which would be in line with the current trend for increased transparency within the financial sector which these authorities oversee. Not all authorities have implemented thorough risk management processes, which are needed to strengthen the integrity of their operations.

29. Although all authorities measure their performance in some fashion, not all describe specific performance targets (see next section).

1. Independence

Clarity and independence of mandate; see Annex Table 1

30. The pension supervisory authorities that responded seem to have suitably independent structures and operations. Almost half the authorities describe their position as ‘quasi-independent’, with most of the rest describing themselves as fully independent. The remainder are Central Bank authorities and only in Spain is supervision still undertaking directly by the Ministry of Finance. Three fifths of the authorities cannot have their decisions overruled by another supervisory authority. The others can only be overturned by an appeals or a judicial authority.

31. Almost all respondent countries have a clearly assigned mission statement, with most sharing the key objectives of financial stability, consumer protection and promoting confidence in the system. The key objectives, powers and duties of all respondent authorities are stated in legislation or relevant regulations. Embedding objectives in the legislation enhances transparency of the supervisory system by providing greater clarity and accessibility to public on key supervisory roles and priorities. This also advances accountability of supervisory authorities as they become responsible for achieving objectives and effectively fulfilling their functions.

¹³ A questionnaire was sent to IOPS members in 2007 asking for details of how their supervisory authority is structured and their supervisory approach undertaken. 21 replies were received (from the supervisory authorities in Australia, Austria, Belgium, Bulgaria, Chile, Czech Republic, Finland, Germany, Hong Kong, Israel, Romania, India, Jamaica, Kenya, Mexico, Netherlands, Poland, Spain, Thailand, Turkey and the UK). An additional questionnaire was sent out to IOPS members in March 2009, with an aim of collecting supplementary information on the governance practices of pension supervisory authorities (the questionnaire could be found as an attachment to the report). 14 authorities (Albania, Australia, Austria, Bulgaria, Czech Republic, Egypt, France, Germany, Hong Kong, Ireland, Kenya, Lithuania, Thailand and Turkey) provided their replies to the second questionnaire.

32. All respondent authorities reported having sufficient powers to fulfill their mandates efficiently. In the overwhelming majority of countries, the authorities are endowed with necessary powers to issue and/or amend codes of practices or binding rules (prudential standards) covering the operation of all supervised entities or of a particular business activity. With regard to the elaboration of legislation, the involvement of the supervisory authorities in some countries is limited to an advisory function (e.g. Germany); with the laws passed by Parliament and ordinances issued by the competent Federal Ministry.¹⁴

33. In the majority of countries restrictions exist on the ability of the government or other state institutions to interfere in the activities of the pension supervisory authorities, in particular issuing directions which result in conflict/contradicts with the mandate of the institution. Legal provisions preventing the government from issuing guidance/instructions to supervisory authorities do not exist in countries such Germany, Ireland and Kenya and there are no such provisions in Lithuania. However, the ministerial oversight is not meant as an undue interference in the supervisory agency decision-making process, rather as an instrument to ensure that the authority fulfils its statutory functions in accordance with legal requirements and in effective and adequate manner and correct any serious deviations in carrying out supervisory tasks and duties fixed by the law.¹⁵

34. Reinforcement of co-operation and co-ordination between relevant supervisory authorities overseeing financial sector activities was deemed essential by all countries. Such co-operation improves supervisory efficiency, but also brings benefits to the financial industry (including private pension providers) by promoting uniform high standards of regulation and consistency of supervisory approaches. The need for better co-operation, both domestically and internationally, was particularly underlined in the context of the current financial crisis which posed a profound threat to pension security, entailing a considerable loss of private pension assets. Almost all respondent authorities acknowledged that memoranda of agreement were signed (or are in the process of signature) with other regulatory or supervisory authorities; close co-operation relationships between supervisory authorities are also maintained through regular meetings or via co-ordination of work in international and domestic committees and organisations.

Independence of senior appointees—see Annex Tables 2 and 3.

35. The overwhelming majority of the countries responded that open and transparent procedures were established for appointment of senior officials, requiring them to possess an appropriate level of knowledge, expertise and qualification to meet their responsibilities. Only Lithuania stated that no qualification requirements are necessary for recruitment of senior officials.

36. The head of the supervisory authority is in most cases appointed by the government or Head of State, or by the Finance Ministry. Terms of employment for authority heads are generally subject to civil service (public) law. The appointee should have, in accordance with the statutory requirements, an appropriate knowledge and experience, posing no actual or future conflict of interest. The other Senior

¹⁴ In Germany, for example, ordinances may be issued by the supervisory authority when the authorization to do so is transferred to it by the ministry under which law is responsible for the matter in question and has been authorized by law to transfer such competence to BaFin in a concrete case.

¹⁵ In Germany, for example, BaFin is a statutory body that operates within the ambit of the Federal Ministry of Finance (MoF) as a legal person in the form of an institution of public law that is functionally and organisationally separate from the MoF. In its decision-making and regarding the exercise of its functions and powers in day-to-day technical matters, BaFin is free from external political interference but subject to reporting requirements with respect to substantial affairs. BaFin acts independently while exercising its duties. The MoF is required to ensure that BaFin executes its tasks according to the law and in an effective and adequate way.

Executives tend to be appointed by the same process or by the Authority's governing body itself. For two-thirds of the authorities which responded, the same authority has the power to remove the Head. Only Chile, Finland and Germany do not have a fixed term for the head of the authority. Others range from 3-6 years, with a reappointment generally allowed.

37. The UK, Belgium and the Netherlands do not have specific professional requirements for the Head of the authority (in Germany and Spain specific civil servant qualifications apply). For the other countries, including Germany, qualifications may be both positive (university degree, expertise in a relevant field such as finance) or disqualifications (having been declared fraud or bankrupt). Conflict of interest qualifications may also apply (e.g. if a director of a supervised financial institution). Some countries (such as Bulgaria, Mexico or Poland) require the Head of the authority to be a national.

38. All authorities other than Australia, Chile and Poland have a governing board, which normally consists of between 3-10 members (Mexico is an outlier with 22 members and Turkey with 77). The governing board is usually composed of high-level civil servants but also of representatives from the private sector and civil society. As with the head of the authority and the senior directors, the board is usually appointed (and removed) by a responsible governmental authority, serves a fixed term and there are some 'fit and proper' criteria. In Hong Kong, employer and employee representation on the Board is stipulated. The governing board generally has an extensive role in the decision-making process being involved in the development of strategic planning/policies, setting out the main task and targets for the authority and determining ways to achieve them, and ensuring continued compliance with regulatory and financial requirements. The authorities may also benefit from advice of an advisory board with no decision-making power.¹⁶

39. The overwhelming majority of countries stated that the senior officials are appointed for a defined (fixed) period, with an exception of BaFin, Germany and Undersecretariat of Treasury of Turkey, which, as a usual practice, appoint senior officials for an unlimited period (although fixed term contracts are also used). Legislative restrictions on dismissal of senior officials are applicable in the majority of countries, with an exception of Kenya.

40. In respect of remuneration policies in half of the responded countries, the supervisory authorities do not possess independence in defining and reviewing the remuneration levels for the senior appointees. Remuneration usually follows the salary scale for civil servants (e.g.: Germany) or is set by an independent public authority (e.g.: independent remuneration tribunal in Australia). However, a number of countries (Austria, Czech Republic, Egypt, France, Lithuania and Thailand) reported autonomy of the supervisory authorities to decide on matters related to remunerations for senior officials.

41. Indemnities against prosecution are in force in half of the respondent countries.

Adequacy of resourcing - see Annex Table 4

42. In nearly all responding countries, the overall budget of the supervisory authorities is generally set by the government or responsible ministry/ government authority and requires the legislature's authorization. In cases where the supervisory authority budget is not subject to the approval by the legislature (Austria, Germany and Ireland), it should be endorsed by the authority's respective governing body(ies). All supervisory authorities play a key role in the setting of the overall budget/financial plan

¹⁶ In countries with dual board systems (such as Germany and the Netherlands) the supervisory board is considered the main governing, with the day to day oversight and management being the realm of the management board.

deemed necessary to perform supervisory functions and other responsibilities effectively. The budget policies are generally formulated with long term considerations.

43. No particular pattern can be discerned for financing the authority – with responses split between fees/ public funds (general tax revenues) and a combination of the two. Where fees are charged, the fee structure is usually set out in legislation. Some authorities may raise relatively small amounts of revenues by charging for some specific services.

44. Generally, the salaries paid to staff members are set within the framework determined by a statutory body or public law rules/other statutory provisions. However, in the majority of countries, the supervisory authorities enjoy certain independence in setting staffing policies and remuneration levels of their employees and offer supplementary remuneration. In Australia, where the remuneration of the Chair of APRA and the other members is determined by an independent authority (the Remuneration Tribunal), the Chair is authorized, within the confines of the budgetary context, to set/ review staff remuneration levels and offer performance bonuses. With the FMA, in Austria, the staff plan is developed annually as a part of general financial plan, which after the approval by the Supervisory Board, forms a binding basis for budget and staff management.

45. The supervisory authorities enjoy greater freedom to outsource some supervisory tasks to third parties (to other authorities or external professionals) and to employ outside experts. A majority of the supervisory authorities are permitted to hire external experts in order to meet their specific resource needs. The external experts are involved in a range of activities such as: training, on-site inspections and off-site monitoring, information technology and human resource services, general support, etc. The employment of external experts is regulated by law and by collective agreements.

46. Half of the respondent countries reported a public commitment by the executive to endow adequately the supervisory authorities with financial resources (Austria, Australia, Egypt, France, Germany, Kenya and Thailand).

2. Accountability

External oversight— see Annex Table 5

47. All authorities are accountable either to overseeing public authority/legislature and more broadly to the public. Almost all the authorities are subject to an audit by the state audit institution and evaluation procedures (both internal and external). Around half are also overseen by the Ministry of Finance and/or the judiciary. In some countries the legislature, executive (Head of State) or labour ministry also play a role. Only in the Czech Republic, where the supervisory authority is the Central Bank, does no other authority have an oversight role. The audits can target to review/monitor both financial and non-financial performance of supervisory authorities.

48. In addition to mandated audits, certain authorities on their own initiative invite periodically external parties (both relevant independent public bodies and private consulting firms) to carry out reviews of their operating model and management/business processes. Thus, over the years, the MPFA, Hong Kong, had recourse to the Independent Commission against Corruption (ICAC) to review the policies and procedures of its departments to ensure that effective control measures are in place. Consultants had also been engaged to review the information technology, financial control policies of the MPFA as well the pay level and structure of MPFA's staff.

49. All authorities reported maintaining regular contacts with the executive and are being monitored by the special legislature committees. Regular reporting (written or oral statements) is provided to the responsible ministry and/or the legislative.

50. In the majority of countries, the institution of an Ombudsman was established to investigate claims and deal with public complaints against statutory authorities' decisions/acts and in some cases services provided by private bodies/corporations.

51. All respondent authorities issue annual reports providing the review of conducted surveillance activities and in some cases containing evaluation of authority's operational and financial performance. Annual reports play a crucial role in increasing accountability to the executive authorities/ legislature as well as public in general and enhancing transparency about the activities carried out by the supervisory authorities.

Accountability and due process in decision making

52. All authorities recognise and respect the division of responsibilities between the governing board and operational management. Clear procedures for obtaining authorisation from the governing board/senior management with regard to all decisions of primary importance concerning operational management and supervisory activities are established in all respondent authorities. Procedures for authorisation involve detailed consultation and examination process and finally sign-off on decisions at the executive level. The governing board/senior management also receive regular reports on key aspects of operational risk management activities, control procedures, proposals on enforcement actions, financial management, etc.

53. In the great majority of countries, staff functions and duties are clearly defined in the internal regulations (register) aiming to ensure the clear and transparent assignment of responsibilities within the supervisory authority, with the ultimate objective of improving the efficiency of the administrative process. In most cases (with an exception of Albania, Czech Republic and Lithuania), the responsibility for authorising the use of sanctions against supervised entities is assigned to a separate entity within the organisational structure of the supervisory authority – (e.g.: 'Legal and Enforcement Affairs Division' in FMA, Austria.).

Strategies and planning

54. A strategic and operational planning process was introduced in all responding authorities and considerable efforts are being employed to streamline and improve administrative procedures to achieve greater efficiency in performance of supervisory tasks/functions. For instance, BaFin, in Germany began in 2006 examining its structure and process organisation and reassessing its personnel requirements. The results of the individual organisation examinations, which are to last until 2010, are intended to contribute to the supervisory authority being able to complete its tasks in an optimal manner and being able to develop concepts for new tasks.

55. Almost all authorities participate in preparation of the budget (with an exception of Turkey) which is subsequently transmitted for a review and confirmation by the responsible ministry/authority and/or the legislature.

56. All authorities reported to have established (or in the process of developing) internal evaluation procedures. As a part of the evaluation process, performance targets/objectives and performance criteria are set to measure progress in realising identified authorities' aims and priorities in accordance with timeframe set out in approved strategy plan. In most authorities focus seems to be placed on monitoring the way resources are being used (efficient expenditure of public money) instead of seeking results that meet quality standards. With the FMA, in Austria, the long-term strategic goals are collectively developed at their annual strategy workshops by executive and managing directors and approved by the Executive Board. In view of the FMA strategic goals, more concrete working-level goals are elaborated at the departmental level which are subsequently broken down into divisional and individual objectives and

specific measures are created to evaluate the progress towards achievement of these goals. The process also implies regular monitoring and reporting on results achieved which may also involve analysis of the reasons for under-performance and proposals for policies/measures to improve outputs. A special warning system has been created as a part of the performance measurement process to signal failure to accomplish determined goals to a certain extent and within designated timeframe. A general report/overview of performance results is conducted at least twice a year, preceded by the discussions on the topic organised quarterly between heads of department and FMA controlling unit.

