

IOPS Technical Committee

**ROOM DOCUMENT 2**

22 February 2018  
Dublin, Ireland



Table 1  
Comments received on the draft IOPS Good Practices on the Role of Pension Supervisory Authorities in Consumer Protection related to private pension systems during public consultations launched on 10 October until 9 November 2017

Authority/Institution	Comments received	Action taken	Reason or motivation
Banque de France	<p>Item I. 1</p> <p><i>... This is especially relevant in the systems where private pensions offer the main source of retirement income and also where individuals are confronted with a number of choices...</i></p> <p>Comment: Regarding what? Choice of investment options? It could be specified</p>	Comment noted	Consumers could be confronted with a number of various choices (e.g. investment choices, choices of providers, choices of becoming or not a member of a pension plan, choice of level of contributions, choice of payout options, etc.)
	<p>Item I. 6</p> <p><i>...Pensions Supervisory Authorities should expect firms to design and maintain products that meet the needs of the intended target market...</i></p> <p>Comment: While the notion of target market makes sense for 3<sup>rd</sup> pillar products or some 2<sup>nd</sup> pillar when there is a voluntary choice to be made by the member, it makes less sense in the situation such as mandatory 2<sup>nd</sup> pillar or auto-enrolment.</p>	Comment noted	<p>Target market can be difficult to define (especially in the case of voluntary systems). Also, it seems not feasible to expect pension supervisors to be able to fulfil this task because:</p> <ul style="list-style-type: none"> <li>• In some cases it is the legislator that defines all modalities of a pension system (characteristics of eligible products and participants)</li> <li>• Supervisors do check suitability of the products offered to public but are not able to discover what are the needs of consumers</li> </ul>
	Item II. 13 <i>Pension Supervisory Authorities, in co-operation with other public authorities, where relevant, should require and monitor that the key pre-contractual</i>	Comment accepted	Item 13 modified.

	<p><i>information to prospective consumers (e.g. through key information documents, scheme information, product dashboards) is written in a simple manner to foster understanding of the provided information and that, where relevant, a standardised format is used to foster comparability. The development of <u>similar</u> documents that facilitate the choice by members between various benefit pay-out options should be encouraged. Pension Supervisory Authorities may require suitable layering and presentation of the essential information about pension schemes and products.</i></p> <p>Comment: ‘comparable’ seems more adequate</p> <p>Comment: The structure of the sentence could be understood as if the proposal of various pay-out options should be encouraged through the development of similar documents. However, high level principles should not encourage any type of pay-out options which should remain the competence of national jurisdictions.</p> <p>Therefore the sentence should be clarified and could read as follow: “when various benefit pay-out options are proposed to consumers, the development of documents that facilitate the choice of members should be encouraged”.</p>	<p>Comment noted</p> <p>Comment accepted</p>	<p>Changes made in Item 13.</p> <p>Item 13 modified.</p>
	<p>Item II, 16</p> <p><i>Inclusion of meaningful pension projection – preferably containing the pension income coming from both public and private pension schemes - in the pension benefit statements to indicate the possible ultimate pension benefit</i></p>		

	<p><i>is encouraged.</i></p> <p>Comment: Even if ‘preferable’, this is a strong statement. We expect that many jurisdictions are not able to respect such a standard.</p> <p><i>Pension Supervisory Authorities or other regulatory bodies should be primarily responsible for the development and revision of the methodology and the assumptions on which the projections are calculated and provided to members.</i></p> <p>Comment: This is not in line with different legal framework, in particular in the European Union context. Indeed, calculating and disclosing pension projections is a European requirement set out by the 2<sup>nd</sup> Institutions for occupational retirement directive (IORP 2). However, the methodology/assumptions for calculating such projections must be defined at national level by Member States. The entity responsible for the transposition of the European Directive (and therefore setting methodologies for pension projection) is usually the Ministry and not the supervisor. As a result, the latter cannot be primarily responsible for the development of the methodology. It could obviously be involved though.</p> <p><i>...Where pension projections fall under the responsibility of pension services providers, the Pension Supervisory Authorities should set the methodology and assumptions for those projections or at least closely monitor the appropriateness of methodologies and assumptions chosen by the pension services providers, including proper disclosure.</i></p>	<p>Comment noted, no changes made</p> <p>Comment accepted, the wording was adjusted</p> <p>Comment accepted, the wording was adjusted</p>	<p>Item 17 modified - Pension Supervisory Authorities <u>or other public authorities</u> should be primarily responsible for the development and revision of the methodology and the assumptions on which the projections are calculated and provided to members.</p> <p>As above</p>
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	Comment: See comment above.		
	<p>Item II., 17</p> <p><i>Pension Supervisory Authorities should encourage a high level of transparency of costs deducted from members' contributions and assets, as well as promote disclosure of simple, standardised and comparable information on costs and charges levied by pension schemes/funds including information on transaction costs and administration charges.</i></p> <p>We note that at the European Level, the PRIIPs Regulation requires the calculation of transaction costs for investment products. However, pension products fall outside this scope, even if it will be subject to review; The calculation of transaction costs might therefore be a new challenge for pension products.</p>	Comment noted, no changes made	
	<p>Item II, 18</p> <p><i>Pension Supervisory Authorities should encourage disclosure of the information on investment returns, which should also contain multi-year comparisons, in particular where members bear investment risk or can take investment decisions..... Such simple, standardised and comparable information could also be made available on the Pension Supervisory Authorities' web-sites or other public electronic platforms.</i></p> <p>Comment: This means, that investment returns of a range of pension products has to be disclosed on the Authority web-site,</p>	Comment noted, no	Voluntary nature of the Good Practices is highlighted in this respect (see §8 of