57. In some countries, special software programmes have been developed and implemented to measure and control performance. For example, in Austria in order to make the evaluation process more efficient, special software has been created offering a web interface tool which allows individual objectives to be viewed and aligned to overall authority objectives, departmental goals and the measures connected to them. This provides an efficient and appropriate means of monitoring the progress made on each of performance components.

58. In addition, certain authorities are also required to prepare audited financial statements, in accordance with recognised accounting and reporting standards. Financial statements and reports are reviewed internally and endorsed by the senior management before being published and transmitted for assessment. The financial and service performance of the supervisory authorities is assessed by the responsible ministry, legislative body or the audit office.

59. Further details on the topic of performance are provided in the next section of the paper.

3. Transparency

Explanation of objectives, decisions and policies

60. Supervisory authorities aim to develop clear and transparent supervisory process through effective and timely disclosure and the explanation of information related to supervisory activities/pension system to public and all interested parties. Common ways of disclosing supervisory information are through authorities' websites, publication of annual reports, communication through media, etc.

61. All respondent supervisory authorities reported producing a wide range of documents, including legislative acts and regulations, official reports, statistical publications , press releases, media statements, etc. - most of which are available in the public domain. The regulatory framework and its operational procedures and regulations are publically disclosed in legislation, official documents, public appearances before the legislature, and through the media and web-site

62. Supervisory authorities' web-site provides a primary source of information to public and the supervised entities. Most of the authorities' web-sites offer complete and updated information on published laws in the field of prudential regulation and supervision, statistical, research and other data.

63. To promote transparency, most of the supervisory authorities prepare and release annual reports containing information about their mission statement/strategic objectives, roles and responsibilities, as well providing overview of the key supervisory activities both in regard to legislative/supervisory framework developments and control of business operations. The majority of respondent authorities also produce regular reports, official statements, press releases pursuing the effort to inform/explain to a wide public and all stakeholders supervisory decisions and actions taken and publically disclose them. Half of the respondent authorities produce research documents and reports, covering topics such as statistical information and performance data on the pension fund industry as a whole as well as other industry trends. In addition to general research surveys, some authorities release information concerning individual

financial institutions/pension schemes posing significant operational and financial threat to the interest of members/beneficiaries and to stability of the pension market and financial system in general. Subject to confidentiality requirements, they make public official actions taken in response to address the problem, including intervention/enforcement measures.

64. Being receptive to public opinion, a number of supervisory authorities (Australia, Hong Kong, Ireland, Kenya, United Kingdom, etc.) collect, monitor and follow up on the responses and comments from various stakeholders (e.g.: employers' associations, labour unions, professional bodies and the general public) on the quality of supervisory activities/services provided. As a part of these initiatives, public opinion surveys are regularly conducted to determine satisfaction of consumers with actions/services delivered by the authorities and overall supervisory system success. In particular, Australia has developed a survey of regulated institutions and other relevant stakeholders to assist it to access its performance and effectiveness in its role of prudential regulator. The survey is designed to gauge stakeholders views about APRA across range of activities described in APRA's Service Charter (released in May 2008) and Statement of Intent (released in May 2007). The survey seeks opinion from regulatory institutions on the following topics: prudential requirements, consultation processes, risk assessment, supervisory activities, statistical collection and statistical publications.

65. Supervisory information is also disseminated through regular presentations at the conferences, participation in road shows, seminars and discussions.

Consultations – see Annex Table 6

66. Much effort is exerted by the supervisory authorities to increase interaction with the supervised industry through regular, open communication and information sharing. The focus is laid to reach greater comprehension and understanding on the part of the industry of key supervisory priorities/activities. Interaction between supervisory authorities and industry takes places both on formal and informal basis.

67. All authorities consult with the pension fund industry in their country, either on an ad hoc or a continuous basis. In most of the countries, extensive consultations with relevant stakeholders are conducted as a part of legislative process [when new legislative acts are being elaborated or changes are introduced in existing laws]. Consultation is achieved in interesting ways. For example:

- industry representatives sit on advisory panels for Czech Central Bank and the UK regulator; the Kenyan and Jamaican authorities consult via industry associations; APRA in Australia informs the regulated sector about all planned regulatory activities through the publication of its annual regulatory plan; the Superintendencia de Pensiones in Chile, the Ministry of Finance of Israel and the Undersecretariat of Treasury of Turkey publish all administrative norms/regulations prior to enactment for comments; BaFin in Germany and the Undersecretariat of Treasury in Turkey have established advisory bodies to ensure effective exchange of ideas and consultations between the supervisor, the industry, consumer protection associations as well as academic parties and provide advises/recommendations on further development of supervisory practices;

68. The MPFA meets with its regulated entities at least once a year to give updates on its annual corporate plan and work progress. In addition, any legislative proposals would be considered by all major stakeholders, including the industry. The MPFA also regularly consults two statutory advisory bodies (i.e. the MPF Schemes Advisory Committee and the MPF Industry Schemes Committee) on various matters related to the development and operation of the MPF System.

69. In addition, most of supervisory authorities hold regular meetings with regulated entities and other stakeholders to share information and discuss issues related to the supervisory activities. All

responding authorities also acknowledged organizing both informal consultations panels and formal meetings with concerned regulated entities prior to taking/enforcement of major decisions in their regard.

70. In contrast, only a few supervisory authorities organize consumer panels to hear/gather views of the consumers (group of consumers) dealing with pension/financial institutions.

4. Integrity

Integrity in the use of powers - see Annex Table 7

71. All authorities reported to conform to internal rules for the use of powers. Almost all authorities affirmed that the use of their powers entails the exercise of good judgement and discretion, in line with the prescribed internal regulations/strategy.

72. 71. All authorities exercise considerable discretion when deciding to employ enforcement measures and act proportionally based on the level of risk posed by supervised entities.

73. All respondent authorities declared the ability to decide on each specific licence application/entity registration and the power to impose conditions on the operating licence, as well as to subsequently modify these should the situation change.

74. The majority of countries are provided with guaranteed indemnity against prosecution in local courts and from paying fines and other penalties arising from litigation (except for Austria, Czech Republic, Egypt, France and Lithuania).

Property and consistency in decision making

75. Many of the authorities have governance codes and codes of conduct for the members of its governing bodies and staff members (sometimes in separate codes). For example, APRA's Code of Conduct applies to the Members and to permanent, temporary and casual staff. In most of respondent authorities, the code of conduct is laid out in internal staff regulations.

76. The code generally includes major general principles of conduct underpinning public employees' behaviour, among them: integrity, objectivity, accountability, openness, etc. The code covers subjects such as ethical behaviour, conflict of interest, declaration of gifts, complaints procedures, use of confidential information, conducts of employers, use of public resources, etc. All respondent authorities have adopted registers of interest provisions and procedures for declaring conflict of interest, with most of them having special rules overseeing acceptance and provision of gifts and hospitality.

77. All respondent authorities laid out business rules and policies applying to specific operational decisions. The overwhelming majority of the respondent authorities have put in place review procedures to oversee day to day operational decisions and the process for authorisation for serious interventions and monitoring of key supervisory decisions. In all countries, (except Poland), decisions can be appealed to either some form of tribunal or court (or to the Central Bank Board in the case of the Czech Republic).

Internal audits

78. Most of the respondent authorities (with exception of Albania, Lithuania and Turkey) replied that risk management programmes have been developed and implemented, as a part of a larger supervisory review process, to identify and evaluate emerging risks posed by supervised institutions/pension entities and to devise appropriate strategies to mitigate these risks. The risk management process is a part of overall strategic planning and management activities. It generally involves regular monitoring and

evaluation of the effectiveness of an authority's risk management and control systems by the senior management (or external controls/audits). A number of authorities have introduced risk assessment models (risk assessment tools) and supervisory response tools (e.g. the Probability and Impact Rating System (PAIRS/SOARS) in Australia; Germany, Kenya, Netherlands, United Kingdom, etc.)

79. To effectively implement the risk management framework, a number of authorities have undertaken (or are in the process of) progressive reorganisation of their internal administrative structures. Some authorities have appointed a chief risk officer, responsible for co-ordination of risk management activities at the level of the entire organisation. The risk officer normally reports to the chief executive concerning the implementation of risk management programme and co-ordinates the work with other risk specialists. Other authorities have created a risk review committee or department/unit to perform risk management functions, ultimately being accountable to the designated senior manager within the authority. For example, in Australia, APRA created the Risk Assessment and Internal Audit unit, staffed by officers with extensive audit and prudential supervision experience. The unit is independent of APRA's management structure and has a direct reporting line to the Chair of the Risk Management and Audit Committee. The unit assists APRA members and senior management to identify and address risks facing APRA by providing them and the APRA's Risk management and Audit Committee with assessments of high and significant risks at organisational and divisional levels. Risk management strategies to mitigate these risks are documented as part of the organisation's risk profile. Risks are reassessed on a regular basis by management and unit.

80. Almost all respondent authorities are subject to a process of internal audits/controls aimed at reviewing the consistency and transparency of the decision making process, the effectiveness of risk management practices and the efficiency and propriety in the use of resource. These internal audits are carried out as part of the legal and functional oversight of the supervisory authorities and their findings are presented to the overseeing (parent) ministry or other statutory authority.

81. A number of agencies have combined risk management unit with internal audit (Australia, Hong Kong), while others have kept them separately. In Hong Kong, internal audits are conducted by the Risk Management Unit according to the guidelines and standard on internal audit promulgated by the Hong Kong Institute of Certified Public Accountants.

82. Internal audits are in most cases complemented by external audits responsible for assessments of financial statements and management reports and in some countries also provide an assessment of the scope, adequacy and effectiveness of supervisory authorities' internal control system, including the internal audit system. The exact role of external auditors and processes used vary from country to country. External auditors may be subject of specific supervisory requirements in relation to the evaluation process and report on internal control systems. (see also section 2, item 1 of the part III).

83. All respondent authorities reported to be in compliance with the obligation of profession secrecy with respect to use/disclosure of sensitive and confidential information and when providing it to other supervisory/statutory bodies, according to rules/regulation in force. Most of the authorities responded to maintain the secrecy of information by imposing confidentiality obligation on their staff not to disclose knowledge/information obtained in the course of their professional activities.

Supervisory competence

84. All respondent authorities replied that they have established adequate and transparent human resources management policies with respect to recruitment process, performance evaluation and development of training programmes for their staff personnel. All authorities impose specific qualification requirements when employing new staff members to ensure that they possess appropriate skills and

experience to efficiently perform their functions. Most authorities (with an exception of Bulgaria) have put in place results-based performance evaluation procedures to access/guide career development and offer training/learning opportunities and career planning. Training programmes and seminars are organised on ongoing basis for the attention of both the Board and staff members to improve their technical knowledge and promote skills development and motivation. Education and training are also used to develop and foster risk management culture and approach within the supervisory authorities.

II. Performance Measurement of Pension Supervisory Authorities

1) Importance of performance measurement

85. Reviewing the evidence from the pension and other financial sectors, it can be ascertained that performance measurement can potentially make an important contribution to good governance, where it:

86. helps to clarify what pension supervisory authorities are seeking to achieve and how they intend to go about meeting their objectives; informs pension supervisory authorities about the effectiveness and efficiency of their work, and hence identifying areas for improvement; and enables pension supervisory authorities to demonstrate their effectiveness and efficiency to supervised entities and other stakeholders, (and in particular provide some comfort that there is no principal agent dislocation).

87. Performance measurement is only touched on in the IMF paper – and indeed in other literature on financial supervisors - but can be seen to be integral to all four IMF pillars of good governance. It is, in particular, an important means of securing **accountability** by enabling the authority to be held accountable for the efficiency and effectiveness of its actions. The measures can be published in a way that improves the **transparency** of the supervisor's activities and outcomes. This can potentially provide comfort to stakeholders and reinforce the authority's **independence**. Finally, the authority can use the measures to check that its processes are working as intended and drive improvement, hence contributing to **integrity**.

88. There is, however, little available in the way of established good practice on this topic, partly no doubt because of the difficulty (referred to by Carmichael, see paragraph 3 above) in measuring outcomes and linking them to inputs. Traditionally supervisors and their auditors have been very good at counting what they have done: number of inspections performed; number of notices issued; number of formal prosecutions taken, conviction rates and levels of fines imposed. What they have been less good at is evaluating the effectiveness of any of this activity. Moreover, focusing on formal enforcement actions alone leaves a significant swathe of work uncounted. Yet inspections do not have to result in a formal enforcement action in order to be effective. Giving advice and information can be as valuable as issuing a notice, often more so.