	this standard is not welcome.	changes made.	the Good Practices).  It is also in line with the findings of the IOPS WP N27, see §90).
	<p>Item II., 20</p> <p><i>Pension Supervisory Authorities should evaluate the effectiveness of the information provided to consumers, e.g. <u>through consumer testing or the analysis of other relevant data</u>, to verify whether consumers understand this information and whether it influences their decisions.</i></p> <p>Comment: Consumer testing is often made in a pre-legislative context, as an impact assessment. Therefore, pension authorities may not always have the mandate to conduct such tests.</p>	Comment noted, no changes made	
	<p>Item III, 22</p> <p><i>Pension Supervisory Authorities should ensure that financial education programmes are tailored to the needs and capacities of a targeted audience and take into consideration particular types of private pension arrangements.</i></p> <p>Comment: It should be specified here – as in paragraphs 21 and 24 – that pension supervisory authorities do not always have a mandate for financial education</p>	Comment noted.	Item 23 modified.
	<p>Item IV, 25</p> <p><i>Pension services providers and <u>their agents</u> should be licensed, registered or approved by a Pension Supervisory Authority or another competent Authority before they commence operations; pension products should <u>be approved by or notified to the</u></i></p>		

	<p><i>Pension Supervisory Authority before they are distributed.</i></p> <p>Comment: Contrary to the services providers, all the agents do not have to be licenced, registered or approved. This should be modified. It could be for instance target the Senior management and/or persons responsible for key functions.</p> <p>Comment: The approval and notification of products is not in line with some jurisdiction's law. This should not be seen as a good practice.</p>	<p>Comment accepted, necessary changes made.</p> <p>Comment noted with a modification introduced</p>	<p>Foot note added to the section IV.</p> <p>Item 26 modified.</p> <p>See also the findings of the IOPS WP 27 show that In most of the responding jurisdictions<sup>1</sup>, the Authorities <i>approve or register pension products</i>,....</p>
	<p>Item IV, 26</p> <p><i>As a part of the licensing/approval process, Pension Supervisory Authorities should examine and monitor <u>on an ongoing basis</u> whether trustees, board members, senior management of pension services providers and their agents, including pension advisers, comply with fit and proper requirements and whether the products and services they distribute and offer meet best interests of the consumers.</i></p>		

<sup>1</sup> AL, AM, AU, AT, BE personal, BW, BG, CL, CR, GH, HK, HU, IN, IE, IL, JM, KE, MU, MX, NG, PK, PL, RO, SK, TZ, TT, TR.

	<p>Comment: Monitoring fit and proper requirements on an ongoing basis is very burdensome. Currently, European directives (Solvency 2 for insurance and IORP 2 for pension funds) impose ex ante fit and proper requirements. The high level good practice should respect this approach.</p>	Comment noted.	
	<p>Item V, 37</p> <p><i>Pension Supervisory Authorities should collect and analyse on a regular basis statistics on complaints received from pension services providers, agents, intermediaries, trustees and <u>other relevant stakeholders</u>, and the nature of such complaints as a source for their risk-based business conduct and prudential supervision of pension services providers.</i></p> <p>Comment: This part is unclear: Does it cover the complaints from the pension services providers (the current text is understood that way) or the complaints of the consumers towards the provider, who is then forwarding it to the Pension supervisor?</p>	Comment accepted, necessary changes made.	Item 38 modified.
<b>Association of Austrian Occupational Pension Funds</b>	<p>Comment: In the case of occupational pensions, a contract is concluded between a company and a pension fund. There is no consumer involved. Therefore, consumer protection does not fit here and has no authorization.</p>	Comment noted	
<b>Investor Education Centre, Hong Kong, China</b>	<p>Item III, 21 Comment: We agree with IOPS's view that it is necessary for the Pension Supervisory Authorities to promote the enhancement of consumers' awareness and financial capability in managing private pensions via the provision of financial education programmes and include it as a part of the national strategy for financial education.</p>	Comment noted	