89. Supervisors in the financial sector face a specific problem in that they often have to measure invisibles – i.e. what would have happened had they not intervened - yet it is difficult to assess a counterfactual. All supervisors face the difficulty of knowing when to assess, and how to establish the causal relationship between what they find and what they have done. Evaluation is important, and the methods by which the supervisor is evaluated can be in tension with the operation of a risk based framework. Essentially, what is counted is what gets done. If legislators impose tight restrictions on what it is they will count in evaluating the agency, then they can unduly hinder the regulator's activity and potential effectiveness.¹⁷

¹⁷ See (Black 2008)

2) Performance measurement in theory

90. To help establish a framework for considering performance measurement by pension supervisory authorities it is worth establishing some basic concepts. These can be found in the guidance on performance measurement provided to public sector bodies in the UK.¹⁸ The guidance, drawing on international good practice, states that a good system of performance information should be:

- **Focused** on the organisation's aims and objectives;
- **Appropriate** to, and useful for, the stakeholders who are likely to use it;
- **Balanced**, giving a picture of what the organisation is doing, covering all significant areas of work;
- **Robust** in order to withstand organisational changes or individuals leaving;
- **Integrated** into the organisation, being part of the business planning and management processes; and
- **Cost Effective**, balancing the benefits of the information against the costs.

91. Given the challenges in measuring the performance of financial supervisory authorities, a range of measurements may need to be used. Three different types of measures may be considered:

92. **Effectiveness** measures looking at whether the outputs of the programme/organisation lead to the desired outcomes; **Efficiency** measures looking at whether the organisation is getting the maximum output for the inputs that go into a process; **Economy** measures looking at the costs of acquiring the inputs to the programme/ organisation.

93. As the costs of regulatory and supervisory bodies tend to be very low relative to the potential outcomes of their interventions, accountability is in practice likely to be more focused on *effectiveness* than on efficiency or economy.

94. In addition, to make sense of effectiveness measures it may also be necessary to consider the context and external factors which could have a major impact on the measures themselves (e.g. the state of relevant market). Supervisory authorities may also need to lay out key external factors or changes in the pension environment which are likely to affect the achievement of their high level objectives, and therefore have an impact on their performance which is outside their control. Such factors are particularly important in periods of extreme financial conditions such as those experienced by pension systems around the world in 2008.

95. While measures of ultimate outcomes from supervision provide the best indication of whether an authority is achieving its mandate, they may lag well behind the supervisor's activities; for instance, pension plan funding levels may lag behind supervisory interventions if plans are given a substantial time to make adjustments. It is therefore likely to be necessary to use proxy measures that provide a more timely indication of supervisory impact, for instance numbers of interventions or changes in attitudes.

96. One way of balancing measures across the organisation's activities is to adopt some form of 'balanced scorecard' approach, focusing on different perspectives important to the organisation so as to

¹⁸ See (UK Government 2001)

enable a diagnostic use of performance information. For a pension supervisor this might include the perspective of ‘customers’ and whether business processes are working well. Hence, measures of business process might give advance warning of issues that would take longer to register from the customer’s perspective and even longer before outcomes were measurably impacted. As good governance includes securing economy and efficiency of operations, some measurement of these is also highly desirable.

97. Translating this guidance into the world of pension supervision, we might expect to see measures of:

- **Outcomes against each of the authority’s high level objectives:** i.e. effectiveness measures. The authority may need to re-state these in a way that is measurable. For instance, an objective of “protecting plan members’ benefits” might need to be focused on the effective prevention of the biggest threats to benefits, (e.g. DB plans funded to a level sufficient to reduce risk to acceptable levels, or minimum governance standards met by all/most plans). For authorities that have adopted a risk-based approach to supervision, a valuable measure of supervisory performance can be provided by a measure of how the supervisor’s risk rating of funds has changed. Some authorities use such concrete outputs and outcomes as their main measuring tools.¹⁹ **The supervisor’s credibility or reputation with its key stakeholders/ or performance pledges:** i.e. efficiency measures. The supervisory authority’s reputation can be seen as a high level indicator of the quality of the authority’s governance, given that credibility and authoritativeness are key outcomes expected from good governance. Questionnaires or surveys may be a simple way to achieve such measures. Such levels of ‘service satisfaction’ are the main measurement for some authorities. Alternatively, performance pledges (such as those used by the MPFA in Hong Kong or the RBA in Kenya) could be set. **The cost of the supervisor’s activities:** i.e. economy measures. These might take the form of cost per inspection or the cost of overheads relative to operational activities –it might even extend to cover the costs placed on supervised entities

98. It should be stressed that it is rarely possible to have the perfect performance measure – defining measures, setting targets and collecting performance information is a balancing act between using the ideal information and using what is possible, available (given that some performance information is likely to be provided by the landscape data used for strategy and planning, but other types may require information obtained specially for the purpose), affordable, and most appropriate to the particular circumstances. This is especially so in the field of regulation and supervision where the intended outcomes are commonly changes in the behaviours of others, and where it is hard to know what would have happened absent regulatory or supervisory intervention (the counter-factual). Furthermore, the act of collecting information can itself add to the costs and burdens placed on regulated entities.

¹⁹ Other examples of outcome-based performance measures include:

- Trends in, and ratios between, participation, contribution levels and pension plan assets;
- Asset allocation, possibly including the relationship with legislative limits and market norms;
- For DB plans, liability and funding levels relative to numbers of beneficiaries, assets held and the state of financial markets, possibly along with information on risk of sponsor insolvency; stress-testing, recovery plan duration or plan funding targets;
- For DC plans, information on investment performance, charges to members and balances at retirement;
- Governance issues such as turnover of board members, extent or quality of risk management, implementation of good administrative practice, oversight of out-sourced functions or the management of conflicts of interest;
- The number and type of supervisory interventions and actions taken in response to interventions;
- Complaints data;
- Changes in the supervisor’s assessment of entity risks.

99. Supervisory authorities will need to use discretion in describing the ways they measure their performance, with different combinations of the tools suggest above being relevant according to the nature of the pension and supervisory system in place.

100. Framework defining performance targets/benchmarks, against which the performance of supervisory authorities is measured, may evolve over time due to changes in the economic environment (e.g. the development of pension/financial market place) or when market conditions change rapidly (e.g. due to a systematic crisis). It may be prudent to allow supervisory authorities some flexibility in modifying/reviewing performance targets, adapting them to different circumstances. Depending where performance targets are defined; supervisory authorities should avoid making them difficult to change.

3) Performance measurement in practice

101. Some supervisors in the financial sector have introduced attempts to assess their frameworks in a number of ways. They look at the movement of firms between risk categories; the supervisory response time to market activities, and stress testing. Stress testing and scenario analysis are used to estimate how firms would cope if certain events were to occur. Six months or so later the supervisor will look at whether any of those events did happen and will then compare it with what it thought would happen.²⁰

102. A review of IOPS members' websites and Annual Reports has been undertaken, (naturally with language limitations), to establish what performance measurements are being used by pension supervisory authorities. Though most authorities provide an annual review of their activities - often comparing them to their objectives - few publish quantifiable performance measures. Most also publish statistics such as how many entities they supervise, how many investigations they undertook (completed) or complaints they handled, as well as staff and costs numbers - but again measurements and assessment of these 'raw statistics' are rare. Some examples of performance measurements follow.

103. Some practical advice can be derived from the experience of IOPS members. First, members note that it is difficult to measure effectiveness of supervisory activities as distinct from activity levels (as noted, it is the latter which are generally noted in annual reports). It is somewhat easier to measure the effectiveness of DC enforcement (e.g. enrolment rates, \$ recovered), but still challenging. Performance results do, however, often provide feedback on the adequacy of resources.

104. Supervisory authorities should also note that the design of activity measures or benchmarks often changes behaviour (internal to the supervisory authority) without improving outcomes. For example, if staff have to respond to complaints within three days there is a risk that they simply send a letter within the timeframe stating "Your complaint will be handled in due course", thereby 'ticking the performance box' but without really achieving the desired standard. There is also a danger from measures giving a false picture. Take, for example, the indicator 'claims against compensation fund' (zero claims giving a perfect 100% score). If there has never been a claim against the fund in the past, the year the first claim is made (even if only one and relatively small) this measure would fall from 100%, and could be taken unduly negatively. On the other hand, some external parties may think that authorities which levy lots of fines are very active and doing a good job, whilst the opposite may in fact be the case. Careful communication of measures used and their interpretation is therefore required.

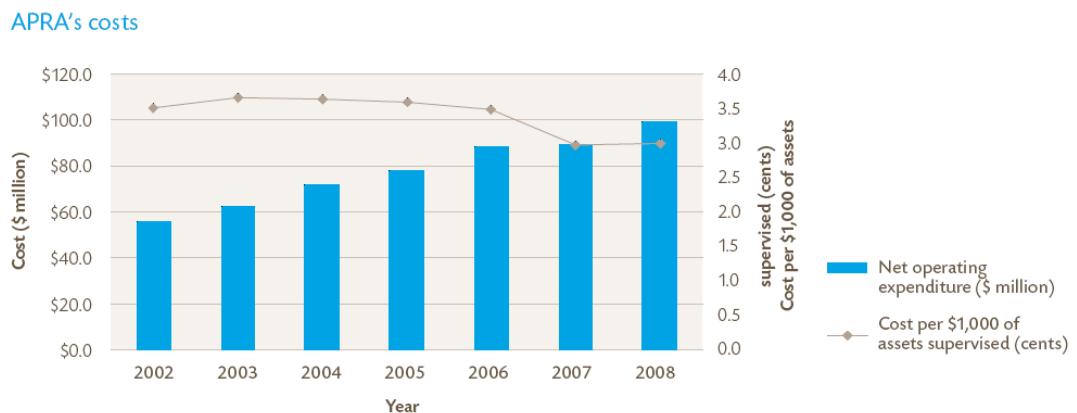
105. Another word of warning from IOPS members is to be cautious of attribution when measuring performance, as not all outcomes are controllable by regulatory effectiveness (e.g. the impacts of the recent financial turmoil, other policy and behavioral impacts). Finally, IOPS members stress that flexibility is needed to accommodate changing priorities and the internal and external environment.

²⁰ See (Black 2008)

Australia – Australian Prudential Regulatory Authority

106. APRA contain a section on ‘Costs and Performance’ in their annual report.²¹ As with the Pensions Regulator in the UK, APRA stress that their strategic plan – containing strategic objectives – forms the basis of annual divisional and individual performance plans. The overall performance against the strategic plan is reviewed quarterly and annually by the Executive Group.

107. In terms of costs, APRA release absolute net operating expenditure numbers, as well as a measure of costs per AUS\$1000 of assets supervised.



108. In addition, APRA publish information from two sources to provide quantitative indicators of supervisory performance. The first of these are ‘transition matrices’, tracking the movement of supervised institutions between APRA’s four supervisory stances, derived from their SOARS model (i.e. normal, oversight, mandated improvement, restructure). Over the past 5 years it is noted that of the 183 institutions identified for mandated improvement or restructuring, 54 improved, 20 remained in the same category and 109 exited without loss to beneficiaries (with one small exception). APRA note that: “*While it is not possible to compare these outcomes with what would have happened had APRA not intervened, the direction of movement of institutions in these two supervisory stances is consistent with timely and effective intervention on APRA’s part and – for those institutions existing the market – a receptive market for financial assets and businesses that facilitated orderly exit.*”

SOARS Matrix 2006/08 (%)

From / to	Normal	Oversight	Mandated Improvement	Restructure	Exit	Failure
Normal	75	12	0	0	12	0
Oversight	26	58	3	0	14	0
Mandated Improvement	0	33	11	0	56	0
Restructure	11	11	0	56	22	0

²¹ See (APRA 2008)

109. APRA also publishes two performance indicators:

- the Performing Entity Ratio (PER) – which is the number of APRA-regulated institutions which met their commitments to beneficiaries in a given year, divided by the total number of APRA-regulated institutions;
- the Money Protection Ratio (MPR) – which is the dollar value of liabilities to beneficiaries in Australia that remained safe in a given year, divided by the total dollar value of liabilities to beneficiaries in Australia in APRA-regulated institutions.

110. However, APRA note that these indicators do not suggest target outcomes against which the authority's performance can be assessed. The Australian Government's '*Statement of Expectations of APRA*' clarifies that prudential regulation should not pursue a 'zero failure' objective, but rather 'maintain a low incidence of failure of supervised institutions while not impeding continued improvements in efficiency or hindering competition.'

Performing Entity Ratio (PER) and Money Protection Ratio (MPR)

Financial Year	Number of Failures ¹	Losses (\$ millions)	Number of Institutions ²	Protected Accounts ³ (\$ millions)	Annual PER %	Annual MPR %
1999	5	12	4,472	877,172	99.89	99.99
2000	3	308	4,407	993,369	99.93	99.97
2001	5	5,341 ⁴	4,305	1,043,111	99.89	99.49
2002	2	140	3,803	1,068,081	99.95	99.97
2003	5	20	3,252	1,207,119	99.85	99.99
2004	1	0 ⁵	2,745	1,346,253	99.96	100
2005	0	0	2,009	1,548,454	100	100
2006	0	0	1,596	1,837,363	100	100
2007	1	0	1,244	1,943,376	92.92	100
2008	0	0	1,129		100	100

¹ Failures have been redefined to include failures due to employer sponsors in superannuation funds. Prior year measurements, which had excluded such failures, have been changed accordingly. Failures exclude unresolved cases, if these later become failures, the prior year measurements are changed accordingly.

² The number of institutions excludes Small APRA Funds and representatives of foreign banks.

³ Protected Accounts is an estimate of the number of accounts protected by APRA as defined by relevant legislation and is less than the total assets held by APRA-regulated institutions, which were \$3,413 billion at end-June 2008

⁴ Includes HIH Group's estimated \$5.3billion loss incurred by creditors and policyholders, based on liquidator's advice to creditors in April 2002.

⁵ Losses incurred due to the failure of an employer sponsor in a superannuation fund were less than \$0.5million.

Hong Kong, China – Mandatory Provident Fund Schemes Authority

111. The Mandatory Provident Fund Schemes Authority (“MPFA”) is required by law to submit a draft corporate plan to the Financial Secretary for approval before the start of each financial year, specifying:

- the objectives of MPFA's activities for the financial year concerned;
- the nature and scope of the activities to be undertaken in order to achieve those objectives;
- a budget of estimated expenditure for achieving those objectives.

112. The MPFA is also required to deliver an annual report, together with audited financial statements and an auditor's report, to the Financial Secretary. Among others, the annual report sets out the achievements against objectives, future objectives, governance details (management board, committees, attendance, internal controls, performance against some pledges, etc.), staffing and resources (including policies on remuneration & training) and remuneration details of executive directors.

113. The Management Board²² of the MPFA is responsible for overseeing the preparation and the true and fair presentation of the MPFA's financial statements (which are prepared in accordance with recognized accounting standards, reporting standards and interpretations). These documents enable the responsible authorities to perform an informed assessment of MPFA's financial and service performance. The financial and budgetary statements and reports are considered and reviewed by the Finance Committee²³ and the Audit Committee²⁴ before endorsement by the Management Board. A mid-year review of the corporate plan progress as well as the budgetary situation is conducted and reported to the Management Board and relevant committees.

114. The supervisory activities of the MPFA are conducted using a risk-based approach. The major initiatives and programmes of the supervision work at the MPFA are set accordingly. Performance of the

²² The Management Board is the governing body of the MPFA. It is to consist of not fewer than 10 directors appointed by the Chief Executive of Hong Kong Special Administrative Region, and a majority of the directors must be non-executive directors.

²³ The Finance Committee consists of three non-executive directors and two executive directors. It advises the Management Board on the development of financial strategies and policies, examines and reviews the annual budget of the MPFA, and oversees the financial position and investment of the funds of the MPFA and the MPF Schemes Compensation Fund.

²⁴ The Audit Committee consists of four non-executive directors. It advises the Management Board on the appointment of the external auditor, oversees the implementation of the auditor's recommendations, reviews the annual financial statements before submission to the Management Board, and initiates special financial audits as and when necessary. It also reviews the management's reports on internal control systems and the internal audit programme, and considers the major findings of internal investigations and management's response.

supervisory activities of the MPFA is measured against the successful completion of these programmes in accordance with the timeframe set in the annual corporate plan.

115. The performance results are reviewed on a regular basis to ensure that the supervisory activities of the MPFA are conducted in an efficient and effective manner. They also serve as a timely feedback to the adequacy of resources for its supervisory activities, and help to identify gaps and areas for improvement.

116. Flexibility is needed to accommodate changing priorities and internal and external environment. For example, the recent turmoil in the global financial markets has posed significant challenges to the MPFA in its risk-based supervision work. Some scheduled supervisory work had to be re-prioritized to make way for a number of new programmes that have become a top priority. This has, to a great extent, dragged on current resources and made performance measurement of the supervisory activities of MPFA particularly difficult.

117. Collaboration with different parties, including both internal and external parties, is essential to improve efficiency and effectiveness. It also helps to refine the related performance measurement as and when necessary. For example, there is a rising expectation of the public regarding compliance with MPF requirements by employers, while the recent financial turmoil may cause an increase in employer non-compliance. Against this background, the MPFA has to step up its efforts and take proactive enforcement measures to deal with non-compliant cases so as to protect the scheme members' interests. In this regard, additional performance measures may be required.

Performance Pledges²⁵

118. Striving to deliver high-level and expeditious service to the public, the MPFA has established a system of performance pledges to monitor the attainment of service standards and the achievement of operational targets. They are part of the methods/tools used by the Enforcement Division and Supervision Division of the MPFA to assess the performance of operations and service delivery to the MPFA stakeholders. The service standards and operational targets are assessed based on the achievement of the performance pledges. The achievement of the pledges is reviewed by senior management for monitoring purposes.

Supervisory Activities

119. In the area of the supervisory activities, performance pledges have been set in relation to the various applications for approval, complaint handling against trustees by scheme participants, assessment of breaches by MPF trustees as well as on-site reports to trustees that provide feedback on issues identified during the visits. Various examples of the performance pledges for MPF service providers are shown in the table below for reference. The MPFA pledges at least 95% achievement of the service standards listed in the table.

²⁵ A series of performance pledges is published on the MPFA website http://www.mpf.org.hk/english/abt_mpf/abt_mpf_pp/abt_mpf_pp.html

Service		Service Standard
I. Trustees		
(1)	Process applications for approval of trustees	Issue acknowledgement letters within 7 working days of receipt of applications. Approve applications within 2 months after receipt of all required information and documents.
(2)	Process applications for change of trustee's particulars and change of controllers	Complete processing of applications within 6 weeks after receipt of all required information and documents.
(3)	Process applications for approval as approved overseas banks or approved overseas trust companies	Issue acknowledgement letters within 5 working days of receipt of applications. Approve applications within 6 weeks after receipt of all required information and documents.
II. Investment Products		
(1)	Process applications for registration of schemes, constituent funds and pooled investment funds	Issue acknowledgement letters within 7 working days of receipt of applications. Complete registrations within 3 months after receipt of all required information and documents.
(2)	Process applications for approval of ITCIS products	Respond to applicants within 1 month after receipt of all required information and documents.
(3)	Process applications for amendments to constitutive and offering documents of registered schemes or approved pooled investment funds	Complete processing of amendments within 2 months after receipt of all required information and documents.
(4)	Process applications for approval of participation agreements	Approve applications within 1 month after receipt of all required information and documents.
III. Enrolments and Withdrawals		
(1)	Process enrolment records of monthly returns, applications for certified true copies and reissuance of participation certificates from trustees	Issue participation certificates within 1 month after receipt of monthly returns / applications.
(2)	Process applications for withdrawal on ground of permanent departure	Issue consent letters within 14 calendar days after receipt of applications.
(3)	Process applications of transfer of accrued benefits with outstanding contribution	Issue consent letters within 10 working days after receipt of applications
Intermediaries		
IV.		
(1)	Process applications for registration as MPF corporate and individual intermediaries	Complete registrations within 1 month after receipt of all required information and documents.
V. Enquiries Handling		
(1)	Answer enquiries from service providers	Reply within 10 working days on general issues or send an interim reply within 7 working days if immediate reply is not possible on matters requiring research.

Enforcement Activities

120. The MPFA also strives to ensure that employers, employees and self-employed persons covered by the MPF System comply with MPF requirements. As one of the performance measurement techniques, performance pledges have also been set covering complaints investigation services (handling complaints and enquiries from various MPFA stakeholders). Various examples of the performance pledges within this area are provided in the table below where the MPFA pledges at least 95% achievement of the service standards listed in the table.

Service		Service Standard
Complaints Investigation		
(1)	Initial contact with complainant for investigation by Case Officer	Contact complainant for investigation within 7 working days from the date of receiving a case
(2)	Responding to enquiries by complainant/complainee on investigation progress	Inform complainant/complainee of investigation progress within 3 working days
(3)	Informing complainants of enforcement actions a. Cases involving prosecution b. Cases involving surcharge	<ul style="list-style-type: none">- Notify complainants by phone of issue of prosecution summonses not less than 2 working days before the summonses are applied- Notify complainants of prosecution results within 10 working days from the date of receiving a verdict- Notify complainants by phone of issue of surcharge notices not less than 2 working days before actual issuance

121. The MPFA also conducts a series of reviews to assess its own performance. These include internal audit (conducted according to the guidelines and standards on internal audit promulgated by the Hong Kong Institute of Certified Public Accountants) and management reviews (such as regular business process re-engineering exercises, as well as inviting external parties to review management and operational processes (e.g. Independent Commission Against Corruption, Ombudsman, consultants and external auditors). In addition, feedback is sought from stakeholders (e.g. employers' association, labour unions, professional bodies and the general public).

Kenya – Retirement Benefits Authority

122. The RBA has a performance contract with the Government of the Republic of Kenya which sets out their high-level corporate objectives (including increasing the coverage, compliance and benefit replacement rates of the pension system) as well as detailed measures of the authority's annual performance. The RBA must submit quarterly and annual reports on performance, with measures ranging from quantitative tests (such as the number of days taken to resolve complaints or the percentage of scheme trustees who have been trained) to independent surveys to determine customer satisfaction.

123. The performance contract establishes general goals for the organisation, sets targets for measuring performance and provides incentives for achieving these targets. The contract looks at the performance and quality of service of the institution, the involvement of service consumers; the evaluation of quality of service delivery; and finally the tool is used for ranking institutions by excellence in performance using a composite score. As part of the contract, all public institutions are required to carry out annual *Customer Satisfaction Surveys* and to progressively work towards increasing customer satisfaction. These initiatives have resulted in wide credibility in the process because ***evaluation of performance*** is, in part, carried out by the organization's customers. Customer satisfaction surveys have also resulted to remarkable change in attitude to work and work ethics by the employees.

124. The organization service charter has created a radical paradigm shift in the management of the public service by aligning service delivery with the values and needs of the public. It has also ensured focus on customer value proposition which has entailed evaluation of service delivery through the eyes of the customer and helped in providing strong feedback mechanisms on quality and timeliness of service delivery.

125. The performance tool is based on meeting specified targets which are reviewed annually. Achieving an excellent target means having an achievement greater than or equal to thirty percent (30%) above the agreed performance target. This can be very challenging especially because targets are increased every year.

	CRITERIA	Note	UNIT	WEIGHT	05/06	06/07	07/08*	08/09 Target	Excel- lent	Very Good	Good	Fair	Poor	Achiev- ement	Raw score	Weight- ed score	
A	Financial & Stewardship																
	Compliance with set budgetary levels	1	%	0.04	95	884	90	100									
	Cost reduction	2	Ksh' 000	0.04	Na	(70)	150	180									
	A – in – A (Levy receipts)	3	Ksh m	0.04	219	244	265	280									
	Utilization of Allocated Funds	4	%	0.04	95	84	90	100									
	Development Index	5	%	0.04	26%	30%	31%	33%									
	Debt Equit. ratio	6	%	Na	Na	Na	Na	na									
	Weight sub total			0.20													
B	Service Delivery																
	Implementation of Service Charter	7	%	0.1	Na	100	100	100									
	Customer Satisfaction (independent)	8	%	0.05	Na	Na	X	X+15									
	Service delivery innovations	9	No.	0.05	Na	2	1	1									
	Weight sub total			0.02													

C Non Financial Indicators													
	Compliance with Strategic Plan	10	%	0.03	100	100	100	100					
	Corruption Eradication	11	%	0.02	Na	100	100	100					
	Prevention of HIV infections	12	%	0.02	Na	Na	100	100					
	Statutory Obligations	13	%	0.02	Na	Na	100	100					
	Compliance with ISO Requirements	14	%	0.06	Na	Na	100	100					
	Weight sub total			0.15									
D Operational Indicators													
	Average time to resolve member complaints (objective 1)	15	Days	0.05	105	62	60	54					
	% of registered Schemes with Trained Trustees (objective 1&4)	16	%	0.05	Na	60	60	70					
	Prospective Retirees Trained (objective 1, 2 & 4)	17	No.	0.04	217	275	300	400					
	% of Registered Scheme AGMs attended (objective 1, 2, 3 & 4)	18	%	0.04	Na	8	8	10					
	% of Registered Scheme subjected to Compliance Visits based on risk variance (objective 1, 3 & 4)	19	%	0.04	Na	6	6.5	9.5					