	<p>Item III, 22</p> <p>We support IOPS's view that the different needs and capacities of targeted audiences should be realised and addressed in the design and development of financial education programmes.</p> <p>....The above illustrates the different education needs between people of different stages of work life while other personal traits such as gender, education level, income, etc. have not been a focus so far. Segmentation is then necessary to ensure that a specific financial education programme is relevant to a particular group of target audiences sharing similar background, financial education needs and learning style.</p>	Comment noted	
	<p>Item III, 23</p> <p>We agree with IOPS's view that the Pension Supervisory Authorities should serve as one of the primary sources of information and guidance materials to consumers and provide links to the relevant information source form other public authorities where appropriate.</p>	Comment noted	
	<p>Item III, 24</p> <p>Comment:</p> <p>Knowledge enhancement alone may not necessarily bring about attitude and behaviour changes. Thus, it is critical to motivate people to establish positive attitudes and ideal behaviours towards private pension matters as well in our financial education programmes. Hence, the assessment criteria, apart of knowledge change, should also cover whether there is positive shift of skills, attitude and behaviour.</p>	Comment noted	Footnote 11 introduced to refer to OECD/INFE work (on assessment of financial education programmes)
International Actuarial Association (IAA)	<p>General comment:</p> <p>In many jurisdictions, the provision of occupational pension is voluntary on the part of employers and legislation and supervision, if excessive, may lead to employers providing</p>	Comment noted	The preamble states that these good practices should be read in conjunction with the IOPS Principles of Private Pension Supervision. The Principles 6

	<p>lesser or no pensions. Where members directly bear the costs associated with pension provision, burdensome regulatory requirements may lead to lower benefits. We suggest that there be some reference in the document to proportionality in relation to the regulatory requirements proposed.</p>		<p>deals with the Proportionality and consistency. (see <a href="http://www.iopsweb.org">www.iopsweb.org</a>, principles and guidelines section).</p>
	<p>General comment It would be helpful if the document was clear about the scope. For example, it is not clear if unfunded pensions are covered.</p>	<p>Comment accepted</p>	<p>Changes made in the preamble of the Good Practices (par. 3).</p>
	<p>Specific comments Page 3 There is a comment in paragraph 7 about the specific needs of pensions. There is a tension between the unique features of pension plans and trying to make consumer information consistent across pension and non-pension savings products and hence comparable and easier to understand.</p>	<p>Comment accepted</p>	<p>New item 16 introduced in the section II: Transparency and disclosure</p>
	<p>Page 5 Item 8 refers to banning the sale of products that are fraudulent or misleadingly distributed. It would seem appropriate for regulators to have intervention powers in less extreme cases of products that are sold in a way that is unsatisfactory but not fraudulent, or where the sales material could be improved.</p>	<p>Comment noted</p>	<p>Point is covered in the item 31 of the public consultation document (current item 32).</p>
	<p>Page 6 Item 16 states that the inclusion of a meaningful projection of the pension outcome is “encouraged”. We would agree that this is essential, but we agree that it is difficult to do this, for plans where the member bears investment risk, in a way which is understandable to the consumer, whilst highlighting the risks and variability around the outcome where this depends on potentially volatile investment returns over a long period, and perhaps on annuity rates at retirement. We believe that actuaries are well placed to assist supervisors in designing the</p>	<p>Comment noted</p>	



and Investments Commission (ASIC)	ASIC does consult with industry, but we also have a Consumer Advisory Panel (CAP) which brings together consumer representatives to provide us with their perspective on issues. CAP recently discussed issues around the ageing population in Australia, particularly with regards to CIPRs.	Comment noted	
	Item 5 Like APRA, we issue guidance (regulatory guides) but also reports on things we find when we do our reviews to try and help set industry expectations.	Comment accepted	Amendment introduced in item 5.
	Item 6 Not sure whether this is relevant/helpful but the Government is proposing to give ASIC product intervention powers and design and distribution powers. This applies more broadly than just super but it's still being settled how it might work in the super context.	Comment noted and partly addressed	Minor changes introduced in item 6
	Item 10 We do put out media releases where we take action and have concerns with entities. MoneySmart also has information about scams: <a href="https://www.moneysmart.gov.au/scams">https://www.moneysmart.gov.au/scams</a>	Comment noted	
	Item 11 On FinTech innovations, we did release guidance on roboadvice - as with most things, this isn't super-specific but it would also cover super trustees: <a href="http://www.asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-255-providing-digital-financial-product-advice-to-retail-clients/">http://www.asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-255-providing-digital-financial-product-advice-to-retail-clients/</a>	Comment accepted	Amendment introduced in item 11.
	Item 12 We undertake risk based reviews each year, as well as themed reviews looking at particular issues. These are proactive reviews. We also undertake reactive reviews where issues arise	Comment noted	