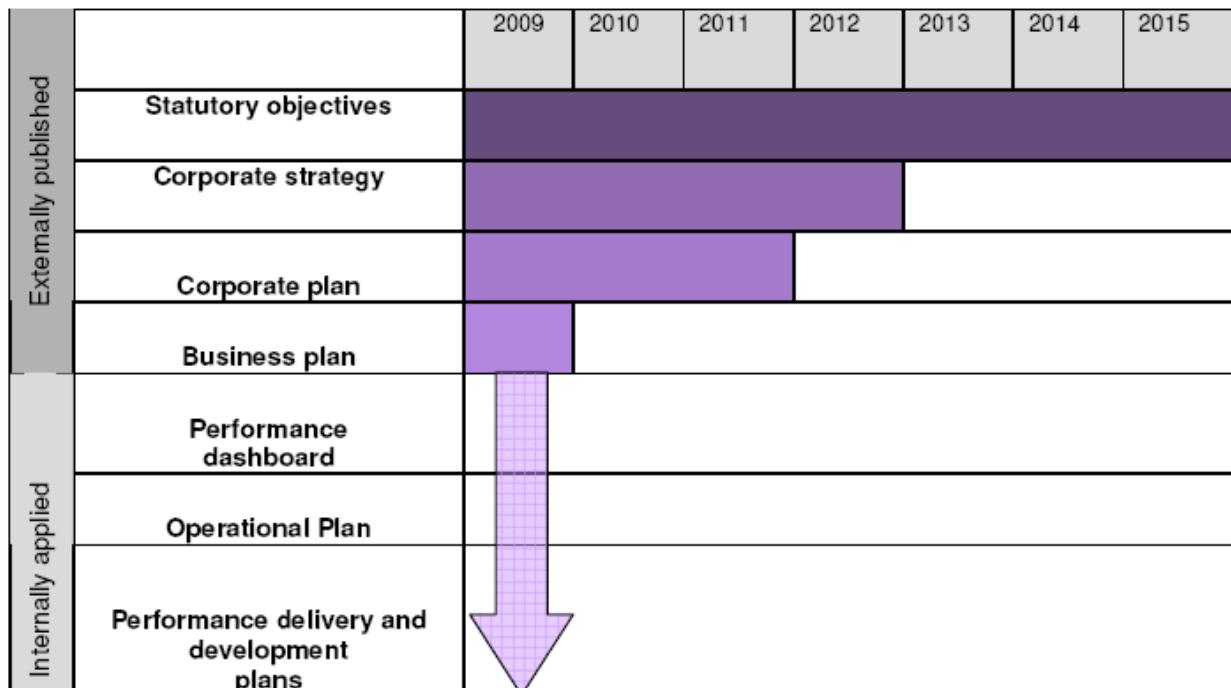
	% of Registered Schemes submitting Annual Accounts (objective 1 & 3)	20	%	0.04	Na	96	97	98							
	% Registered Schemes / Total Schemes (objective 1 & 3)	21	No.	0.04	59	76	82	92							
	Weight sub total			0.30											
E	Dynamic / Qualitative														
	Organizational Capacity														
	- Skills Development	22	%	0.02	Na	69.8	73.1	77.5							
	- Automation (IT)	23	%	0.02	75	80	85	90							
	- Work environment (implementation of baseline Survey findings)	24	%	0.02	Na	75	85	90							
	Employee Satisfaction Index	25	%	0.02	Na	74.8	X	X+5							
	Repairs	26	%	0.02	80	100	100	100							
	Maintenance	27	%	0.01	80	100	100	100							
	Safety Measures	28	%	0.01	Na	80	100	100							
	Research and Development	29	%	0.02	Na	Na	Na	100							
	Prevention of drug and substance abuse	30	%	0.01	Na	Na	Na	100							
	Weight sub total			0.15											

UK – The Pensions Regulator

126. A comprehensive set of performance measures is published by the Pensions Regulator (TPR) in the UK.²⁶ These form part of the organisation's biannual Business Plan. TPR aims to measure both what has been achieved and how these outcomes are delivered.

127. The performance measurement process in TRP is set out below. As shown in the diagram, it aims to follow the 'golden thread' approach. This starts with the (legal) objectives of the organisation and works down through its strategy and how success will be measured. It then flows into individual team work plans and individual objectives.

The Performance Management Setting Process for the UK Pensions Regulator



Legal Objectives

128. The starting point for identifying performance management measures is the organisation's legal objectives. For the UK Pensions Regulator these are:

- to protect the benefits of members of work based pension schemes;
- to promote good administration of work based pension schemes;
- to reduce the risk of situations arising that may lead to claims for compensation from the Pension Protection Fund [the UK's insurance fund for pension members in the case of company sponsor insolvency].

²⁶ See (TRP 2008)

- to maximise employer compliance with employer duties [to auto-enrol all workers into a pensions scheme with a qualifying level of contributions made by the employer].

5 Strategic Themes

129. Strategy work on how best to achieve these objectives led to the development of 5 ‘strategic themes’. These are the broad areas around which the Pension Regulator will organise its activity in the next 3 years. These are:

1. Governance and Administration;
2. Defined Benefit Funding and Transitions [from one type of provision to another];
3. Defined Contribution Risks;
4. The Approach to 2012 [the date of introduction of a new duty on employers to auto enrol all staff members into a pension scheme].
5. Better Regulation [improving the effectiveness and efficiency of the way in which we operate as a regulator]

Performance Measurement focussed on each of the strategic themes

130. In each of the strategic themes the executives of the organisation agree a number of Key Performance Indicators that will be used to judge the organisation’s performance. This is done with the teams within the organisation, in discussion with the Board of the organisation including the independent non-executive directors, and with the sponsoring Government ministry – the social affairs ministry or Department for Work and Pensions.

131. There is no fixed number of objectives per theme. The measures have a range of forms:

- from survey based measures using metrics from surveys conducted by an independent market research agency;
- from metrics on scheme funding; and
- financial metrics, for example on the cost of running the organisation.

132. The indicators are published each year in the Annual Report and the Corporate Plan where performance against each can be assessed.

133. In addition to this proactive process the organisation is reviewed by external organisations – for example the National Audit Office, in 2007, and the Better Regulation Executive in 2009.

Reviewing performance against the performance measures

134. The measures are reviewed quarterly by the Board, though not all measures report on a quarterly basis. There is also a quarterly review by the sponsoring ministry.

135. Where measures are derived from surveys, the full results of the surveys are also published – not just information on the specific question that links to the performance indicator.

136. Each year during the operational planning period the measures are reviewed, and new measures can be potentially identified. But the aim is to keep the set of measures relatively small – around 30 – so that it is possible to get a good overall sense of performance without having too many measures.

Linking performance measures to activity

137. All projects for strategic regulatory interventions have to go through a decision making process where their contribution to the performance indicators will be assessed. Though a precise link is not always possible, the ultimate justification for business activity needs to be clear in terms of the contribution to achieving our statutory objectives, strategic themes and their performance measures.

Linking performance measures to individual development plans

138. Individual performance development plans in the regulatory policy area then link particular projects to the performance indicator they are designed to improve. This provides an end-to-end link for the organisation from legal objectives through to individual performance plans.

139. Some examples of TPR's performance indicators and measures follow:

Business plan – Theme 1: Strengthen DB scheme funding			
1.1	<i>Objective:</i> The regulator ensures that the valuation process and the corporate transaction process are adopted and completed in line with legislative and code requirements and that trustees and employers fulfil their role in this process.	<i>Performance Indicator:</i> Trustees, employers and their advisers understand the scheme funding arrangements and their role in this process.	<i>Measure:</i> Results of the annual perceptions tracker survey question ‘understanding of the new DB scheme funding arrangements’: increase percentage of positive responses (top two boxes, excluding don’t knows) for the following audiences/segmentation: Trustees – increase to 69% (+4%) Employers – increase to 71% (+3%) Professional advisors – increase to 85% (+2%)
1.2	<i>Objective: AS ABOVE</i> The regulator ensures that the valuation process and the corporate transaction process are adopted and completed in line with legislative and code requirements and that trustees and employers fulfil their role in this process.	<i>Performance Indicator:</i> All schemes due to have completed the valuation process have done so in line with requirements.	<i>Measure:</i> 100% of schemes whose valuation shows a deficit will have either submitted a recovery plan on time or will have been contacted by the regulator within one month after their 15-month deadline to confirm submission requirements.
1.3	<i>Objective:</i> The regulator ensures that scheme specific technical provisions are calculated in a prudent manner and recovery plans are appropriate.	<i>Performance Indicator:</i> Scheme funding arrangements lead to an increase in the funding of schemes thereby showing the regulator has effected improvement through its interventions.	<i>Measure:</i> Protecting members’ benefits Schemes having had direct contact with the regulator will show a higher percentage of assets (including contingent and insured) as a percentage of s/5 buy-out values than those not having had contact.

			Protecting the PPF Sum (assets minus s179 liabilities) where assets are <s179/sum all s179 liabilities for group affected by regulator divided by: sum (assets minus s179 liabilities) where assets <s179/sum all s179 liabilities for group unaffected by regulator.
Business plan – Theme 2: Improve the governance of work-based pensions			
2.1	<i>Objective:</i> The regulator reduces the time schemes take to wind up.	<i>Performance Indicator:</i> A significant reduction in the number of schemes in wind-up.	<i>Measure:</i> 85% of schemes in wind-up have a two-year plan for winding up.
2.2	<i>Objective:</i> Scheme administration is improved as a result of the regulator's actions.	<i>Performance Indicator:</i> Standards for effective record-keeping have been identified, consulted upon and implemented where appropriate, and results of the annual governance survey show sustained performance in the following areas: - risk management - internal controls - administration service standards.	<i>Measure:</i> Results of the annual governance survey question 'self-assessment of the trustee board's performance': maintain results for the following: 1) Monitoring administration Manage the scheme's administration to ensure an acceptable level of service: maintain at over 90% 2) Risk management and internal controls Has effective, appropriate internal controls to manage risks: maintain at over 90%
2.3	<i>Objective:</i> The regulator improves trustee knowledge and understanding.	<i>Performance Indicator:</i> The extent to which trustees and others value and use the <i>Trustee Toolkit</i> .	<i>Measure:</i> 1) Results of the annual governance survey: question 'approximately how many members of the trustee board, if any, have made use of the <i>Trustee Toolkit</i> ?' (one or more), segregated by scheme size (top two boxes, excluding don't knows): Small schemes: increase to 74% (+10%) Medium schemes: increase to 85% (+2%) 2) Results of the annual governance survey: question 'self-assessment of the trustee board's performance' for trustee confidence: trustee understanding of their role and responsibilities, (top two boxes, excluding don't knows): All schemes: maintain at over 90%

140. As well as quantifiable measures (e.g. 85% of schemes in wind-up have a 2 year plan for winding up), TRP relies on surveys to measure its performance – for example the annual '*Perceptions Tracker Survey*'.

Proportion of Stakeholders who Strongly Agree or Agree with the following Statements about the Pensions Regulator

	2006	2007
Trusted source of information	78%	84%
Actions are proportionate	43%	52%
Focused on most important risks	61%	63%
Explains clearly why decisions have been made	49%	49%
Consistent in our approach	51%	58%
Proactive in reducing risks	55%	57%

Base excludes those who don't know

141. However, even TRP's comprehensive performance measures come with a health warning, as the regulator notes that inevitably short-term measures have to be used whilst it is long-term impacts which are important for the pensions sector. In addition, factors outside the regulator's control can strongly influence outcomes (e.g. market movements or corporate insolvencies). Proxies or indirect measures of the regulator's ability to meet its goals are therefore used (e.g. the credibility of the authority)

BIBLOGRAHY

- APRA, (2008), ‘*APRA’s Costs and Performance*’, Chapter 6, ‘*Annual Report*’, http://www.apra.gov.au/AboutAPRA/upload/APRA_AR_2008_costs_performance.pdf
- Black, J., (2008), ‘*Risk-based Regulation: Choices, Practices and Lessons being Learned*’, OECD paper
- Carmichel, J., (2002), “*Public sector governance and the finance sector*”, in “*Financial Sector Governance*” edited by R. E. Litan, M Pomerleano and V. Sundararajan, 2002, Brookings Institute Washington.
- Das, Udaibir, S., Quintyn, M. (2002), “*Financial Crisis Prevention and Crisis Management—The Role of Regulatory Governance,*” in *Financial Sector Governance: The Roles of the Public and Private Sectors*, ed. by Robert Litan, Michel Pomerleano, and V. Sundararajan (Washington: Brookings Institution Press), as quoted in a February 2007 IMF working paper.
- Das, Udaibir S., Quintyn, M., and Kina Chenard, K., (2003), “*Does Regulatory Governance Matter for Financial System Stability? An Empirical Analysis.*” Paper prepared for a conference on the evolving financial system and public policy, Ottawa, Bank of Canada, December 2003.
- IOPS, (2008a), ‘*IOPS Good Practices in Risk Management of Alternative Investments by Pension Funds*’ <http://www.iopsweb.org/dataoecd/47/20/40010212.pdf>
- IOPS, (2008b), ‘*Supervisory Oversight of Pension Fund Governance*’, IOPS Working Paper No.8 <http://www.iopsweb.org/dataoecd/6/63/41269776.pdf>
- IOPS, (2006), ‘*IOPS Principles of Private Pension Supervision*’, <http://www.iopsweb.org/dataoecd/59/7/40329249.pdf>
- OECD, (2009), ‘*OECD Guidelines for Pension Fund Governance*’ <http://www.oecd.org/dataoecd/18/52/34799965.pdf>
- Llewellyn, D.T., (2004) “*Aligning supervisory structures to country needs*” published by World Bank Institute, Chapter 2
- Quintyn, M., (2007), ‘*Governance of Financial Supervisors and its effects – a Stocktaking Exercise*’, IMF Institute, International Monetary Fund
- Stewart, F., Yermo, J., (2008), “*Pension fund governance: challenges and potential solutions*”, OECD Working Paper Series on Private Pensions and Insurance, No. 18 <http://www.oecd.org/dataoecd/18/29/41013956.pdf>
- The Pensions Regulator, (2008), ‘*Corporate Plan 2008-2011*’ <http://www.thepensionsregulator.gov.uk/pdf/CorporatePlan2008.pdf>
- UK Government, (2001), “*Choosing the right fabric – a framework for performance information*” published jointly by HM Treasury, the Cabinet Office, National Audit Office, Audit Commission and Office for National Statistics.

ANNEX: GOVERNANCE MECHANISMS OF PENSION SUPERVISORY AUTHORITIES

Table 1: Status of the Supervisory Authority

	Status of Supervisory Authority	<i>Can any superior administrative authority change the decisions and procedures of the pension supervisory authority?</i>
Australia	Quasi Independent APRA is a body corporate est. under an Act of Parliament. APRA has a degree of independence but answers to the Treasury and to the Minister for Revenue and Assistant Treasurer	No Minister may give APRA a written direction about policies it should pursue or priorities it should follow in performing or exercising any of its functions- this power has not been used to date Administrative decisions/ actions of APRA can be challenged within the courts and in certain circumstances the Administrative Appeals Tribunal
Austria	Independent	Yes Administrative decisions by the FMA are subject to appeal to the Administrative Court and under certain circumstances the Constitutional Court
Belgium	Independent	Yes Appeal in Court of Justice
Bulgaria	Independent FSC was est. under the Financial Supervision Commission Act. It is an institution which is independent from the executive authority.	Yes The FSC is an institution which is independent from the executive authority, but the Legislative and Judiciary authority could change the decisions and procedures of the FSC.
Chile	Quasi Independent Superintendence was created as an independent body that relates with the government through the Ministry of Labour	No
Czech Republic	Central Bank The Central Bank is the supervisory authority for the supplementary pension insurance system. The CNB supervises the financial system including pension funds.	No
Finland	Independent	No
Germany	Quasi Independent ²⁷	Yes
Hong Kong	Independent The MPFA, a statutory body est. in September 1998, is empowered by the MPFSO to regulate and supervise the operation of the MPF system.	Yes Pursuant to the MPFSO, the CE may give directions to the MPFA regarding the exercise of its functions. Such directions may include changing the decisions and procedures of the MPFA. The Appeals Boards, set up under the MPFSO and the

²⁷ BaFin is a statutory body. Sections 1 and 2 of the Act Establishing the Federal Financial Supervisory Authority (Gesetz über die Bundesanstalt für Finanzdienstleistungsaufsicht – FinDAG) provide that BaFin operates within the ambit of the Federal Ministry of Finance (MoF) as a legal person in the form of an institution of public law that is functionally and organisationally separate from the MoF. In its decision-making and regarding the exercise of its functions and powers in day-to-day technical matters, BaFin is free from external political interference. According to the principles of the legal and supervisory control of the MoF, dated 5 January 2005, BaFin is subject to reporting requirements with respect to substantial affairs. BaFin acts independently while exercising its duties. Under the FinDAG, the MoF is required to ensure that BaFin executes its tasks according to the law and in an effective and adequate way.

		ORSO, may uphold, vary or quash the decision made by the MPFA after hearing an appeal. The MPFA's Corporate Plan and Estimates of Expenditure have to be approved by the Financial Secretary.
Israel	Ministry CMISD is part of the Ministry of finance	Yes
India	Independent (when PFRDA bill passed)	
Jamaica	Quasi Independent ²⁸	No
Kenya	Quasi Independent	No
Mexico	Quasi independent CONSAR is a decentralized government agency dependant on the Ministry of Finance with technical autonomy	Yes Appeals Court
Netherlands	Central Bank DNB is a combined Central Bank/ prudent supervisor and independent from gov., but the yearly budget has to be approved by the Ministry of Finance (supervision of financial institutions except pension funds) an the Ministry of Social Affairs and Employment (supervision of pension funds)	No
Poland	Independent	No
Romania	Independent	No
Spain	Ministry	Yes
Thailand	Independent Separate public agency	No
Turkey	Quasi-independent Undersecretariat of the Treasury reports to the Minister of State in charge of the Treasury. General Directorate of Insurance is a division within the Undersecretariat of the Treasury. Department for Private Pensions is a division of Directorate General of Insurance	Yes The Prime Minister, Minister of state in charge of the Treasury may change the procedures of the supervisory authority. Be that as it may, claims against the decisions of the authority by third parties should be brought before the administrative courts.
UK	Quasi-independent The DWP is responsible for developing the UK pension's policy and the law governing UK pension schemes. TPR can suggest changes to the law, but we cannot make law or change law or government regulations	Yes The Pensions Regulator Tribunal can overturn the decisions of TPR

²⁸ The FSC is a body corporate created by statute and has authority to appoint officers and employees and pay them such remuneration as it deems fit. This is subject to certain limitations. Pursuant to the Financial Services Commission Act, the Minister may after consultation with the Executive Director of the FSC, issue directions of a general character as to the policy to be followed by the FSC in the performance of its functions in matters, which appear to the Minister to concern the public interest. There is also a reporting obligation to the Minister (see question 2.2 below). However, the FSC maintains operational autonomy with the operations of the agency overseen by a Board of Commissioners who are appointed by the Minister for specified terms. Except for its start-up years, the FSC is not financed by subventions from the Government. Financing is obtained by fees levied on regulated entities in accordance with an agreed fee policy that is based on, amongst others, the principles of full cost recovery and no cross-subsidisation.

Table 2: Appointment Procedures for the Head and Senior Directors of the Supervisory Authority

	<i>Appointment made by</i>	<i>Same authority power to remove head?</i>	<i>Minimum Professional Requirements for Head of Authority</i>	<i>Length of Appointment</i>
Australia	Head of State Governor General (on advice of Treasurer) – same procedure applies for appointment of Deputy Chair and Members	Yes	The APRA Act sets out provisions which restrict the appointment of APRA members to persons that the Minister is satisfied are qualified by virtue of his or her knowledge or experience relevant to APRA's powers and functions. A person may not be appointed as a member if they are a director, officer or employee of an entity regulated by APRA. Persons employed within other bodies within the financial sector are eligible to be appointed as members but only if the Minister considers the proper performance will not be affected by any resulting conflicts of interest. In addition there are numerous provisions within this Act which allow the Minister to terminate the appointment of APRA members in the event of improper conduct.	Not exceeding 5 years – reappointment possible (head and senior executives)
Austria	Head of State - (on proposal of Federal Gov. – i.e. Ministry of Finance + National Bank) Governing Board – other snr. executives	No Minister of Finance may dismiss a member of the Executive Board if a substantial reason exists (e.g. a gross breach of duty) Other senior directors dismissed by Executive Board after approval by Supervisory Board	Only such persons may be appointed as Executive Board Members (head of the supervisory authority) who are experts in at least one of the areas of supervisory activity listed in Financial Market Authority Act and who are not excluded from the right to be elected to the Austrian National Assembly. They may exercise their function only full-time.	3 years for 1st time appointment 5 years for reappointment Senior executives 5 years (1 year probation) 5 year reappointment
Belgium	Head of State (King)	Yes	No	6 years – head and senior executives
Bulgaria	Parliament²⁹ <i>Chairman/ 3 Deputy/ 3 Commission members</i>	Yes	Commission Members: (1) may be only Bulgarian nationals with higher education, having the appropriate professional qualification and experience in economy and finance; (2) shall be elected among the individuals who: 1. have not been found guilty of premeditated crime of a general character; 2. have not been declared bankrupt as sole proprietors, unlimited liability partners in companies, and are not under a bankruptcy procedure; 3. have not been members of managing or controlling bodies of a company, respectively a co-operative, wound up due to bankruptcy in the two years preceding the date of declaring the company in	6 years

²⁹ The Financial Supervision Commission is a collective body and consists of seven members: a chairperson, three deputy chairpersons and three other members.

The powers of the chairperson are determined as coordinating, organizational, supervisory and representative. The law assigns to him/her strictly administrative functions that are related to the management and control of the FSC as an administrative unit. The authorities of the deputy chairpersons, who supervise the three main sectors - investment, insurance and social insurance, have been tailored in accordance with the specific areas. They have been given the legal authority for operational independence regarding the decision-making in the respective field.

			<p>bankruptcy, if there are unsatisfied creditors;</p> <p>4. are not managers, executive directors, members of managing or controlling bodies, or unlimited liability partners in a supervised person within the meaning of this Act;</p> <p>5. are not spouses or relatives in direct or lateral lineage up to the third degree inclusive, or by marriage up to the third degree inclusive, to another member of the Commission or an individual under subparagraph 4;</p> <p>6. do not exercise control over a supervised person within the meaning of this Act.</p> <p>(3) The Chairman, the Deputy Chairmen and the other members of the Commission may not engage in any paid activities other than teaching or scientific and research activities, or as members of international organisations in relation to the activities of the Commission.</p>	
Chile	Government Other snr. executives appointed by Head of Authority	Yes	Superintendent and heads of Divisions are hired according to a process designed for high authorities in the Public Sector	<i>No fixed period</i>
Czech Republic	Head of State Governing Board- other departmental directors <i>Head + CNB Board</i>	Yes	Yes	<i>6 years</i> Reappointment possible once
Finland	Government Governing Board- other snr. directors	Yes	Academic degree and good expertise in insurance branch	<i>No fixed period</i>
Germany	Head of State Federal President at the proposal of the Federal Government <i>Executive Board (President/Chief Executive Directors (head of pensions)</i>	No	Yes – specific skills are required by the legislature	<i>No fixed period</i>
Hong Kong	Head of region – Chief Executive HKSAR	Yes	Staff at the top management level, including executive directors and heads of divisions, are required to have good educational qualification and sound experience and expertise in their areas and responsibilities.	Not exceeding <i>4 years</i> (head and senior executives) Reappointment possible for another term
Israel	Finance Ministry		Yes - In Israel all public appointments must receive the approval of a committee that checks all of the appointments. The checking procedure includes, experience, professional background, a special questionnaire and a written declaration that each candidate must fill in about any legal procedures that he was exposed to etc	<i>2 years minimum</i>
India	Government Finance Ministry other snr. directors	Yes	Yes	<i>5 years</i> (Head and other executives) Reappointment possible for another term
Jamaica	Finance Ministry – Chairman Governing board - CEO	Yes	At a minimum , the Executive Director and the Senior Directors must have knowledge of relevant statute and communications skills are also pertinent	Executive Director max 5 years and further appointment for 5 years allowed Senior Directors appointed for renewable 3 years
Kenya	Board in consultation with the Minister	Yes	Yes To have at least ten years of experience in a managerial capacity in the retirement benefits, accounting, finance, insurance or the banking sectors	Terms and conditions of service is determined by the Board in the institution of appointment or in writing from time to time

Mexico	Finance Ministry	Yes	No – the requirements are set out in law – being: Mexican nationality; proven experience in the field; not being a shareholder of any supervised entity	No fixed period
Netherlands Head + snr. directors	Government	Yes –but only under special circumstances (e.g. gross misbehaviour board members)	No	7 years Reappointment possible for another term
Poland	Government (PM)	No	Chairperson must: 1) have Polish citizenship; 2) enjoy full civil rights; 3) have completed higher education in Law or Economics; 4) have relevant know-how in the area of supervision over the financial market in the Republic of Poland and professional experience gained in the course of academic work or work performed for entities operating on the financial market or for a financial market supervisory body; 5) have worked on managerial positions for no less than three years; 6) have not been punished for an intentional offence or a fiscal offence; 7) enjoy an unblemished reputation and give a guarantee of correct performance of the tasks entrusted to them.	5 years – head with reappointment for another terms No fixed term other senior executives
Romania	Parliament		Yes	Yes 6 years re-appointment possible
Spain	Government Finance Ministry Governing Board – other snr. directors	Yes	No – Supervisory members are in general a specific kind of civil servant, with a very technical education and training, and also after to pass a special exam (competitive examination)	No fixed period
Thailand			The Secretary-General (the head of the supervisory authority) shall have the qualifications and shall possess the characteristics as follows: <ol style="list-style-type: none">1. being able to perform his duty full time for the Office;2. not being or having been a bankrupt;3. not being a political official, an appointed member of a district council or district council or district administration, or a member or official of any political party;4. not being a civil servant having a permanent position or salary, or an officer or employee of any state enterprise, government organization, or district office;5. not having a position or any responsibility or having an interest in a securities company. <p>No specific requirements for head of pension division but shall have suitable general qualifications</p>	4 years not more than 2 consecutive terms
Turkey Head + Snr Directors	Head of State	Yes The head of the Pension Division may be removed by the Undersecretary of the Treasury	Yes	No fixed term
UK	Ministry (DWP) – all Board Members	Yes	Yes – Expertise in pensions; specific criteria are set out in open job adverts	Term 3 years; can be reappointed

Table 3: Composition of Governing Board

	Board	No.	Criteria Representation	How Appointed	Term of Office	How removed
Australia	No – APRA does not have a Board. It is governed by 3 members which include Chair and Deputy Chair	3		By Governor General	5 years	By Governor General
Austria	X	6	<i>See note³⁰</i>	<i>See note</i>	5 years	By OeNB or the Austrian Federal Economic Chamber. Appeal to Federal Minister of Finance
Belgium	X	7	3 members of the Board of the National Bank of Belgium Board Members of the CBFA Equal number of Dutch and French speaking members	By King	6 years	
Bulgaria	X	7	Chairperson, 3 deputy chairpersons and 3 other members	National Assembly	6 years	
Chile	No					
Czech Republic	X Bank Board is the supreme governing body of the CNB	7	A citizen of the Czech Republic, who is fully competent to perform legal acts, has completed a university education, is of integrity, is a person of recognised standing and professional experience in monetary matters and in the area of the financial world	President	6 years	President
Finland	X	6	Set out in legislation	Ministry of Social Affairs and Health appoints 3	3 years	Ministry of Social Affairs and Health can remove

³⁰ The Supervisory Board of the FMA shall consist of the chairperson, the deputy to the chairperson, four additional members and two co-opted members. The chairperson, the deputy and the additional members of the Supervisory Board, except for the co-opted members, shall be appointed by the Federal Minister of Finance. The OeNB shall name persons for the function of deputy to the chairperson as well as two additional members of the Supervisory Board. In addition, the Supervisory Board shall co-opt two members named by the Austrian Federal Economic Chamber; however, they shall have no voting right. Only suitable and reliable persons who are not excluded from the right to be elected to the Austrian National Assembly may be appointed or co-opted as Supervisory Board members.

				members		
Germany	X	5 plus Administrative Council Members	BaFin is managed by an Executive Board consisting of the President and 4 Chief Executive Directors. The governing body consists of the Executive Board and Administrative Council. The Administrative Council, which consists of 21 members from different ministries, members from the German Bundestag, representatives from the financial services sectors, has the task to monitor BaFin's management and to support BaFin in the execution of its duties. BaFin President is required to report regularly to the Administrative Council on the conduct of its management activities.	By Head of State	No fixed term	By Head of State
Hong Kong	X	Min 10 ³¹	Of the non-executive directors: a) at least 1 (max 2) are to be persons who, in the opinion of the Chief Executive of HKSAR, represent the interests of participating employers; b) at least 1 but no more than 2 are to be persons who, in the opinion of the Chief Executive of HKSAR, represent the interests of relevant employees; c) the number of persons appointed to represent the interests of relevant employees is equal to the number of persons appointed to represent the interests of participating employers.	By Chief Executive of the HKSAR	4 years maximum and reappointment for another term possible	Chief Executive of the HKSAR at any time
Israel	X	5		Minister of Finance	3	Minister of Finance
India	X	3	³² See note	Gov.	See note	Reasons for removal

³¹ 2007 16 members. Of the directors: a) not fewer than 4 are to be executive directors; b) the remainder are to be non-executive directors; c) a majority of the directors are non-executive directors.