	(eg form breach notifications).		
	<p>Item 13</p> <p>Just to note that on dashboards we did do two rounds of consumer testing, one for MySuper and one for Choice dashboards. Our relief and policy on retirement income projections envisages having lump sum and income stream projections.</p>	Comment noted	The IOPS Good Practactes reflect this point in item 21.
	<p>Item 14</p> <p>In addition to RG 229 on retirement income projections, we have an RG on digital disclosure as well - RG 221.</p>	Comment noted	
	<p>Item 16</p> <p>This paragraph talks about encouraging retirement income projections in periodic statements and on websites, along with clear rules and disclaimers. We might want to make it clear that in Australia it is not mandatory to provide retirement income projections and that there are strict requirements if trustees want to provide this information in periodic statements or online calculators. ASIC does provide relief to allow trustees to provide these projections, so long as certain conditions are met such as investment earnings assumptions for periodic statements and no promotion of particular products for online calculators.</p> <p>The paragraph also suggests regulators should be responsible for the development and revision of the methodology and assumptions on which projections are based. APRA commented that there is significant complexity in calculators and projection tools and it would be challenging for regulators to publish an agreed methodology and regularly assess or monitor funds' use of these tools. I agree with this. If projections were to become mandatory in Australia then this</p>	Comment accepted	Amendments introduced in item 17

	may be considered down the track but at this stage it is not part of the regulatory landscape. (We note FSI did recommend that retirement income projections be mandatory in the future).		
	<p>Item 17</p> <p>We have been looking closely at fee and cost disclosure and comparability - our RG 97 on fees and costs is going to be reviewed by an external expert.</p> <p>See <a href="http://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-229-superannuation-forecasts/">http://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-229-superannuation-forecasts/</a></p>	Comment noted	
	<p>Items 21-23</p> <p>Our Financial capability team at ASIC is responsible for the MoneySmart website but we are also responsible for the National Financial Literacy Strategy in Australia. <a href="http://www.financialliteracy.gov.au/">http://www.financialliteracy.gov.au/</a></p> <p>This includes information on pensions, but also other financial products and matters. Also, information about super is available on APRA's websites and the ATO webpages as well.</p>	Comment noted	
	<p>Item 29</p> <p>Warnings are given to consumers, and there is some prescription in things like the shorter PDS regime - but some of our disclosure regime is principles based.</p>	Comment noted	
	<p>Item 32</p> <p>This paragraph talks about the need for trustees to properly disclose on their website information about the fund's complaints procedure. Just a small point, but this information should also form part of other disclosures to members, not just the website.</p> <p>Also, more generally in relation to complaints handling, trustees</p>	Comment accepted	Amendments introduced in item 33.

	<p>need to have internal dispute resolution and an external dispute resolution arrangement as well - both must be disclosed to members. The EDR arrangements are likely to change with AFCA and we will get data from AFCA about complaints received (more than just super, but this would be included). We do get complaints directly from consumers (and there are processes about contacting complainants) - however, we tend to look for systemic issues. Individual complaints are probably best dealt with by EDR.</p>		
Reserve Bank of India (RBI)	<p>Item 1</p> <p>The document states that the pension supervisory authorities 'should remain greatly involved in enhancing consumer protection' (Practice 1). However, it may be useful if the document includes requirement of adoption of a voluntary code of conducted to be adopted by pension service providers. These could be in the nature of a Charter of Customer Rights (CoCR) or a Fair Practices Code (FPC) to be adopted voluntarily by the pension service providers. The CoCR/ FPC may include right to fair treatment, fair and honest dealing, transparency, privacy, suitability and grievance redress.</p>	Comment accepted	Amendments introduced in item 1.
	<p>Item 35</p> <p>The document talks of Ombudsman/ alternate disputes resolution mechanism (Practice 35). We add that the mechanism may preferably be without any charge for the consumer/ pensioner.</p>	Comment accepted	Amendment introduced item 36.
	<p>General considerations:</p> <p>➤ Doorstep services – the pension supervisors may implement inclusive policies for pension service providers, considering the age of the pensioners. This may include doorstep services for submission of life certificate, monthly delivery of cash etc.</p>	Comments noted	

	<p>➤ Counselling of pensioners – so that the focus of education does not get limited to the potential investor in pension services i.e., young population in the working age. The interest of the retired pensioners dependent on pensions may need to be taken care of by regular counselling through appropriate media.</p> <p>➤ Income Tax related support – the pension supervisors may mandate that the pension service providers to support the pensioners in meeting their tax filing requirements and also furnish necessary certificates as required in respective jurisdictions for filing of their returns.</p> <p>➤ Promoting Self-Regulatory Organizations (SROs) of private pension service providers. SROs may be accredited by the regulatory authority. The objective of the SRO would be to ensure that the regulatory prescriptions are monitored on a voluntary basis.</p>		
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