³² As per the PFRDA Bill, the Authority shall have a Chairperson and not more than five members, of whom at least three shall be whole-time members, to be appointed by the Central Government from amongst persons of ability, integrity and standing and having experience and knowledge in economics, finance, law or administrative matters with at least one person from each discipline. The Chairperson and every whole-time member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment. However, no person shall hold office as the Chairperson after he/she has attained the age of sixty-five years and no person shall hold office as a whole-time member after he/she has attained the age of sixty-two years.

		(2 part time + Chair)				by central gov. prescribed in the PFRDA Bill
Jamaica	X	10	The person should not : - be a member of the Senate or House of Representatives - be a director, officer, employee or auditor of a prescribed financial institution -have a direct or indirect proprietary interest in more than 5% of any class of the shares of any such institution - have been convicted of an offence involving fraud, dishonesty or moral turpitude.	Not less than 7 nor more than 9 by the Minister of Finance; the Executive Director, who sits <i>ex officio</i> , is appointed by the board and employed under contract	5 years max	By the Minister of Finance by reason of (a) incapacity, (b) bankruptcy, (c) prison sentence (d) convicted of offence (fraud etc.) or fail to carry out duties
Kenya	X	9	Nominated from the industry quasi gov representative CEO 5 members, not being public officers, appointed by the Minister by virtue of their knowledge or experience in matters relating to the administration of scheme funds, banking, insurance, law or actuarial studies; the others comprise of the CEO of Capital Markets Authority, the Commissioner of insurance and the Permanent Secretary	By Minister	3 years renewable	Expiry of term or on conviction for more than 6months in jail or resignation
Mexico	X	22	It is set by the Law, the Board is composed of members of different gov. entities, workers' and employers' representatives	By Law and by entity		
Netherlands	X	10	One member of the Supervisory Board is appointed by the gov.	By the Supervisory Board itself	4 years	After 4 year term
Poland	No					
Spain	X	5	General Director and Deputy Director	By General Director		By General Director
Thailand	X SEC Board of Directors	11	SEC Act states that board consists of Minister of Finance (ex-officio chairman), Governor of Bank of Thailand, Permanent Secretaries Ministries of Finance and Commerce + 4-6 experts	Some government appointees + outside/ part	6 years (part of the board is	

			appointed by Cabinet Members must not be political officials	time directors	replaced every 2 years)	
Turkey	X	77 ³³		Approval by President	No fixed term	Removed by President
UK	X	10 chair, 5 non- execs, Chief exec, 4 exec directors	All board members are appointed by Secretary of State for Work and Pensions following open competition			

³³ The Board is responsible for the oversight of the entire Unersecretariat of the Treasury

Table 4: Source of Supervisory Authority's Funds

	Source Funds	Other	How is the fee level set?	Who determines overall budget	Ability to outsource
Australia	Fees	APRA collects levy amounts on behalf of the gov. to meet supervision costs and the gov. appropriates to APRA in the annual Commonwealth Budget process. The framework for setting levy rates for each regulated industry is established under legislation and the rates are determined by the Treasurer in consultation with APRA and industry. APRA receives a minor part of its revenue by charging for some specific services.	Legislation	APRA determines its overall budget requirements and submits these to gov. in the levy-determination process	Yes (some training)
Austria	Fees Government Charges		Legislation / Agency/ Consultation with Ministry	Pension Authority A fixed contribution from the gov. budget is fixed by law. The variable part of the budget depends on the costs of supervision. The total budget is approved by the FMA supervisory board. The total costs may, however, not exceed 1.5 thousandths of the amount resulting from the sum of the current contributions for beneficiaries (entitled) and the payment of old-age pensions, survivors' pensions and invalidity pensions for the respective financial year.	No
Belgium	Fees		Legislation/ Consultation with Ministry		
Bulgaria	Fees Government		Legislation	Pension Authority The National Assembly shall adopt the Budget of the Commission as an independent part of the Republican Budget	No
Chile	Government			Ministry of Finance which consolidates Public Budget that has to be approved by Congress	Yes (IT, training)
Czech Republic	Charges	CNB has its own budget independent of the gov. budget. The charges for specific services contribute only very marginally to the CNB budget		Pension Authority	No

Finland	Fees		Legislation	Ministry	No
Germany	Fees	BaFin must cover its expenditure entirely out of its own income. It receives no funding from the Federal budget. BaFin raises the funds required to cover its costs from the undertakings it supervises instead. The legal foundation for this is the Act Establishing the Federal Financial Supervisory Authority (Finanzdienstleistungsaufsichtsgesetz – FinDAG). Pursuant to section 13 (1) of the Act, BaFin's sources of funding consist primarily of: <ul style="list-style-type: none"> ▪ Fees (section 14 of the Act); ▪ Separate reimbursements (section 15); and ▪ Contributions (section 16). 	The legal foundation for this is the Act Establishing the Federal Financial Supervisory Authority (Finanzdienstleistungsaufsichtsgesetz – FinDAG).	The budget is drawn up by the Executive Board of BaFin and must be approved by the Administrative Council.	<i>Yes (on-site inspections – rarely, some training)</i>
Hong Kong	Fees Government		Consultation with industry	Ministry	<i>Yes (some IT, some training, some general support, some research)</i>
India	Government	Once the PFRDA Bill is passed in parliament, the Authority shall have alternative sources of finance- such as fees, charges, penalties etc.			<i>Yes (financial services, IT, legal)</i>
Jamaica	Fees	Fees in respect of pension regulation are levied only on licensed investment managers; currently 0.1% per annum of pension plan assets under management		Pension Authority	<i>Yes (some financial, legal)</i>
Kenya	Levy charged on pension schemes	In addition to the levy on the pension schemes, small amounts are raised from registration fees from custodians, fund managers and administrators and return on the Authority's investment	Legislation	Ministry	<i>Yes (IT, HR, training)</i>
Mexico	Fees Government		Legislation / Determined by agency via regulation	Ministry	No
Netherlands	Fees Government		Legislation/ Consultation with Ministry/ Consultation with industry	Ministry	No
Poland	Public funds refunded by supervised entities		Legislation/ Determined by Ministry	Parliament	
Spain	Government		Legislation/ Determined by agency	Ministry	Yes (IT)

			via regulation/ Consultation with industry		
Thailand	Fees	82% fees 18% interest income		Pension Authority	No
Turkey	Government			Ministry The separate budgets of all governmental institutions that are financed by general state budget are subject to initial approval by the Minister of Finance. Following this approval, they are subject to approval by the Parliament at the second step	Yes (some off-site monitoring, IT, HR, general support)
UK	Fees Government	TPR collects levy on supervised entities for DWP. DWP then allocated TPR budget much of which is financed by the levies collected	Legislation	Ministry	<i>Yes (IT, training)</i>

Table 5: National authorities which control and audit the activities of the supervisory authority

Australia	Legislature Australian National Audit Office. APRA has a Risk Management and Audit Committee which is comprised of an external chair, external and internal members
Austria	Legislature Finance Ministry State Audit Institutions
Bulgaria	Legislature Judiciary State Audit Institutions
Chile	State Audit Institutions
Czech Republic	There are no institutions that control or audit the supervisory activity of the CNB (the activities of the departments involved in supervision are controlled and audited by the Bank's Board and the Internal Audit Department). CNB acts independently from the government.
Finland	Judiciary State Audit Institutions
Germany	Federal Ministry of Finance State Audit Institution (Bundesrechnungshof)
Hong Kong	Legislative Council Financial Secretary Judiciary (judicial review) Audit Commission/The Independent Commission Against Corruption Chief Executive of HKSAR of the People's Republic of China Office of the Ombudsman
Israel	Finance Ministry State Audit Institutions
India	State Audit Institutions
Jamaica	Finance Ministry State Audit Institutions
Kenya	State Audit Institutions
Mexico	Legislature Finance Ministry State Audit Institutions The Federation Auditor (appointed by Congress) audits the budget expense. The Ministry of Finance and the Ministry of Public Servants may audit CONSAR as well.
Netherlands	Finance Ministry Labour Ministry (approval of annual budget) External accountant
Poland	Finance Ministry Head of State Judiciary State Audit Institutions
Romania	Legislature State Audit Institutions
Spain	Finance Ministry Judiciary State Audit Institutions
Thailand	Minister of Finance
Turkey	Judiciary
UK	DWP (TRP informs Ministry of relevant issues) / State Audit Institutions

Table 6: Consultation Procedures

	Consultation	Information released/ parties/ mechanism	Does the authority explain its actions to the affected/interested parties?
Australia	Ad hoc Continuous Consultation with industry occurs regularly through industry liaison meetings - conducted with direct representatives (trustees) as well as third parties such as auditors and administrators. Ad hoc consultation occurs on specific matters such as the issuing of new guidance to industry.	Annual reports , Media releases, Information papers, Consultation papers: publicly available / website Letters: trustees + publicly available/ mail, email, website	Yes – review finding are detailed in a letter to the trustee. Enforcement action requires a natural justice approach involving provision of a statement or reasons and giving opportunity to reply.
Austria	Continuous Problems and current issues are discussed with industry on a regular basis. Particularly in the case of legislative amendments there is a consultancy process between the Ministry of Finance, Industry and Supervisory Authority.	Annual Report, Press Releases, Legislation, Legal Information (acts, directives, regulations, circular letters) – publicly available / website	Yes
Bulgaria	Continuous In order to improve the efficiency of the monitoring and regulatory activities in the sphere of the financial sector in Bulgaria, FSC maintains and expands its cooperation and active communication with many supervised entities associations and organizations from the moment of its founding until the present day. The cooperation finds expression in exchange of information, building-up of interdepartmental work groups, discussions and coordination of proposals for amendments in the legal framework regulating the activities of financial market participants, etc. In 2006, discussions on the amendments in the law concerning the regulation of entities supervised by the Commission, were held with the Bulgarian Association of Investment Brokers, the Bulgarian Association of Managing Companies, the Bulgarian Stock Exchange, the Bulgarian Association for Contacts with Investors, the Association of Directors for Contacts with Investors, the Association of Bulgarian Insurers, the Bulgarian Association of the Supplementary Pension Insurance Companies, etc.		
Chile	Ad hoc All administrative norms are published prior to enactment to receive comments from the industry and other interested	Monthly summarized information on pension funds returns: publicly available/ press release Statistics: public / website + quarterly bulletin	Yes – resolutions present their justification

	sectors.	Sanctions: publicly available/ website	
Czech Republic	Continuous Financial Market Committee is est. as an advisory body to the Bank Board for the area of financial market supervision. The industry is represented in the Committee.	Report of the main financial market supervisory activity: Financial Market Committee/ semi-annual release Report of the performance of financial market supervision: parliament, government, public / printed, email, website Final decisions issued by the Capital market Regulation and Supervision Department of the CNB: public/ printed, website, CD-ROM Annual Reports: public/ report submitted to parliament Financial Reports: publicly available/ website	Yes – depends on action
Finland	Ad hoc	Annual report, Press releases: public available/ website	Yes
Germany	The regulatory and supervisory processes are clear and consistent. The supervisory work is transparent to the public. BaFin publishes its supervisory process and policy's requirements in essential areas by way of circulars, guidelines and proclamations and announcements. These are reworked as the need for modifications or amendments arises. All Pensionskassen and Pensionsfonds concerned are informed about new developments individually. Furthermore the relevant documents – including also important legal bases- are made available to the general public on BaFin's website. Proactive disclosure is part of BaFin's consultation procedure. Market participants and professional associations as well as the Advisory Board and the Insurance Supervisory Council are consulted as part of the legislative process.	Annual Report, Press Releases, Legislation, Legal Information, Consultation papers (acts, directives, regulations, circular letters) Statistics: public / website + quarterly bulletin Sanctions: publicly available/ website – publicly available / website	Yes
Hong Kong	Ad hoc Continuous Depending on the nature of the matter, consultations would be conducted either through industry organizations and organizations representing stakeholders' interests or directly with the approved trustees. In addition, the MPFA also conducts regular meetings with approved trustees for sharing information and views on issues relating to administration of MPF schemes. Matters that require consultation include amendments to the laws, guidelines and codes, recommendations of new policies, and changes in operational arrangements between the industry and the	Annual reports, statistical digests, consultation papers, information papers, circular letters, press releases, newsletters for trustees, etc.	Yes – the MPFA does not normally directly involve in the administration of MPF schemes, as the MPF schemes are privately managed by approved trustees. In the case that the MPFA is to direct the approved trustees to take actions in relation to any scheme, e.g. rectification of breaches, the MPFA would provide detailed explanations to the approved trustees concerned.

	MPFA.		
Israel	<p>Continuous Before publishing rules or circulars, the CMISD sends a draft to the industry (sometimes more than one)</p>	<p>Annual reports, Media releases, Information papers, Consultation papers: publicly available, website Letters: trustees + publicly available/ mail, email, website</p>	Yes
India	The pension fund industry has yet to develop in India. However, the practices followed in similar activities are taken note of on a continuous basis. PFRDA regularly interacts with potential intermediaries.	<p>Annual Reports including audited annual accounts: parliament, publicly available/ 1st placed in parliament then for public</p> <p>Consultation /discussion papers, Draft guidelines/regulations: stakeholders, public/ website</p>	
Jamaica	<p>Ad hoc Continuous There are scheduled consultative meetings with various stakeholders while others are done as the need arises. Quarterly meetings are scheduled with the Institute of Chartered Accountants of Jamaica, the Caribbean Actuarial Association (Jamaican chapter), Tax Authorities, the Pension Fund Association of Jamaica, Trade Unions and Trustees. Consultations are done mainly through meetings with relevant interest groups or comments and feedback are solicited from stakeholders on draft Discussion Papers, bulleting, guidelines and other documents prior to issuance. Typically, consultation is for a period of at least 3 months. Technical committees are also established in connection with amendments to or developments of legislation.</p>	<p>Annual Report: public/ parliament, website</p> <p>Regulatory (including consultation documents on legislation): public, licensees, registrants, members, interest groups/ website, press releases (media), public + private meetings, direct mail</p>	Yes
Kenya	<p>Continuous The consultation is through the Association of retirement benefits schemes</p>	<p>Audited accounts: all schemes/ posted, website</p> <p>Press releases: media</p> <p>Consultation /discussion papers, Draft guidelines/regulations: stakeholders, public/ website</p>	Yes
Mexico	<p>Ad hoc Supervisory entities are consulted on ad hoc basis regarding several issues</p>	<p>Statistics: publicly available/ website</p> <p>Change in fees: publicly available/ press release</p>	Yes – CONSAR has to inform the Congress of its actions. Its actions are supervised by the Board as well.
Netherlands	<p>Continuous Delegates of the industry and the supervisor meet each other a few times a year to discuss developments</p>	<p>Overview of last year's activities, results, supervision findings, financial statements etc.: public, industry, government/ annual report</p> <p>News, reports, legislation, guidance: public, industry: public, industry/ website</p> <p>News: public/ press release</p> <p>New legislation: industry/ consultation documents</p>	Yes
Poland	Ad hoc	Annual report, Announcements: market	NO

		<i>participants</i>	
Spain	Continuous	Annual Report: manager entities /Xml	Yes – the supervisory information in an aggregate manner explain the main items of the sector, could refer to specific success and situation
Turkey	<p>Continuous</p> <p>As a standard procedure, draft regulations / legislations prepared by the supervisory authority are sent for consultation with the industry and they are also published on the website (in most cases) for public consultation.</p> <p>In addition, within the private sector, there are 3 committees which are non-formal bodies that are utilized to ensure effective exchange of ideas and consultation between the supervisor and the industry. These committees are namely: Technical Committee, Legal Committee, and Communications Committee. The committees report to the supervisors about their activities and usually one or two representatives from the Treasury (from GDI's Pensions Division) and / or the Pensions Monitoring Center attends the meetings of these committees.</p>	<p>Annual Reports³⁴: treasury + related government institutions, insurance + pensions industry, public/ printed</p> <p>Draft Legislative documents: insurance + pensions industry, public/ website</p>	Yes – in the case of a supervisory action in the written statement sent to the pension fund, the supervisory authority is obliged to explain reason for its actions.
UK	<p>Continuous</p> <p>There is an advisory panel of stakeholder interest. We undertake continuous consultation in numerous forms:</p> <p>Key documents are subject to consultation, there is a section on the external website about current and past consultations.</p> <p>We undertake a perceptions tracker which tracks opinions of the organisations (results of these can also be found on the website).</p> <p>The annual Governance survey asks trustees about how schemes are run.</p> <p>Outbound campaigns run by customer support underpin various projects, for example we are currently doing one on scheme wind up.</p> <p>Informal contact via external stakeholder work, e.g. workshops /meetings.</p>	<p>Annual Report, Press releases, Audits, Consultation documents, Case information³⁵: pensions industry</p>	Yes – a warning notice will be made available to affected pension schemes before we undertake actions. The subsequent determinations notice is made available to the general public.

³⁴ The Pensions Monitoring Center published an annual progress report on the personal pension system. It is released via printed publication, CD as well as through internet.

³⁵ Documentation relating to cases can be published under section 89 of the Pensions Act 2004 ‘if it considers it appropriate to do so in any particular case’. ‘For the purpose of the law of defamation, the publication of any matter by the Regulator is privileged unless the publication is shown to be made with malice’

Table 7: Internal and Review Procedures

	<i>Governance Code</i>	<i>Code of Conduct Staff</i>	<i>Documentation for decision making</i>	<i>Refer/ review serious intervention</i>	<i>Adjudication Process</i>
Australia	X ³⁶	X	X	X	Certain decisions of APRA are reviewable decisions – the review process includes internal reconsideration and then external review, with an appeal mechanism to the Administrative Appeals Tribunal.
Austria	X		X ³⁷	X	Administrative Decisions by the FMA are subject to appeal to the Administrative Court (Verwaltungsgerichtshof) and under certain circumstances the Constitutional Court (Verfassungsgerichtshof)
Belgium		X			
Bulgaria	X	X			The ascertainment of violations, the issuance, appeal against and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.
Chile		X	X		AFPs have the right to appeal to Judicial Court of Appeals
Czech	X	X	X	X	It can be appealed against the sanction decision to the Bank Board. It can be appealed against the decision of the Bank Board to the judiciary.
Finland	X	X	X	X	The administrative courts review the decisions made by the authorities. The decisions of the administrative courts can be appealed in the supreme administrative court.
Germany	X	X	X	X	Germany has a well developed court system with specialised branches whose decisions are enforceable. Most of the decisions taken by BaFin are addressed as Administrative Act which needs a preliminary proceeding before a claim can be brought before an Administrative Court. This gives the authority the chance to check the legitimacy of the decision.
Hong Kong	X ³⁸	X	X	X	The Mandatory Provident Fund Schemes Appeal Board, established pursuant to the MPFSO,

³⁶ APRA is subject to the provisions of the Australian Prudential Authority Act 1998 – under the Act the Chair must determine, uphold and promote APRA values and must determine in writing the APRA Code of Conduct which applies to APRA members (Chair, Deputy Chair and other appointed members) and all staff. Disclosure of interests that may prevent members or staff performing or exercising their functions or powers is required under the Act. APRA is also subject to the Financial Management and Accountability Act 1997 which provides a framework for the proper management of public money and public property.

³⁷ There are established clear procedures for decision-making related to imposing sanctions or other penalties. Upon establishment of a violation by the supervised entities the Commission imposes coercive administrative measures. They include the issuance of recommendations with respect to the adoption of specific actions, fines or penalty payments. There are established a clear procedures for decision-making related to imposing sanctions or other penalties.

³⁸ The corporate governance of the MPFA is covered by MPF legislations. The Management Board consists of not fewer than 10 directors appointed by the CE, and a majority of the directors must be non-executive directors. The CE is to appoint one of the non-executive directors as the Chairman, and one of the

					hears appeals against any decision of the MPFA specified in the MPFSO, such as decisions to reject approval of trustees and schemes, suspend or revoke approval of trustees and schemes, impose or amend conditions on approval of trustees and schemes, suspend or terminate an approved trustee's administration of a registered scheme etc. The Occupational Retirement Schemes Appeal Board, established pursuant to the ORSO, hears appeals against the ORSO Registrar's decisions as specified in the ORSO. The decisions of the Appeal Boards shall be final, except that any "question of laws" could be referred to the Court of Appeal for determination.
Israel	X	X	X	X	The commissioner appoints a "discipline committee". The task of this committee is to recommending the supervisor how to act if the supervised body is acting in accordance with his instructions. The committee invites the supervised body to a hearing and its recommendation can be a penalty, a warning or a cancellation of the disciplining process
India	X	X	<i>Will be</i>	<i>Will be</i>	PFRDA Bill has provisions for adjudicating process allowing for decisions of the PFRDA to be appealed against. The appeal could be made before the Securities Appellate Tribunal (the Appellate body for the securities market regulator).
Jamaica		X	X	X	An administrator or investment manager, a sponsor, trustee or responsible officer who is aggrieved by any action, decision, ruling, direction, order or proposal of the FSC may, in writing, appeal to the Appeal Tribunal within 30 days of being notified of that action, decision, ruling, direction, order or proposal. The Appeal Tribunal shall give its decision in writing and may confirm, vary, cancel or reverse the FSC's action, decision, ruling, direction, order, proposal or any part thereof. The Tribunal consists of at least three members appointed by the Minister of Finance+operates as a quasi-judicial body.
Kenya		X	X	X	Any person aggrieved by a decision of the Authority or of the Chief Executive Officer under the provisions of this Act or any regulations may appeal to the Tribunal within thirty days of

executive directors as the Managing Director. The roles of Chairman and Managing Director are segregated and the CE determines the terms and conditions of office of the directors.

Members of the Management Board are required to declare their pecuniary interests in matters to be considered by the Board. Particulars of such disclosure made at meetings of the Board are recorded in a register available for public inspection.

The financial statements of the MPFA are subject to audit by an external auditor. During the auditing process, the auditor would also provide management comments as appropriate. Internal audits are conducted by the Risk Management Unit to provide an independent assessment of internal controls. Reports are reviewed by senior management and the Audit Committee.

To ensure fairness in operational procedures, the MPFA invites external reviews of its operations from time to time. Over the years, the policies and procedures of individual departments had been reviewed by the Independent Commission Against Corruption (ICAC) to ensure that effective control measures are in place. Consultants had also been engaged to review the information technology and financial control policies of the MPFA.

To promote high ethical standards and fair dealings in the conduct of its business, the MPFA has a Code of Conduct that must be observed by all its employees. The Code sets out the expected standards of behaviour and reminds staff of their legal and contractual obligations to the MPFA. It also provides specific guidelines on various issues, such as confidentiality of information, the offer and acceptance of advantages, avoidance of conflicts of interest, and declaration of financial and other interests

					the receipt of the decision. On the hearing of an appeal, the Tribunal shall have all the powers of a subordinate court of the first class to summon witnesses, to take evidence upon oath or affirmation and to call for the production of books and other documents.
Mexico		X	X	X	NO
Netherlands	X	X	X	X	Financial institutions can file a protest at DNB against formal decisions of DNB. If this fails, institutions can appeal at the court up to the Dutch supreme court
Poland			X	X	NO
Spain			X	X	2 levels; 1 st is to appeal to the Ministry of Economy and Finance; after that it's possible to appeal to the Court.
Thailand	X				
Turkey	X ³⁹			X	The appeals against the decisions by the supervisory authority can be brought before the administrative courts.
UK	X	X ⁴⁰	X ⁴¹	X	<p>Under section 102 – 106 of the Pensions Act 2004 there is a Pensions Regulator Tribunal. This has the power to:</p> <ul style="list-style-type: none"> (a) confirming the Regulator's determination and any order, notice or direction made, issued or given as a result of it; (b) to vary or revoke the Regulator's determination, and any order, notice or direction made, issued or given as a result of it; (c) to substitute a different determination, order, notice or direction; (d) to make such savings and transitional provision as the Tribunal considers appropriate.

³⁹ The issues concerning the procedures for governance take place within the law on the organisation of the Undersecretariat of the Treasury. The staff of the supervisory authority is subject to the general rules for code of conduct concerning the government officials.

⁴⁰ There is a code of conduct for board members of the TPR under Section 2 of the Pensions Act 2004. All members of staff have to sign the Civil Service code.

⁴¹ Section 96 of the Pensions Act 2004 sets out the standard procedure for decision making and actioning.

- (a) the giving of notice to such persons as it appears to the Regulator would be directly affected by the regulatory action under consideration (a "warning notice"),
- (b) those persons to have an opportunity to make representations,
- (c) the consideration of any such representations and the determination whether to take the regulatory action under consideration,
- (d) the giving of notice of the determination to such persons as appear to the Regulator to be directly affected by it (a "determination notice"),
- (e) the determination notice to contain details of the right of referral to the Tribunal under subsection (3),
- (f) the form and further content of warning notices and determination notices and the manner in which they are to be given, and
- (g) the time limits to be applied at any stage of the procedure.

